Filed Pursuant to Rule 424(b)(3)
Registration No. 333-258306

PROSPECTUS SUPPLEMENT NO. 2
(to Prospectus dated April 6, 2022)

LORDSTOWN

Lordstown Motors Corp.

35,144,690 Shares of Class A Common Stock

This prospectus supplement supplements the prospectus dated April 6, 2022 (as amended and supplemented from time to time, the "Prospectus"), which forms a part of our registration statement on Form S-l (No. 333-258306). This prospectus supplement is being filed to update and supplement the information in the Prospectus with the information contained in our Current Report on Form 8-K filed with the Securities and Exchange Commission on May 11, 2022 (the "Current Report"). Accordingly, we have attached the Current Report to this prospectus supplement.

The Prospectus and this prospectus supplement relate to the offer and sale of up to 35,144,690 shares of our Class A common stock, $0.0001 par value per share ("Class A common stock"), by YA II PN, LTD., a Cayman Islands exempt limited partnership (the "Selling Stockholder"). The shares of Class A common stock being offered by the Selling Stockholder have been and may be issued pursuant to the Equity Purchase Agreement dated July 23, 2021 that we entered into with the Selling Stockholder (the "Purchase Agreement"). We are not selling any securities under the Prospectus or this prospectus supplement and will not receive any of the proceeds from the sale of our Class A common stock by the Selling Stockholder. However, we may receive up to $400.0 million in aggregate gross proceeds from sales of our Class A common stock to the Selling Stockholder that we may make under the Purchase Agreement from time to time. See the sections of the Prospectus titled "*The YA Transaction*" for a description of the transaction contemplated by the Purchase Agreement and "*Selling Stockholder*" for additional information regarding the Selling Stockholder.

The Selling Stockholder may sell the shares of Class A common stock included in the Prospectus and this prospectus supplement in a number of different ways and at varying prices. We provide more information about how the Selling Stockholder may sell the shares in the section of the Prospectus entitled "*Plan of Distribution*." The Selling Stockholder is an "underwriter" within the meaning of Section 2(a)(11) of the Securities Act of 1933, as amended.

Our Class A common stock is listed on the Nasdaq Global Select Market under the symbol "RIDE." On May 10, 2022, the closing price of our Class A common stock was $1.67 per share.

This prospectus supplement updates and supplements the information in the Prospectus and is not complete without, and may not be delivered or utilized except in combination with, the Prospectus, including any amendments or supplements thereto. This prospectus supplement should be read in conjunction with the Prospectus and if there is any inconsistency between the information in the Prospectus and this prospectus supplement, you should rely on the information in this prospectus supplement.

See the section entitled *"Risk Factors"* beginning on page 4 of the Prospectus to read about factors you should consider before buying our securities.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

The date of this prospectus supplement is May 11, 2022.

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

FORM 8-K
CURRENT REPORT

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

Date of Report (Date of earliest event reported): **May 11, 2022**

LORDSTOWN MOTORS CORP.
(Exact name of registrant as specified in its charter)

Delaware	**001-38821**	**83-2533239**
(State or other jurisdiction of incorporation)	(Commission File Number)	(IRS Employer Identification No.)

2300 Hallock Young Road
Lordstown, Ohio 44481
(Address of principal executive offices, including zip code)

Registrant's telephone number, including area code: **(234) 285-4001**

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

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

Title of each class	**Trading Symbol(s)**	**Name of each exchange on which registered**
Class A common stock, par value $0.0001 per share	RIDE	The Nasdaq Stock Market LLC

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company ☐

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

Item 1.01 Entry into a Material Definitive Agreement.

On May 11, 2022, Lordstown Motors Corp. (the "Company") closed the transactions contemplated by the asset purchase agreement with Foxconn EV Technology, Inc., an Ohio corporation and an affiliate of Hon Hai Technology Group ("HHTG"; either HHTG or applicable affiliates of HHTG are referred to herein as "Foxconn"), dated November 10, 2021 (the "Asset Purchase Agreement" or "APA" and the closing of the transactions contemplated thereby, the "APA Closing").

Pursuant to the Asset Purchase Agreement, Foxconn purchased the Company's manufacturing facility located in Lordstown, Ohio for $230 million and a reimbursement payment for certain operating and expansion costs incurred by the Company from September 1, 2021 until closing. Foxconn had made down payments of the purchase price totaling $200 million through April 15, 2022, and the $30 million balance of the purchase price and a reimbursement payment of approximately $27.5 million became due at closing. Under the terms of the Asset Purchase Agreement, the reimbursement costs were an estimate and will be finalized over a review period after closing. Pro forma for the closing of the APA, the Company would have had cash and cash equivalents in excess of $300 million at March 31, 2022.

The Company continues to own its hub motor assembly line, as well as its battery module and pack line assets, certain intellectual property rights and other excluded assets. The Company has outsourced all of the manufacturing of the Endurance to Foxconn in connection with the sale of the Lordstown facility and Foxconn will also operate the assets the Company continues to own in the facility under the Contract Manufacturing Agreement (defined below) entered into by the parties as a condition to closing and described below. Foxconn will employ approximately 400 former Company employees in connection with the Contract Manufacturing Agreement activities. Approximately 250 employees, primarily in engineering, testing and validation, along with corporate staff, will remain with the Company.

The Company and Foxconn also entered into a lease pursuant to which the Company will lease space located at the Lordstown, Ohio facility from Foxconn for its Ohio-based employees for a term equal to the duration of the Contract Manufacturing Agreement plus 30 days.

As provided by the Asset Purchase Agreement, at closing, the Company issued warrants to Foxconn that are exercisable until May 11, 2025 for 1.7 million shares of the Company's Class A common stock at an exercise price of $10.50 per share. As previously disclosed, prior to and in expectation of entering into the Asset Purchase Agreement, Foxconn purchased 7.2 million shares of Class A common stock for approximately $50.0 million in October 2021.

Contract Manufacturing Agreement

On May 11, 2022, Lordstown EV Corporation, a Delaware corporation and wholly-owned subsidiary of the Company ("Lordstown EV"), and Foxconn entered into a Manufacturing Supply Agreement (the "Contract Manufacturing Agreement"), in connection with the APA Closing. The Company will continue to own certain assets in the Lordstown facility, principally the hub motor and battery module and pack lines and tooling specific to the Endurance. However, Foxconn will operate and generally be responsible for the equipment under its control.

Pursuant to the Contract Manufacturing Agreement, Foxconn will (i) manufacture the Endurance at the Lordstown facility, (ii) following a transition period, procure components for the manufacture and assembly of the Endurance, subject to sourcing specifications provided by Lordstown EV, and (iii) provide certain post-delivery services.

Foxconn will use commercially reasonable efforts to assist with reducing component and logistics costs, and otherwise improving the commercial terms of procurement with suppliers, and the parties will work together to reduce the overall bill of materials cost of the Endurance. Foxconn will conduct testing in accordance with test procedures established by Lordstown EV and Lordstown EV is responsible for all motor vehicle law compliance and reporting. The Contract Manufacturing Agreement also allocates responsibility between the parties for other matters, including component defects, quality assurance and warranties of manufacturing and design. Foxconn will invoice Lordstown EV for a per vehicle fee, as well as component and other costs owed under the agreement. Production volume and scheduling are based upon rolling weekly forecasts provided by Lordstown EV that are generally binding only for a twelve-week period, with some ability to vary the quantities of vehicle type. The term of the Contract Manufacturing Agreement will begin on May 11, 2022 and continue for an initial term of 18 months plus a 12 month notice period in the event either party seeks to terminate the agreement. In the event neither party terminates the agreement following the initial term, it will continue on a month-to-month basis unless terminated upon 12 months' prior notice. The Contract Manufacturing Agreement can also be terminated by either party due to a material breach of the agreement and will terminate immediately upon the occurrence of any bankruptcy event.

The foregoing description of the Contract Manufacturing Agreement is qualified in its entirety by reference to the full text of the Contract Manufacturing Agreement, a copy of which is filed as Exhibit 10.1 to this Current Report on Form 8-K and incorporated by reference herein.

Joint Venture Agreement

In connection with the APA Closing, on May 11, 2022, Lordstown and Foxconn entered into a Limited Liability Company Agreement (the "Joint Venture Agreement") and filed a Certificate of Formation to form MIH EV Design LLC, a Delaware limited liability company (the "LLC"), as a joint venture to design, develop, test and industrialize all-electric commercial vehicles ("EC Vehicles"). Foxconn has committed $100 million to the LLC, consisting of $55 million of direct capital contributions and a $45 million loan to Lordstown EV pursuant to the Notes (as defined below), the proceeds of which will be used to fund Lordstown EV's capital contributions to the LLC. Initially, Foxconn will have an ownership interest in the LLC of 55% and Lordstown EV will have a 45% interest. The Joint Venture Agreement provides for the grant of a license to the LLC to use certain intellectual property relating to certain Foxconn MIH-based vehicle designs (the "FX IP") to develop EC Vehicles, with the LLC owning all intellectual property rights it develops (other than the FX IP). In addition, the LLC will grant an exclusive license of all intellectual property owned by the LLC relating to any EC Vehicle designed by the LLC to Lordstown EV, for use in the North American commercial market, and to Foxconn, for use outside of North America, each subject to customary and reasonable licensing fees.

The LLC will be overseen by a five-person management board with Foxconn initially having the right to appoint three members and Lordstown EV initially having the right to appoint two members. Certain major decisions, including, but not limited to, the approval of budgets, raising additional equity, incurring third party indebtedness, mergers, related party transactions, dissolution and increases in the size of the management board, will require the consent of at least one member of the management board appointed by Lordstown EV for so long as Lordstown EV owns at least a 30% ownership percentage in the LLC. Other than with respect to certain customary permitted transfers, neither Lordstown EV nor Foxconn is permitted to transfer its interest in the LLC for a period of three years following the formation of the LLC and, thereafter, each party has a right of first refusal and a tag-along right with respect any proposed transfer by the other party.

The foregoing description of the Joint Venture Agreement is qualified in its entirety by reference to the full text of the Joint Venture Agreement, a copy of which is attached hereto as Exhibit 10.2, and which is incorporated herein in its entirety by reference.

Note, Guaranty and Security Agreements

The Joint Venture Agreement provides that Lordstown EV, as the issuer, Lordstown EV Sales LLC and the Company, as guarantors (collectively, the "Note Parties"), will enter into note, guaranty and security agreements (the "Notes") with Foxconn, as the payee, pursuant to which Foxconn will make term loans to Lordstown EV in an aggregate original amount not to exceed $45 million. To secure its obligations under each Note, Lordstown EV will grant to Foxconn a security interest in (i) all of Lordstown EV's equity interests in the LLC, and (ii) personal property constituting the hub motor assembly lines, battery module assembly lines and battery pack assembly lines. Lordstown EV may use the funds only to fund Lordstown EV's capital commitment of $45 million pursuant to the Joint Venture Agreement.

Each outstanding Note will accrue interest at a rate of 7.0% per annum, to be paid-in-kind, and is due on the earlier of (i) the first anniversary of issuance and (ii) December 31, 2025, unless earlier terminated in the event of a default. Pursuant to the Joint Venture Agreement, each Note maturing before December 31, 2025 will be refinanced by Foxconn with a new Note in the principal amount equal to the outstanding principal amount of the refinanced Note, plus accrued and unpaid interest thereon, and will have terms otherwise substantively identical to the terms of the refinanced Note. As a result, it is not expected, absent a default, that any amounts will become due under the Notes prior to December 31, 2025. Events of default include, among other things, the breach of certain covenants or representations, defaults under other loans or obligations, involvement in bankruptcy proceedings, an occurrence of a change of control or the loss of any material collateral (as such terms are defined in the Notes). Each Note will contain negative covenants which, while in effect, restrict the Note Parties from, among other things, incurring certain types of other debt (subject to various baskets), making certain expenditures or investments, any mergers or other fundamental changes, or changing the character of the Note Parties' businesses.

Each Note and all accrued but unpaid interest thereon may be prepaid, in whole or in part, at any time or from time to time, without any penalty or premium. Lordstown EV will be required to prepay each Note and all accrued but unpaid interest thereon with proceeds received upon distributions from the LLC or cash proceeds of certain asset dispositions.

The foregoing description of the Notes is qualified in its entirety by reference to the full text of the form of Note, a copy of which is filed as Exhibit 10.3 to this Current Report on Form 8-K and incorporated by reference herein.

Item 2.01 Completion of Acquisition or Disposition of Assets.

The information set forth under Item 1.01 of this Current Report on Form 8-K is incorporated by reference into this Item 2.01.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

The information set forth under Item 1.01 of this Current Report on Form 8-K is incorporated by reference into this Item 2.03.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

Exhibit Number	**Description**
10.1*	Manufacturing Supply Agreement, dated May 11, 2022, between Lordstown EV Corporation and Foxconn EV System LLC
10.2	Limited Liability Company Agreement of MIH EV Design LLC, dated May 11, 2022, among MIH EV Design, LLC, Foxconn EV Technology, Inc. and Lordstown EV Corporation
10.3	Form of Note, Guaranty and Security Agreement, among Lordstown EV Corporation, Lordstown EV Sales LLC, Lordstown Motors Corp. and Foxconn EV Technology, Inc.
104	Cover Page Interactive Data File (formatted as inline XBRL)

* Certain portions of this exhibit (indicated by "[***]") have been redacted pursuant to Regulation S-K, Item 601(b)(10)(iv).

SIGNATURES

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 hereunto duly authorized.

LORDSTOWN MOTORS CORP.

By: /s/ Adam Kroll
Name: Adam Kroll
Title: Chief Financial Officer

Date: May 11, 2022

Exhibit 10.1

Execution Version

CERTAIN IDENTIFIED INFORMATION HAS BEEN EXCLUDED FROM THE EXHIBIT BECAUSE IT IS BOTH (I) NOT MATERIAL AND (II) WOULD BE COMPETITIVELY HARMFUL IF PUBLICLY DISCLOSED. OMITTED INFORMATION HAS BEEN REPLACED WITH ASTERISKS.

MANUFACTURING SUPPLY AGREEMENT

between

Lordstown EV Corporation ("Company")

and

Foxconn EV System LLC ("Supplier")

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MANUFACTURING SUPPLY AGREEMENT

This Manufacturing Supply Agreement ("**Agreement**") is entered into by and between Foxconn EV System LLC, a Ohio limited liability company, having offices at 4568 Mayfield Road, Suite 204, Cleveland, Ohio 44121, and Lordstown EV Corporation, a Delaware corporation, having its offices at 2300 Hallock Young Road, Lordstown, Ohio 44481. Supplier and Company are each referred to herein as a "**Party**" and, collectively, as the "**Parties**".

RECITALS

A. Supplier is in the business of manufacturing products of various types.

B. Company is in the business of designing, developing, manufacturing, distributing, marketing, selling and servicing electric light duty commercial vehicles, including the vehicle currently expected to be marketed under the "Endurance" trade name.

C. The Parties desire that with respect to the Vehicle (as defined below), Supplier: (i) manufacture the Vehicle from Components sourced by Company based on the design and development activities performed or to be performed by Company; (ii) procure Components for the manufacture and assembly of the Vehicle; and (iii) perform additional responsibilities as the Parties may subsequently agree in writing.

D. The scope of this Agreement is limited to the Vehicle, however, the Parties further desire to work collaboratively and in good faith toward the possible design, development, and manufacture of other vehicles (including later models of the Endurance and other vehicles in addition to the Endurance), as the Parties may subsequently agree.

E. The Parties acknowledge that, in order to successfully undertake the work which is the subject of this Agreement, they will need to work together in good faith and in the spirit of cooperation.

F. The Parties desire to perform the activities described in Recital C pursuant to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

TERMS

1. **Definitions.**

In addition to terms defined elsewhere in this Agreement, the capitalized terms set forth below shall have the following meaning:

"**12 Week Quantity Build Schedule**" means a manufacturing schedule provided to Supplier by Company in writing on a 12-week rolling basis that specifies the total quantity of Vehicles to be delivered and, within agreed upon quantity variances, the quantities of Vehicle types (e.g., by applicable options, trim levels, or other configuration variables), as well as identification number, shipping instructions, and requested delivery date.

"**4 Week Quantity/Option Build Schedule**" means a manufacturing schedule provided to Supplier by Company in writing on a four-week rolling basis that specifies the Vehicles to be delivered, including the exact quantities of each Vehicle type (e.g., by applicable options, trim levels, or other configuration variables), as well as identification number, shipping instructions, and requested delivery date.

"**52 Week Rolling Forecast**" means the weekly forecast provided to Supplier by Company, in writing, of quantity requirements of each Vehicle that Company anticipates requiring during the next 12-month period, as updated by Company from time to time on the frequency agreed to by the Parties.

"**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with such Person. For purposes of this definition "controls" (and with correlative meanings, "controlled by" and "under common control with") means, with respect to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of another Person, whether through the ownership or voting securities, by contract, or otherwise. For clarity, (i) a Subsidiary of a Party shall be an Affiliate of such Party; and (ii) neither Party shall be an Affiliate of the other.

"**Asset Purchase Agreement**" means the agreement entitled "Asset Purchase Agreement By And Among Foxconn EV Technology, Inc., Lordstown EV Corporation And Lordstown Motors Corp. Dated As Of November 10, 2021."

"**Build Schedule**" means, collectively, the 12 Week Quantity Build Schedule and the 4 Week Quantity/Option Build Schedule.

"**Commercially Reasonable Efforts**" means, with respect to any action, an affirmative duty to act in good faith and to make substantial efforts to cause such action to be taken, provided that: (1) a Party is not required to take any action which it reasonably believes would be contrary to its own material business interests; and (2) a Party's failure to use Commercially Reasonable Efforts shall constitute a material breach of the Agreement only if it materially harms the other Party. "Substantial efforts" means the same level of effort that a Party would have taken on its own behalf in the same situation.

"**Company**" and "**Lordstown EV Corporation**" means Lordstown EV Corporation and shall be defined to include any Company Subsidiary to which a right is assigned, or a duty delegated, to the extent permitted under this Agreement.

"**Company Intellectual Property**" means all Intellectual Property of Company.

"**Component Lead-time**" means the mutually agreed upon minimum amount of time (or, in the absence of agreement, 12 weeks), in advance of delivery requested in a Build Schedule, that Supplier must receive in order to obtain the Components necessary to deliver the Vehicle on the requested delivery date.

"**Component Provider**" means a supplier, including a Directed Provider, which supplies or is contractually bound to supply Components.

"**Component Purchase Order**" means a document (whether titled "Purchase Order" or otherwise) that identifies, at a minimum, the Component and Component Provider, and which authorizes or obligates the Component Provider to deliver the Components.

"**Components**" means all production (including prototype) parts, assemblies, materials, or related services used in the manufacturing of the Vehicle.

"**EDI**" means electronic data interchange.

"**Effective Date**" means the date upon which the terms and conditions of this Agreement shall become effective by and between the Parties. The Parties have agreed that the Effective Date of this Agreement shall be May 11, 2022, or if no date is entered here, the last date of signature.

"**Engineering Change**" means a change to the design, Specifications, engineering level, manufacturing process, materials or Components of the Vehicle.

"**Governmental Authority**" means any federal, state, local, or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations, or orders of such organization or authority have the force of law), or any arbitrator, court, or tribunal of competent jurisdiction.

"**In writing**" means written documents, files contained on Company secured FTP, notice of which is provided electronically to Supplier, EDI with confirmation, and emails successfully transmitted and confirmed electronically or otherwise as received.

"**Intellectual Property**" means the intellectual property rights, including patents, patent applications, potentially patentable inventions, utility models, industrial models, drawings, designs, design models, trade secrets, know-how, processes, computer programs, data collections, databases, copyrights, copyrightable works, including software source code, copyright registrations, registerable mask works, mask work registrations, trade secrets, moral rights, and any other intellectual property or proprietary rights, applications, certificates of invention, divisions, continuations, patents of addition, reissues, renewals, extensions, certificates of reexamination, foreign counterparts, international counterparts, and any application claiming priority to or the benefit of any of the foregoing.

"**Laws**" means all applicable statutes, acts, codes, laws, rules, regulations, orders, constitutions, conventions, treaties, standards, ordinances, common law, or other requirements of any Governmental Authority, including those relating to the Manufacturing Services or the Manufacturing Plant.

"**Loaned Equipment**" means capital equipment (including Tooling) which is loaned or bailed to Supplier by or on behalf of Company to be used by Supplier to perform the Manufacturing Services.

"**Losses**" means losses, claims, damages, liabilities, deficiencies, losses resulting from actions or judgments, interest, settlements, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees and the cost of enforcing any right hereunder and the cost of pursuing any insurance providers.

"**Manufacturing Plant**" means Supplier's manufacturing plant located at 2300 Hallock Young Road, Lordstown, Ohio 44481.

"**Manufacturing Process**" means, with respect to the Vehicle, the process employed to assemble the Vehicle.

"**Manufacturing Services**" include but are not limited to, each of the following: assembling, manufacturing, testing, configuring, and packaging of the Vehicle prior to acceptance by Company, (but excluding Company Inspection, as defined in Section 2.e) as well as Post-Delivery Services, the provision of service parts and the performance of warranty obligations. Except as provided in Section 2.c.ii, the Manufacturing Services include the procurement of Components to be used in the assembly and manufacture of the Vehicle.

"**Master BOM**" means a document which lists, at a minimum, all Components of a Vehicle, including part numbers, quantities, unit price, vendor, and the currency in which the Component is being purchased (if other than US Dollars).

"**Materials Declaration Requirements**" means any material disclosure requirements under any environmental, product composition, and/or materials declaration or similar Laws.

"**NHTSA**" means the National Highway Traffic Safety Administration.

"**NRE Costs**" shall consist of non-recurring expenses incurred by Supplier under this Agreement, including design, engineering, testing, fixturing and tooling, other out-of-pocket and internal costs, so long as such activities are authorized by Company in writing.

"**Packaging Specifications**" means the packaging specifications supplied and/or approved by Company.

"**Permits**" means permits, licenses, franchises, approvals, authorizations, registrations, certificates, variances, and similar rights obtained or required to be obtained, from any Governmental Authority.

"**Person**" means any corporation, business entity, natural person, firm, joint venture, limited or general partnership, limited liability entity, limited liability partnership, trust, unincorporated organization, association, government, or any department or agency of any government.

"**Post-Delivery Services**" include all services following the acceptance of the Vehicle by Company to be performed by Supplier, as specified in Section 2.l.

"**Proprietary Information and Technology**" means software, firmware, hardware, technology and know-how, and other proprietary information or Intellectual Property embodied therein that is known, owned, or licensed by and proprietary to either Party and not generally available to the public, including plans, analyses, trade secrets, patent rights, copyrights, trademarks, inventions, fees and pricing information, operating procedures, procedure manuals, processes, methods, computer applications, programs and designs, and any processed or collected data (including Intellectual Property). The failure to label any of the foregoing as "confidential" or "proprietary" shall not mean it is not Proprietary Information and Technology.

"**Specifications**" means the technical specifications (including specifications, drawings, samples, descriptions, and quality standards) for the Vehicle and Manufacturing Services supplied and/or approved by Company in writing and accepted by Supplier. Specifications may be amended from time to time under Section 9 by written Engineering Change orders agreed to by the Parties.

"**Subsidiary(ies)**" means any corporation, partnership, joint venture, limited liability entity, trust, association, or other business entity of which a Party or one or more of its Subsidiaries, owns or controls more than 50% of the voting power for the election of directors, managers, partners, trustees, or similar parties.

"**Supplier Existing Intellectual Property**" means any discoveries, inventions, technical information, procedures, manufacturing or other processes, software, firmware, technology, know-how, or other intellectual property rights owned or developed by Supplier outside of this Agreement, or owned or controlled by Supplier prior to the execution of this Agreement and all Transferred Intellectual Property as defined in the Asset Purchase Agreement.

"**Supplier Personnel**" means the employees, independent contractors, workers, and subcontractors of Supplier who will perform services on behalf of Supplier.

"**Supplier**" and "**Foxconn EV Technology System**" means Foxconn EV Technology System LLC and shall be defined to include any Supplier Subsidiary to which a right is assigned or a duty delegated, to the extent permitted under this Agreement.

"**Test Procedures**" means the finished Vehicle testing specifications, standards, procedures and parameters supplied and/or approved by Company and accepted by Supplier in writing.

"**Tooling**" means, collectively, all tooling, dies, test and assembly fixtures, gauges, jigs, patterns, casting patterns, cavities, molds, and documentation (including engineering specifications and test reports) as are required for the manufacture of the Vehicle for which Company has issued a tooling authorization or purchasing document, together with any accessions, attachments, parts, accessories, substitutions, replacements, and appurtenances thereto.

"**TREAD Act**" means the Transportation Recall Enhancement, Accountability and Documentation Act.

"**Vehicle**" means the launch edition model (or "Version 1.0") of the vehicle Company plans, as of the Effective Date, to bring to market under the name "Endurance" as contemplated in Company's 2022 operating plan and scheduled to be launched in the third quarter of 2022, as the same may be modified during the term of this Agreement, but excluding new models or editions of the Endurance.

"**Vehicle Acceptance Standards**" means the mutually agreed and documented criteria standards regarding whether a completed Vehicle is to be accepted by Company.

"**Vehicle Payment**" means for each Vehicle the sum of: (i) the cost of the Vehicle Components, calculated per the Master BOM, and Component transportation incurred by Supplier; (ii) a Manufacturing Value Add Payment as described in Section 6.a; and (iii) any other amounts as agreed in writing by the Parties, which amounts shall be itemized in the Vehicle Purchase Order.

"**Vehicle Purchase Order**" means a purchase order issued by Company to Supplier for the Vehicle, which shall, at a minimum, contain: (i) the amount of the Vehicle Payment; and (ii) an internal Vehicle identification number and Vehicle type (e.g., by applicable options, trim levels, or other configuration variables) corresponding to the information in the 4 Week Quantity/Option Build Schedule.

2. **Manufacturing Services.**

a. Engagement. During the term of this Agreement, and pursuant to and in accordance with the terms and conditions set forth in this Agreement, Company hereby engages Supplier to provide, and Supplier hereby agrees to provide to Company, the Manufacturing Services. Supplier agrees to provide Manufacturing Services, and Company agrees to purchase Manufacturing Services for that quantity of Vehicles set forth in the Build Schedule. The Manufacturing Process shall include specific process and inspection plans and targets of achievement, including Key Performance Indicators ("KPIs") (collectively the "Performance Standards"), as mutually agreed to by the Parties. Company shall be responsible for defining and managing all Vehicle-related Performance Standards. Supplier shall be responsible for defining and managing production and manufacturing-related Performance Standards.

b. Manufacturing Schedule; Capacity.

i. Company shall provide Supplier on a rolling weekly basis the 12 Week Quantity Build Schedule, which shall be used for the purposes of Component acquisition. The total quantity of Vehicles set forth in any 12 Week Quantity Build Schedule shall be binding on Company, although the quantities of Vehicle types (e.g., by applicable options or other configuration variables) within that 12 Week Quantity Build Schedule may be varied by Company within a range to be determined by the Parties through good faith negotiations.

ii. Company shall also provide Supplier 4 Week Quantity/Option Build Schedules, which shall be used for purposes of production. The quantities of Vehicles, including Vehicle types, in any 4 Week Quantity/Option Build Schedule shall be binding in all respects on Company, and Company shall be obligated to purchase and pay for all Vehicles satisfying the Vehicle Acceptance Standards delivered to Company by Supplier consistent with the 4 Week Quantity/Option Build Schedule, as well as any additional quantities of Vehicles produced in accordance with Section 2.b.iv.

iii. Supplier shall determine a production schedule for the Vehicle based on the 52 Week Rolling Forecast, the 12 Week Quantity Build Schedule, and the 4 Week Quantity/Option Build Schedule. In the event Supplier determines that it cannot deliver to Company in accordance with the 4 Week Quantity/Option Build Schedule, Supplier shall notify Company as promptly as feasible, and not less than 21 days in advance of any anticipated shortfall in production, in which case the Parties shall work in good faith to mutually determine a revised final production schedule. Supplier shall use best efforts to deliver Vehicles in accordance with the 4 Week Quantity/Option Build Schedule. If Supplier fails to timely notify Company that Supplier cannot deliver Vehicles in accordance with the 4 Week Quantity/Option Build Schedule, the 4 Week Quantity/Option Build Schedule shall be deemed accepted.

iv. Notwithstanding anything to the contrary in this Agreement, Company may, subject to (1) the availability of Components and other inputs; and (2) the available capacity of the Manufacturing Plant, increase weekly volumes for weeks 5-12 of the 12 Week Quantity Build Schedule by up to 20% from the volume stated when the calendar week first entered the 12 Week Quantity Build Schedule . Supplier shall use Commercially Reasonable Efforts to satisfy any other requested volume increases from Company. Supplier shall reserve, on a priority basis, for Company sufficient capacity at the Manufacturing Plant to meet Company's 52 Week Rolling Forecast. However, subject to Company's consent, not to be unreasonably withheld, Supplier may reduce or reconfigure capacity if there is a material shortfall in Company's actual requirements from the 52 Week Rolling Forecast.

c. Procurement of Components.

i. Generally. Except as provided in Section 2.c.ii, Supplier shall manufacture or purchase from Component Providers specified by Company (each a "Directed Provider") all Components. Any Components to be purchased by Supplier from Directed Providers shall be purchased through purchase orders issued by Supplier on its own account, paid for and owned by Supplier pursuant to the terms and conditions (including price) agreed to by the Directed Provider and Company ("Directed Provider Terms"). Neither Party may make any amendments to the Directed Provider Terms as they exist as of the Effective Date that materially affect the other Party without the other Party's consent. Notwithstanding the foregoing, in the event any Directed Provider refuses to accept a purchase order or other comparable document for the purchase of Components from Supplier on the Directed Provider Terms, Supplier shall issue such documents on behalf of Company and shall in all other respects be subject to this Section 2.c. Company shall compensate Supplier for all amounts paid by Supplier to Component Providers in accordance with the provisions of Section 6.a. If the Parties agree in writing that any Components should be paid for and owned by Company, the Parties shall negotiate in good faith to determine the value and any reduction in the Vehicle Payment for any Component inventory owned by Company. The Parties shall negotiate in good faith to determine the value and any reduction in the Vehicle Payment for any Component inventory owned by Company as of the start of the Manufacturing Services.

ii. Company Purchases. Company shall directly purchase from Component Providers for its own account in the following circumstances:

(1). All Components to be purchased during the Transition Period;

(2). All Components which are subject to a non-assignable contract between Company and the Component Provider, provided that the Parties will use Commercially Reasonable Efforts to obtain any necessary consents to assignment; and

(3). As agreed in writing between the Parties.

If Company directly purchases a Component on its own behalf, Supplier's possession thereof shall be deemed a bailment. Supplier shall bear the risk of loss of and damage to such Component until such time as the Vehicle is accepted by Company. Supplier shall use any such Components solely to produce Vehicles hereunder. Sections 2.c.iv through 2.c.vii shall not apply to such Components. Instead, the Parties will negotiate alternate procedures to minimize disruptions and inefficiencies when Company is the direct purchaser.

iii. Transition Period. The Parties shall use Commercially Reasonable Efforts to transition the purchase of all Components (except those identified in Section 2.c.ii(2) and 2.c.ii(3)) to Supplier as expeditiously as possible and on a rolling basis as circumstances deem appropriate, or as otherwise agreed to by the Parties. Supplier shall use Commercially Reasonable Efforts to complete such transition no later than October 15, 2022. The period from the Effective Date until such time as the purchase of any Component is, or all applicable Components are, as context requires, transitioned to Supplier shall be the "Transition Period." During the Transition Period, Supplier shall use Commercially Reasonable Efforts to (1) support Company's purchasing efforts in relation to the Components so as to minimize disruptions and inefficiencies; (2) assist Company in managing and communicating with Component Providers (including the resolution of any dispute as to price changes, maintaining the continuity of supply, and addressing other material changes to the terms of supply); and (3) assist Company in improving the commercial terms of procurement with Component Providers. Supplier shall timely provide any information reasonably requested by Company to permit Company to effectively purchase any Component on its own account. Company acknowledges that prior to becoming an approved provider in Supplier's vendor management system (i.e., such provider is designated as an approved Supplier provider subject to Supplier's generally applicable terms and conditions and Supplier and any of its Affiliates may purchase from such provider), any Directed Provider would be required to satisfy Supplier's generally applicable supplier requirements; provided that the failure of any Directed Provider to satisfy such requirements shall in no way impact Supplier's ability or obligation to purchase from such Directed Provider in accordance with this Section 2.c. The Parties shall agree in advance on the applicable terms and conditions prior to any Components being purchased by Supplier from such an approved Directed Provider on terms other than the Directed Provider Terms.

iv. Alignment of Directed Provider Rights and Obligations. The Parties shall use Commercially Reasonable Efforts to contractually align the rights and obligations of the Directed Provider, Supplier, and Company to those set forth in this Agreement, such that, by way of example, Supplier's sole contractual responsibility to Directed Provider is to pay the contract price for Components as set forth in Section 2.c.xii, and that Directed Provider and Company are otherwise directly contractually accountable to each other with respect to their respective rights and obligations under the Directed Provider Terms. These Commercially Reasonable Efforts may include Company designating Supplier as a "Designated Purchaser" as defined in the Directed Provider Terms, the Parties seeking to enter into three party contracts with specified Directed Providers identified on Schedule 2.c.iv, or as otherwise agreed to by the Parties in writing.

v. Pricing. Supplier shall purchase and pay Directed Provider for Components in accordance with the Directed Provider Terms. If any Directed Provider demands or imposes a price higher than that provided in the Directed Provider Terms, or imposes or threatens a supply cutoff unless that higher price is paid (or demands or imposes any other term of sale more favorable than that provided for in the Directed Provider Terms), Supplier shall promptly notify Company. Supplier shall use Commercially Reasonable Efforts to assist Company in resolving the dispute with the Directed Provider and maintaining continuity of supply, but Company shall be responsible for the resolution, or the consequences of failing to resolve, the dispute.

vi. Sourcing Communications. The Parties shall negotiate in good faith a process for best communicating and managing any actual or proposed Directed Provider pricing and Component sourcing changes in accordance with Section 9. Each Party shall promptly notify the other if it learns that any Directed Provider has made or proposes to make a price change or other material contract change for a Component. Any purchase by Supplier of Components subject to such revised Directed Provider Terms, including those subject to Section 2.c.v, must be authorized in advance by Company. The Parties shall negotiate in good faith to determine a process to ensure availability of supply of such Component while Company negotiates pricing with the Directed Provider.

vii. Cost Reductions. Supplier agrees to use Commercially Reasonable Efforts to assist Company to improve the commercial terms of procurement with Directed Providers and otherwise take advantage of sourcing synergy opportunities, including those Directed Providers listed on Schedule 2.c.iv, which shall be specifically targeted by the Parties. Further, the Parties shall together in good faith attempt to reduce Master BOM costs, which may include Supplier directly participating in Company's value analysis and value engineering ("**VAVE**") and sourcing activities. During the term of the Agreement, Company shall retain any contract price reduction realized as a result of the Parties' efforts, less any time or material costs incurred by Supplier. The Parties also anticipate that for vehicles other than the Endurance Launch Edition, the Parties will negotiate a savings sharing agreement.

viii. Ordering. The Parties agree to negotiate in good faith an order/release approval process for Supplier's purchase of Components to ensure that appropriate quantities of Components are ordered for the anticipated production timeline. Supplier shall order Components consistent with the 12 Week Quantity Build Schedule and 4 Week Quantity/Option Build Schedule or as otherwise appropriate to reflect Component Lead-times. The Parties will work together to determine the appropriate level of inventory of Components, which shall be based on anticipated Component Lead-times, minimum order quantities, production variability, and other relevant factors. Each Party shall use best efforts to avoid the build-up of excess inventory of Components. In addition, the Parties shall negotiate in good faith a process for communication between the Parties as it relates to any Component for which an Engineering Change is being considered by Company. Company shall provide Supplier reasonable notice that a Component is in Company's Engineering Change process (but has not yet been approved). Any such Engineering Change shall be in accordance with Section 9.

ix. Scheduling. Supplier shall be responsible for managing all inbound logistics activities associated with Components, which costs shall be charged without mark-up to Company. Supplier shall use Commercially Reasonable Efforts to schedule the delivery of Components so as to maintain the production schedule and mitigate any scheduling impacts. Supplier shall use Commercially Reasonable Efforts to minimize the inbound transportation and logistics costs for Components. In the event of any material delivery delays, a root cause analysis shall be conducted to determine the Party responsible for such delay, which Party shall ultimately bear the cost of Supplier's efforts to maintain the production schedule. Supplier shall be responsible for direct communication with Component Providers on all delivery issues. Company shall support such discussions as reasonably requested by Supplier. The Parties shall negotiate in good faith to develop a process by which potential expedited shipping arrangements are to be employed in a commercially reasonable manner, as well as an approval process for delivery continuity and fiscal management, which process shall include a mechanism for accelerated approvals in the event of a significant impact on production.

x. Inspection of Components. Supplier shall inspect Components for material defects and non- conformities in accordance with a mutually agreed written control plan. Supplier shall notify Company if it identifies potential beneficial modifications of the inspection procedures within the control plan, which modifications will be subject to the Engineering Change process in Section 9. The Parties shall mutually agree upon reporting criteria for Component defects and non-conformities identified by Supplier.

xi. Liability of Company. Except as provided in Section 2.c.xii, as between Company and Supplier, Company shall bear sole responsibility for Directed Components, including their design, quality, conformity, and fitness for purpose, as well as the Directed Provider's performance of its contractual, tort law, and other legal obligations, including Directed Provider's compliance with quality and manufacturing processes as established by Company. Further, except as set forth in 2.c.xii, Company shall be directly responsible to the Directed Provider for performance of all obligations to the Directed Provider under the Directed Provider Terms. Company shall be solely responsible for the enforcement of claims against and the defense of claims brought by the Directed Provider that are subject to this Section 2.c.xi. Except as set forth in Section 2.c.xii, Company shall hold Supplier harmless for any claim or cost Supplier incurs arising out of the performance of such Component or of the Directed Provider, or Company's failure to fulfill contractual responsibilities to the Directed Provider.

xii. Liability of Supplier. Supplier's sole responsibility with respect to Components are to perform those duties specifically undertaken in this Section 2.c. Supplier shall be responsible for the payment of the contract purchase price solely for Components needed to satisfy Company's production requirements as set forth in the Build Schedules, and not for any minimum purchase quantities or other purchase obligations to Direct Provider beyond actual production requirements. Supplier shall hold Company harmless for any claim or cost Company incurs arising out of Supplier's failure to pay any Directed Provider or otherwise perform its obligations with respect to Components under this Section 2.c. Supplier shall be solely responsible for the enforcement of claims against and the defense of claims brought by the Directed Provider subject to this Section 2.c.xii.

d. Testing. Supplier will test the Vehicle in accordance with the Test Procedures. Company shall be solely responsible for the sufficiency and adequacy of the Test Procedures and shall defend, indemnify, and hold Supplier harmless for any claim or costs arising therefrom, except to the extent such claim or costs result from Supplier's negligence or failure to perform the Test Procedures. In addition, Company shall reimburse and hold Supplier harmless for any costs Supplier reasonably incurs as a result of a Vehicle's failure to satisfy the Test Procedures, unless and only to the extent that any cost results directly from Supplier's breach of its obligations with respect to the Manufacturing Services.

e. Completion of Manufacture; Inspection. If at any point during the production of any Vehicle, Supplier discovers any defects or discrepancies in the Vehicle that may impact Supplier's ability to deliver the Vehicle in accordance with the 4 Week Quantity/Option Build Schedule, it shall give immediate notice (not to exceed 24 hours) to Company. The Parties shall agree upon Vehicle Acceptance Standards. After the completion of the manufacture of Vehicles, Supplier shall inspect the Vehicle to confirm compliance with those standards ("**Supplier Inspection**"), and, if compliance is confirmed, it shall move the Vehicle to a location as mutually agreed upon in writing by the Parties, at which time Company (or its designee) may, but is not obligated to, conduct its own inspection ("**Company Inspection**"). The Vehicles will be deemed accepted unless Company notifies Supplier in writing within one business day of when the Vehicle is made available for inspection that the Vehicle Acceptance Standards have not been satisfied, identifying the basis for non-acceptance ("**Non-Acceptance Notice**"). If the Parties disagree in good faith as to whether the Vehicle Acceptance Standards have been met, it shall be resolved in accordance with Section 23. Upon acceptance, Supplier shall have earned the Vehicle Payment for such Vehicle. At this point, control, title, and possession of the Vehicle shall pass from Supplier to Company, subject to Section 2.l.

f. Non-Satisfaction of Acceptance Standards. If Supplier discovers any defect or discrepancy or otherwise determines during the Supplier Inspection that the Vehicle Acceptance Standards have not been satisfied, Supplier shall promptly repair or correct any defects or discrepancies in Vehicles before designating the Vehicle as compliant. If Company identifies such defects or discrepancies during Company Inspection or at any time prior to the sale to the retail purchasers, Company shall have the right to repair or correct the defects or discrepancies; or to return the Vehicle to Supplier to do so. Company and Supplier shall determine the responsible Party who shall bear the cost that is related to the repair or correction of the defects and discrepancies on a case by case basis pursuant to the allocation of responsibility between the Parties contained in Section 4.d.

g. Packaging and Shipping. Company will have sole responsibility to ship the Vehicle. Supplier will package the Vehicle in accordance with Packaging Specifications. Company shall be solely responsible for the sufficiency and adequacy of the Packaging Specifications and shall defend, indemnify, and hold Supplier harmless for any claim or cost arising therefrom, except to the extent such claim or costs result from Supplier's negligence or failure to comply with the Packaging Specifications. Supplier shall cooperate with Company, at Company's request and cost, in connection with the shipping of Vehicles.

h. Other Items to be Supplied by Company. Company shall supply to Supplier, according to the terms and conditions specified herein, Company Proprietary Information and Technology and, if applicable, the Loaned Equipment necessary for Supplier to perform the Manufacturing Services. Company will also provide to Supplier all Specifications, Test Procedures, Packaging Specifications, Vehicle design drawings, approved vendor listings, bill of materials, Component descriptions (including approved substitutions), and Manufacturing Process requirements of Company, if any, necessary for Supplier to perform the Manufacturing Services. Company shall be solely responsible for delay in delivery, defects and enforcement of warranties related to the Loaned Equipment and shall hold Supplier harmless for any claim or cost arising therefrom.

i. Equipment. Supplier shall maintain and repair all machinery, equipment, tooling, computers, and information technology equipment necessary for the manufacture of the Vehicles ("**Plant Machinery**") used by Supplier in the manufacture of the Vehicles, including any Tooling and Loaned Equipment located in the Manufacturing Plant. The list of Plant Machinery as of the Effective Date is set forth on Schedule 2.i, which shall be periodically updated by Company from time to time with any material changes. Supplier shall purchase, own, and maintain such inventories of replacement parts and materials for Plant Machinery used for the production of Vehicles ("**Maintenance Items**") according to the machinery specifications and in reasonable quantities in relation to the production schedule. The maintenance and repair costs, including the on-going replenishment of the inventory of Maintenance Items, shall be paid by Supplier with respect to Supplier-owned Plant Machinery and by Company with respect to Company-owned Plant Machinery, except as provided in the following sentence. Company, in its sole discretion, shall determine whether the Plant Machinery owned by Company should undergo a major refurbishment or replacement or be removed from service, the cost of which shall be paid by Company, provided that Supplier shall (1) promptly notify Company of any non-conformities or inefficiencies directly resulting from Company's decision not to refurbish or replace Plant Machinery; and (2) not be responsible for any incremental expenses arising from non-conformities or inefficiencies to the extent due to Company's decision to not refurbish or replace. Company-owned Plant Machinery shall be used by Supplier exclusively for the manufacture of Vehicles, unless otherwise agreed to by Company. Company shall be responsible for the disposal of any obsolete Tooling. To the extent that the enforcement of any lien, claim, encumbrance, interest, or other right of a third party in any Plant Machinery ("**Plant Machinery Lien**") materially prevents Supplier from performing its obligations under this Section 2, Supplier shall be released from its obligation to perform under this Section 2 solely to the extent of the impact of such enforcement. Supplier shall not be obligated to pay any amounts to release any Plant Machinery Lien on behalf of Company. Supplier shall reasonably comply with any request by Company for a waiver or estoppel letter as it relates to any Plant Machinery Lien.

j. Company Inspection. Company shall have the right at any time during normal business hours and at its expense to inspect, review, monitor, and oversee the Manufacturing Services, provided that such inspection shall not unreasonably disrupt Supplier's normal business operations. Supplier shall have the right to take all necessary steps and impose all necessary restrictions on inspection to protect all Proprietary Information and Technology of Supplier and the confidential or proprietary information and technology of Supplier's other customers. If the Parties are unable to agree necessary conditions and restrictions on such inspection, the dispute shall be resolved in accordance with Section 23. Before conducting such an inspection, Company shall cause each of its employees, agents, and representatives who have access to Supplier's facilities, to agree in writing to maintain, preserve, and protect all Proprietary Information and Technology of Supplier and the confidential or proprietary information and technology of Supplier's other customers.

k. Launch Responsibilities. Supplier shall use its Commercially Reasonable Efforts to support Company with respect to the timing of the launch of the Vehicle, including bringing to the attention of the Steering Committee any issues that may impact the proposed launch date.

l. Post-Delivery Services. Supplier shall provide Post-Delivery Services, which consist of storage, preparation for shipment, yard management, facilitation of Vehicle loading onto carriers for delivery, and delivery to the designated carrier of the Vehicles, in accordance with the commercially reasonable Post-Delivery Services specifications provided by Company. Upon Company's acceptance of a Vehicle, Supplier's possession thereof, and during the performance of the Post-Delivery Services, shall be deemed a bailment. Supplier shall bear the risk of loss of and damage to such Vehicle until such time as the Vehicle is delivered to the carrier arranged by Company; provided, however, that in the event the Vehicle is not transported from the Manufacturing Plant within 10 days after Company's acceptance thereof, the bailment shall end, and the risk of loss of and damage to such Vehicle shall transfer to Company as of such date.

m. Post-Sale Responsibilities. Supplier shall have no responsibility or liability with respect to service of the Vehicles after Company's acceptance thereof, except for the provision of Post-Delivery Services, service parts, warranty services in accordance with Section 4, and recall obligations under Section 5, unless such service is caused by a breach of this Agreement. Company shall hold Supplier harmless for any claim or cost Supplier incurs arising out of the provision of post-sale service, unless such service is caused by a breach of this Agreement by Supplier or a result of the Manufacturing Services. Supplier shall not sell or deliver the Vehicle to any Person other than Company or as Company may direct in writing.

n. Service Parts. Company shall provide Supplier with a list of serviceable items on the Vehicle ("**Service Parts**"), forecasted demand for Service Parts, and Component Lead-time requirements for Service Parts inventory. Supplier shall maintain stock of Service Parts according to the forecasted demand provided by Company and Component Lead-times. Supplier's Service Part obligations shall not survive termination of the Agreement, provided that prior to the effective date of termination, Supplier will use Commercially Reasonable Efforts to offer to Company an opportunity to purchase Service Parts for Company's anticipated future needs on a "one-time buy" basis.

o. Future Vehicles. The Parties contemplate that Supplier will manufacture future models of the Vehicle and other vehicle models of Company. The manufacture and supply of any such future vehicles shall be pursuant to a separate agreement to be negotiated in good faith by the Parties.

3. **Certain Covenants.**

a. Compliance with Law. Each Party shall at all times comply with all Laws applicable to this Agreement and in the manufacture of the Vehicle, the operation of the Party's business, and the exercise of its rights and performance of its obligations hereunder.

i. Supplier shall cooperate with Company's requests for information to facilitate Company's compliance with and fulfillment of all Governmental Authority reporting obligations.

ii. In the case of Supplier, this includes Laws regarding the operation of the Manufacturing Plant, and Laws applicable with respect to Supplier Personnel, including Laws relating to equal opportunity, safety, wages and hours, sexual harassment, and immigration. If required by Company to comply with its obligations under Law, upon Company's reasonable request, Supplier shall provide Company with a written certification of Supplier's compliance with Laws and any additional information regarding the Vehicle requested by Company. Supplier shall be solely liable for any violation of these Laws, except to the extent caused by Company's breach of its obligations under this Agreement, in which case liability shall be equitably allocated.

iii. In the case of Company, this includes compliance with all vehicle safety Laws, including those arising under NHTSA, the TREAD Act and Federal Motor Vehicle Safety Standards, all Laws relating to the marketing or distribution of the Vehicles, including dealership Laws, and consumer protection, unfair trade practice and similar Laws. Company shall be solely liable for any violation of these Laws, except to the extent caused by Supplier's breach of its obligations under this Agreement, in which case liability shall be equitably allocated.

b. Reporting Obligations. The Parties acknowledge the existence of certain vehicle safety information reporting obligations pursuant to applicable Law (including the TREAD Act and the Federal Motor Vehicle Safety Standard), including those described in this Section 3.b. For purposes of this Agreement, the Parties agree that:

i. Company will be responsible for making any required reports to NHTSA, including information about fatalities or injuries, on behalf of Company and Supplier. Supplier will immediately forward to Company, or its designee, a complete copy of any claim or notice received by Supplier regarding a Vehicle manufactured by Supplier which involves (1) one or more deaths regardless of whether the death occurred in the United States or a foreign country and despite whether or not the notice alleges that a defect in the Vehicle caused the death; (2) one or more injuries that occurred in the United States whether or not the notice alleges that a defect in the Vehicle caused the injury or injuries; or (3) a complaint or property damage claim. For purposes of this Section 3.b.i, "immediately" shall mean within three (3) business days following the day of receipt of such notice or claim. Company will provide Supplier with contact information to receive such claims and notices and agrees to keep the contact information current.

ii. Supplier shall cause to be affixed permanently to each Vehicle manufactured by Supplier for Company a label or placard identified on a parts list, part drawing, assembly drawing or other technical information provided by Company. In the case of any label or placard which must contain vehicle specific information, Company will provide the technical information necessary to determine the vehicle-specific content and Supplier shall be responsible for ensuring that the label or placard is matched to the correct vehicle. Company shall be responsible for the content of the label or placard.

iii. Vehicles manufactured by Supplier for Company have been designed and developed solely by Company and therefore are attributed to Company fleet for purposes of compliance with any Federal Motor Vehicle Safety Standard including any phase-in of such Standards. In the event that Company, or its designee, determines that the attribution of the Vehicles manufactured by Supplier for Company must be reported to NHTSA pursuant to 49 C.F.R. Part 585 in connection with the phase-in of any Standards, Company and Supplier agree to memorialize this attribution agreement in a separate, stand-alone written contract that can be filed with NHTSA.

iv. The Parties will make reasonable efforts to amend this Agreement to accommodate any changes made by NHTSA or other Governmental Authority in the future, if such changes affect the Vehicles.

v. Supplier's obligations under this Section 3.b are subject to Supplier's reporting and compliance obligations to Governmental Authorities under applicable Law.

c. Materials Declaration. Company understands and agrees that:

i. Company is responsible for notifying Supplier in writing of the specific Materials Declaration Requirements that Company determines to be applicable to the Vehicle and shall be solely liable for the adequacy and sufficiency of such determination and information;

(1). Any information regarding Materials Declaration Requirements compliance of parts, Components, packaging or materials used in the Vehicle shall come from the relevant Component Provider. Supplier does not test, certify or otherwise warrant component, part, packaging or materials compliance, on a homogenous material level or any other level, with Materials Declaration Requirements; and

(2). Company is ultimately and solely responsible for ensuring that any Components and the Vehicle itself, are compliant with applicable Materials Declaration Requirements.

d. Permits. Supplier shall, at its sole cost and expense, obtain and maintain in full force and effect any and all Permits, including all environmental Permits, necessary for the exercise of its rights and performance of Supplier's obligations under this Agreement, including any Permits required for the operation of the Manufacturing Plant, Permits required under Section 8, the shipment of hazardous materials, and the manufacture of the Vehicles, as applicable.

e. Incentives. The Parties shall cooperate with one another and apply for and maximize the utilization of such state and local economic and tax incentives which may be provided by the State of Ohio, the City of Lordstown or other third parties, as a result of the activities engaged in by the Parties in connection with or during the performance of this Agreement or the manufacture of Vehicles (collectively, the "**Incentives**" and individually an "**Incentive**"). If Supplier receives, or receives the benefit of, any Incentives resulting from the activities which are the subject of this Agreement, Supplier shall provide notice of same to Company, and the Parties shall discuss and negotiate in good faith the sharing of the Incentive.

f. On-Site Component Providers. In the event Company identifies any Component Provider that Company desires to have manufacture a Component at the Manufacturing Plant, Supplier agrees to consider such request in good faith and negotiate in good faith with such Component Provider the terms of a reasonable agreement with such Component Provider for the Component Provider's use of space at the Manufacturing Plant.

4. **Quality; Warranty and Remedy.**

a. Quality Assurance. The responsibilities for quality assurance shall be allocated between Supplier and Company as provided in the Roles, Accountability, and Responsibility Matrix ("Matrix"), the initial version of which is attached as Schedule 4.a. The Parties acknowledge that it is expected that the actual roles and responsibilities are likely to change during the pre-launch planning and production periods, and agree to modify the Matrix as needed to reflect those changes. Supplier shall be responsible for administrative tasks associated with any Component Provider quality issues, including routine communications with Components Providers regarding quality matters. The Parties shall agree on an escalation process to be used if routine communications with the Component Provider do not resolve the quality issues. Company shall support such escalation as reasonably requested by Supplier. Supplier shall be responsible for all quality assurance associated with the Manufacturing Plant, the Plant Machinery (subject to Company's calibrations), and the Manufacturing Services, all subject to the Matrix.

b. Supplier Warranty. Supplier warrants that, except to the extent that a breach of Supplier's warranty was caused by Company's breach of its obligations under this Agreement:

i. Supplier shall manufacture and assemble the Vehicles in accordance with the Specifications and the Vehicle type identified on the 4 Week Quantity/Option Build Schedule.

ii. The Vehicles shall be merchantable and free of defects in materials and workmanship arising out of the performance of the Manufacturing Services, and not from the causes covered by Company's warranties under Sections 4.c.i or 4.c.ii.

iii. Supplier shall comply with all Laws in the performance of its obligations hereunder.

iv. The Manufacturing Services will be provided by appropriately qualified and trained personnel, in a professional manner with the level of professional care customarily observed by appropriately skilled personnel rendering similar services as provided hereunder.

v. Subject to Section 6.d, the Vehicles shall be free and clear of all liens, claims, encumbrances, interests, or other rights and delivered by Supplier to Company with good title on Company's acceptance thereof.

c. Company Warranty. Company warrants that, except to the extent that a breach of Company's warranty was caused by Supplier's breach of its obligations under this Agreement:

i. The Components purchased from Directed Suppliers will conform to the specifications (as established by Company), be merchantable, be fit for their intended purpose, and be free of defects in design or quality.

ii. The Vehicle will be free of defects in design, quality, conformity, and fitness for purpose.

iii. Company shall comply with all Laws in the performance of its obligations hereunder.

d. Warranty Liability. To the extent that a Party breaches its warranties under this Section 4 and such breach could have been prevented or mitigated by the other Party's performance of its obligations under this Agreement, there will be an equitable adjustment to any liability (except as provided in Section 4.f) arising from the Party's breach of such warranty and the Parties agree to negotiate such adjustment in good faith.

e. Vehicle Warranty. Company or its Affiliate will warrant to its retail purchasers of Vehicles in accordance with its usual and customary warranty policies. To the extent Supplier is determined to be responsible for such warranty claims in accordance with Section 4.f below, Company shall invoice Supplier and Supplier shall pay for such warranty claims. The cost of a warranty claim will be determined in accordance with Company's then-current Supplier Quality Assurance Manual or, if not addressed in such manual, usual and customary industry warranty policies. Company, or its designee, shall have the right to handle any claim, action, or proceeding allegedly based on such warranty. In connection with any alleged defect in Vehicles and the parts thereof, including "off-warranty" costs and "vehicle buy-backs," Company may make such repair or replacement of Vehicles and the parts thereof, or pay such compensation directly or indirectly to the retail purchasers who purchased such Vehicles if it is not covered by the aforementioned warranty, recall campaign, or other service campaign pursuant to Section 5. Any costs and expenses incurred in making such repair, replacement, or compensation shall be either (i) borne by the respective Party in accordance with the principles of responsibility allocation under Section 4.f; or (ii) as agreed upon by the Parties.

f. Allocation of Warranty Claim Responsibility. Any costs, expenses, and liabilities relating to warranty claims as mentioned in Section 4.e shall be borne by the responsible Party or Parties in accordance with and subject to the following principles of responsibility allocation:

i. Company shall be responsible for the defects or consequences attributable to: (1) the development or design of Vehicles and the Components; (2) the transportation, delivery, or distribution of Vehicles; (3) defective Components purchased from Directed Providers, subject to Supplier's obligations under this Agreement; or (4) any other breach of its obligations under this Agreement.

ii. Supplier shall be responsible for defects or consequences attributable to the Manufacturing Services, including any Component manufactured by Supplier, or any other breach of its obligations under this Agreement.

g. Repair or Replacement of Defective Vehicle. On Company's request, Supplier shall repair, exchange, or replace any defective Component or Manufacturing Service. Company shall use Commercially Reasonable Efforts to notify Supplier promptly after its discovery of a defect. The Parties shall mutually determine whether repair, exchange, or replacement is the appropriate remedy. Liability for the costs of repair, exchange, or replacement shall be determined in accordance with the principles of Section 4.d.

h. Exclusive Warranty. THE WARRANTIES GIVEN BY THE WARRANTOR (COMPANY OR SUPPLIER, AS THE CASE MAY BE) IN THIS SECTION 4 ARE THE WARRANTOR'S EXCLUSIVE WARRANTIES, AND THE WARRANTOR EXPRESSLY DISCLAIMS, AND WARRANTEE EXPRESSLY WAIVES, ALL OTHER WARRANTIES AND REPRESENTATIONS OF ANY KIND WHATSOEVER WHETHER EXPRESS, IMPLIED, STATUTORY, ARISING BY COURSE OF DEALING OR PERFORMANCE, CUSTOM, USAGE IN THE TRADE OR OTHERWISE, ANY IMPLIED WARRANTY OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OR INFRINGEMENT OR MISAPPROPRIATION OF ANY RIGHT, TITLE, OR INTEREST. NO ORAL OR WRITTEN STATEMENT OR REPRESENTATION BY EITHER PARTY, ITS AGENTS, OR EMPLOYEES SHALL CONSTITUTE OR CREATE A WARRANTY OR EXPAND THE SCOPE OF ANY WARRANTY HEREUNDER.

5. **Recall and Other Service Campaigns.**

a. Supplier Obligations. In the event that any request, allegation, or inquiry from, or any initial or final determination by, any Governmental Authority concerning suspected, alleged, or so-determined safety or emissions defects, or noncompliance with any governmental safety or emissions control standard or regulation relating to any of the Vehicles or the parts or Components thereof, is made or notice thereof is given directly or indirectly to either of the Parties hereto:

i. If Supplier receives such request, allegation, inquiry, or determination, Supplier shall immediately notify Company or its designee and provide all relevant or requested information and documents. Company, either directly or through its designee, shall represent the interests of the Parties in connection with such request, allegation, inquiry, or determination and shall have the sole right to determine (1) whether to conduct a recall campaign, and (2) whether to challenge the determination of a Governmental Authority before such Governmental Authority or in court. Supplier will fully cooperate in any such recall campaign or challenge. For purposes of this Section 5.a.i, "immediately" shall mean within three (3) business days following the day of receipt of such request, allegation, inquiry, or determination.

ii. If, as a result of field experience, test data or otherwise, Supplier believes it may be necessary or desirable to conduct a recall campaign or other service campaign relating to any Vehicles or the parts thereof, then (1) Supplier shall immediately notify Company to that effect; (2) Company shall decide whether to conduct a recall campaign or other service campaign; and (3) Supplier will fully cooperate in any such recall campaign or other service campaign. For purposes of this Section 5.a.ii, "immediately" shall mean within three (3) business days following the day on which Supplier believes a recall campaign or other service campaign is necessary or desirable.

iii. If, as a result of field experience, test data or otherwise, Company believes it may be necessary or desirable to conduct a recall campaign or other service campaign relating to any Vehicles or the parts thereof, then (1) Company shall immediately notify Supplier to that effect; (2) Company shall decide whether to conduct a recall campaign or other service campaign; and (3) Supplier will fully cooperate in any such recall campaign or other service campaign. For purposes of this Section 5.a.iii, "immediately" shall mean within three (3) business days following the day on which Company believes a recall campaign or other service campaign is necessary or desirable.

iv. Supplier's obligations under this Section 5.a and under Section 5.b.i are subject to Supplier's reporting and compliance obligations to Governmental Authorities under applicable Law.

b. Corrective Actions.

i. In the event of either Section 5.a.i or Section 5.a.ii, Company shall decide the nature of the corrective action to be taken and shall cause the required reports to be filed with the relevant Governmental Authority. However, to the extent feasible, Company shall confer with Supplier before making such decision. In the event that any recall campaign or other service campaign is required, Company, or its designee, shall issue notification letters and shall administer any such campaign. Company and Supplier shall cooperate in exchanging information and otherwise for purposes of responding to requests for information from a Governmental Authority.

ii. Unless otherwise agreed upon, all costs and expenses incurred by each Party in connection with this Section 5 shall be borne by such Party; provided, however, that if a recall campaign or other service campaign is conducted or if a penalty, fine, or other assessment is levied relating to any Vehicles and the parts thereof, the costs and expenses for said campaign and said penalty, fine, or other assessment shall be initially borne by Company and, except as otherwise agreed to by the Parties, shall be reimbursed by Supplier where Supplier is responsible therefor in accordance with and subject to the principles of responsibility allocation under Section 4.

iii. Supplier shall make a record of all safety related parts required to be tracked by Governmental Authority and the manufacturer's codes of the tires on each Vehicle. Supplier shall maintain such information as required by Law or, if not required by Law, as agreed by the Parties. All records relating to such tracking maintained by either Party shall be provided to the other Party as reasonably requested or as required by Law. Any records or information necessary for the appropriate tire manufacturer to conduct a tire recall campaign shall be furnished to such tire manufacturer by Company in such manner and content as agreed upon by Company and Supplier.

6. **Payment.**

a. Vehicle Invoice. Upon acceptance of a Vehicle, Supplier shall issue to Company one or more invoices for the Vehicle Payment. For each Vehicle accepted by Company in accordance with Section 2.e, Supplier shall be entitled to a "Manufacturing Value Add Payment" in the amount of $[***], provided that if actual Vehicle production volumes materially vary from expected volumes (500 Vehicles in 2022 and 2,000 Vehicles in 2023), the Parties will negotiate in good faith a possible adjustment, up or down, of the Manufacturing Value Add Payment. The form and content (including the number of invoices) shall be agreed to by the Parties.

b. Other Invoices. Supplier shall issue to Company an invoice for:

i. Service Parts, upon delivery to Company. During the production period of the Vehicle, Service Parts prices shall be equal to the then current BOM price, plus any incremental costs to Supplier of providing service parts. Following the production period, Service Parts prices shall be equal to the service prices charged by Component Providers, plus incremental costs to Supplier of providing service parts.

ii. Amounts owed to Supplier under the allocation principles set forth in Section 4.d, when determined;

iii. Amounts due to Supplier under the Agreement, including under Section 9, when determined;

iv. Termination-related amounts, in accordance with the provisions of Section 12.b; and

v. Any other amounts due to Supplier under the Agreement, as mutually agreed to in writing by the Parties.

c. Invoice Payment. All sales of Vehicle by Supplier shall be to Company (although Vehicle may be shipped to Subsidiaries of Company), and Company shall pay Supplier all monies when due. Payment of all invoices shall be net 30 days from date of invoice. Payment to Supplier shall be in U.S. dollars and in immediately available funds.

d. Disputes. If there is any good faith dispute over an invoice, Company shall pay the undisputed amount and the Parties shall negotiate in good faith to resolve any issues regarding any amounts still in dispute in accordance with Section 23. Each Party shall continue to perform its obligations under this Agreement during the continuation of any such dispute and Company's partial payment hereunder shall not constitute a breach of its obligations herein, provided that if the amount in dispute exceeds $5,000,000, then Supplier may suspend performance, further provided that Supplier will resume performance if Company pays the amount in dispute in excess of such threshold, even under protest.

e. Setoff. All amounts due from one Party to the other under this Agreement are net of any indebtedness and subject to setoff or recoupment in accordance with UCC §2-717.

f. Taxes. Company shall be responsible for all federal, foreign, state and local sales, use, excise and other taxes relating to the Vehicles (except taxes based on Supplier's income), all delivery, shipping, and transportation charges and all foreign agent or brokerage fees, document fees, custom charges, and duties.

g. Liens. In the event any applicable Law permits the creation of a lien in any Vehicle accepted by Company, Company hereby grants Supplier a lien in any such Vehicle to secure payment of the Vehicle Payment; provided, however, that Supplier shall take any and all actions necessary or desirable to release such lien at the time Company offers such Vehicle for sale. As a condition of such release, Company hereby grants Supplier a lien in any receivable associated with such Vehicle. Supplier specifically waives any and all other reservations, liens, security interests, or similar encumbrance in any Vehicle which it might acquire by operation of Law, by judicial process, by judgment, or otherwise.

7. **US Government Contracting Requirements.** Supplier acknowledges that Company may sell certain Vehicles manufactured by Supplier to the United States government pursuant to agreements that require Company to flow down certain requirements to Supplier. Supplier agrees to comply with any requirements that Company is required by law or such government contracts to flowdown to Supplier, which, notwithstanding Section 24.e, may be attached hereto and incorporated herein by Company on notice to Supplier.

8. **Import and Export.** All transactions subject to this Agreement shall be made in compliance with all applicable U.S. export control, economic sanctions, customs, and import laws and regulations. The Company shall be responsible for obtaining any licenses or other authorizations required under the U.S. export control and trade sanctions laws and regulations, including the Export Administration Regulations administered by the U.S. Department of Commerce's Bureau of Industry and Security, and the economic sanctions regulations administered by the U.S. Department of Treasury's Office of Foreign Assets Control, and any military related uses regulated by the Department of State's, International Traffic in Arms (ITAR). The Company shall not export the Vehicle to any country other than Canada without prior notification to the Supplier. The Supplier shall be responsible for clearing through customs administration (into the United States and out of any country of export) supplies relating to the Vehicle (including parts, materials, components, and assemblies) that are ordered by the Supplier and the Company shall be responsible for the customs administration for any supplies relating to the Vehicle (including parts, materials, components, and assemblies) that are ordered directly by the Company. Each Party shall ensure that the imports of supplies relating to the Vehicle that are directly ordered by that Party are made in compliance with U.S. Customs laws and regulations, and other U.S. and state regulatory requirements necessary for import into the United States. Each Party shall be responsible for paying or ensuring payment of all applicable duties and fees for imports of supplies relating to the Vehicle that are directly ordered by that Party. Each Party shall take all reasonable actions at the request of the other Party so each Party can comply with its obligations in this Section.

9. **Changes and Obsolescence.**

a. Changes to Manufacturing Services, Packaging Specifications and Test Procedures. Company may, in writing, request a change to the Manufacturing Services, Packaging Specifications and Test Procedures at any time. Supplier will analyze the requested change and provide Company with an assessment of the effect that the requested change will have on cost, manufacturing, scheduling, delivery, implementation, or other material aspects of its performance. Company will be responsible for all costs associated with any accepted changes, and in return Company shall also receive all benefits associated with any such accepted changes, except if the change has been initially suggested to Company by Supplier, in which case Supplier and Company will negotiate in good faith a sharing of the benefits and costs. Any such change shall be documented in a written change order and shall become effective only upon mutual written agreement of both Parties to the terms and conditions of such change order, including changes in time required for performance, cost, and applicable delivery schedules.

b. Engineering Changes. Company may request Engineering Changes to the Vehicle in writing at any time (a "**Change Request**"). Supplier will analyze the Change Request and inform Company within a reasonable time, not to exceed 10 business days, if it can satisfy the Change Request, and if it can, a good faith estimate of the time and cost required to implement the Engineering Change, and if it cannot, the reasons preventing Supplier from satisfying the Change Request. Any such change shall be documented in writing and shall become effective only upon mutual written agreement of both Parties of the terms and conditions of such change, including changes in time required for performance, cost (including cost of materials on hand or on order in accordance with original Build Schedule), and applicable delivery schedules.

c. Treatment of Obsolete/End-of-Life Material/Part Change Notification. If a Component becomes obsolete as a result of an Engineering Change or otherwise, Company shall be liable to Supplier or the Component Provider, as the case may be, for all costs of the obsolete materials, provided that Supplier will collaborate with Company and otherwise use Commercially Reasonable Efforts to minimize the volume and value of obsolete materials, whether held by Supplier or a Component Provider, by taking the following steps:

i. Use all Components and materials to the extent possible.

ii. As soon as is commercially practical, reduce or cancel component and material orders to the extent contractually permitted.

iii. Return all Components and materials to the extent contractually permitted.

iv. Subject to Company's written consent, make all Commercially Reasonable Efforts to sell Components and materials to third parties.

v. Assist Company to determine whether current work in progress should be completed, scrapped or shipped "as is".

10. **Term.** The term of this Agreement shall begin on the Effective Date and, unless earlier terminated pursuant to Section 11, it shall continue for a minimum period of eighteen (18) months thereafter ("Initial Term"). It shall thereafter continue on a month to month basis, provided that either Party may terminate this Agreement by written notice issued by its senior executive ("Termination Notice"), effective upon the later of 12 months from the expiration of the Initial Term or 12 months from the issuance of the Termination Notice. During the period between the issuance of the Termination Notice and the effective date of termination, this Agreement shall remain in full force and effect.

11. **Termination for Cause.** The Agreement may be terminated for cause as follows:

a. Termination for Breach. Either Party may terminate this Agreement based on the material breach by the other Party of the terms of this Agreement, provided that the Party alleged to be in material breach receives written notice setting forth the nature of the breach at least 30 days prior to the intended termination date. During such time the Party in material breach may cure the alleged breach and if such breach is cured within such 30-day period, no termination will occur, and this Agreement will continue in accordance with its terms. If such breach shall not have been cured, termination shall occur upon the termination date set forth in such notice.

b. Termination for Bankruptcy/Insolvency. Upon the happening of any of the following events with respect to a Party, this Agreement may be terminated immediately.

i. The appointment of a receiver or custodian to take possession of any or all of the assets of a Party, or should a Party make an assignment for the benefit of creditors, or should there be an attachment, execution, or other judicial seizure of all or a substantial portion of a Party's assets, and such attachment, execution, or seizure is not discharged within 30 days.

ii. A Party becomes a debtor, either voluntarily or involuntarily, under Title 11 of the United States Code or any other similar law and, in the case of an involuntary proceeding, such proceeding is not dismissed within 30 days of the date of filing.

iii. The dissolution or termination of the existence of a Party whether voluntarily, by operation of law or otherwise.

12. **Obligations at Termination.** This Section 12 shall apply if this Agreement terminates (which for purposes of this Section, includes expiration, cancellation, or termination) for any reason, whether pursuant to Section 10, Section 11, or otherwise. On termination:

a. Existing Rights and Obligations. Neither Party shall be excused from its obligations or liabilities under this Agreement which have accrued prior to the effective date of termination of the Agreement, including payment for all monies due Supplier.

b. Termination Claim. Within 90 days following the effective date of termination, (as determined under Sections 10 or 11, as the case may be), Supplier shall submit to Company its claim for amounts due to it arising out of the termination ("**Termination Claim**"). Company shall pay the Termination Claim within 30 days of submittal. Supplier will provide to Company all information reasonably necessary to confirm the Termination Claim. Subject to Section 12.d, Company shall pay the charges claimed by Supplier as follows:

i. All amounts due for Vehicle which Supplier has completed manufacture prior to the effective date of termination pursuant to an issued 4 Week Quantity/Option Build Schedule for which payment has not been made;

ii. Supplier's actual cost of Components, materials, and work-in-process on hand or on order as of the effective date of termination pursuant to an issued 12 Week Quantity Build Schedules or the applicable Component Lead-time, whichever is longer;

iii. Supplier's other reasonable out of pocket amounts paid or to be paid to Directed Providers or other providers incurred as a result of the termination;

iv. Supplier's other reasonable costs actually incurred as a result of the termination;

v. Any unrecaptured NRE Costs; and

vi. Except in the event of termination at Supplier's election under Section 10 or termination by Company for cause under Section 11, depreciation on equipment idle up to 6 months after the Termination Effective Date.

In addition, if Supplier holds Vehicles, Components, materials, or work-in-process in excess of the volumes for which Company is obligated to purchase, Company may elect to purchase them on the same terms.

c. Company Purchase. All Components, Vehicles, materials, and work in process for which Company shall have paid one hundred percent (100%) of the amount due under Section 12.b shall be held by Supplier for Company's account and Company may take possession of them on an AS-IS, WHERE-IS basis, not later than thirty days after full payment.

d. Duty to Mitigate Costs. Both Parties shall, in good faith, undertake Commercially Reasonable Efforts to mitigate the costs of termination, expiration, or cancellation. Supplier (or Company, if it is the direct purchaser) shall make Commercially Reasonable Efforts to cancel all applicable Component Purchase Orders and reduce component inventory through return for credit programs or allocate such Components and materials for alternate Company programs if applicable, or other customer orders provided the same can be used within 30 days of the termination date.

13. **Property of the Parties.**

a. Property of the Supplier: All Property used by Supplier in performing under this Agreement which is not Company Property shall be and remain the property of Supplier and, if in the possession of Company, shall be deemed a bailment.

b. Property of Company. All Tooling and other machinery, equipment, transportation equipment, systems, technology, and other similar items that are provided by Company to Supplier without charge, or for which Supplier has been reimbursed by or on behalf of Company and are kept by Supplier in the Manufacturing Plant ("**Company Property**"), shall be and remain the property of Company and, as applicable, be deemed a bailment, provided that, for purposes of clarity, Transferred Assets as defined in the Asset Purchase Agreement shall not be Company Property. Supplier shall bear the risk of loss of and damage to all Company Property, unless caused by Company's breach of its obligations under this Agreement. Company Property shall be used solely by Supplier to perform under this Agreement and not for any other purpose. Company Property may not be moved from the Manufacturing Plant or substituted with any other property without the written consent (which may be withheld) of Company, provided that if and to the extent that Company's failure to consent to any transfer of or substitution of Company Property requested by Supplier and necessary for the performance of the Manufacturing Services materially interferes with Supplier's ability to perform the Manufacturing Services, Supplier shall be relieved of such obligations. Company Property must be stored and maintained and clearly identified as Company Property through tagging or other commercially reasonable means to avoid comingling of Company's Property with Supplier's Property or the property of any third party, free and clear of Supplier-created liens and encumbrances, and in good condition. If this Section and Section 2.i conflict, Section 2.i shall prevail.

c. No License. Performance by either Party under the Agreement will not transfer any rights of ownership in, or license of, or constitute permission granted by to the owning Party to the other Party to use the owning Party's property except (i) if otherwise consented to by the owning Party; or (ii) as relates to license rights only, to the extent necessary for the non-owning Party to fulfill its obligations under this Agreement.

d. Return of Company Property. Upon the request of Company, all Company Property (except Company Property that has been consumed or otherwise disposed of with Company's consent) must be immediately released or returned to Company or delivered by or on behalf of Supplier to Company or its designee, in accordance with Company requirements and this Agreement and at Company's expense. Supplier hereby waives any statutory or other lien or lien rights it may have against or in any property or rights of Company (including any Company Property). When any Company Property is no longer reasonably necessary for Supplier to perform under this Agreement, Supplier will return all such Company Property (except Company Property that has been consumed or otherwise disposed of with Company's consent) to Company or its designee at Company's expense. If and to the extent that Company's repossession of Company Property materially interferes in any material respect with Supplier's ability to perform the Manufacturing Services, Supplier shall be relieved of such obligations.

14. **Confidentiality.**

a. Confidentiality Obligations. In order to protect both Parties' Proprietary Information and Technology, the Parties agree that each Party shall use the same degree of care, but no less than a commercially reasonable degree of care, as such Party uses with respect to its own similar information to protect the Proprietary Information and Technology of the other Party and to prevent any use of the other's Proprietary Information and Technology other than for the purposes of this Agreement. This Section 14 imposes no obligation upon a Party with respect to Proprietary Information and Technology which: (a) was known to such Party before receipt from the disclosing Party; (b) is or becomes publicly available through no fault of the receiving Party; (c) is rightfully received by the receiving Party from a third party without a duty of confidentiality; (d) is independently developed by the receiving Party without a breach of this Agreement or in reliance on the Proprietary Information and Technology of the Disclosing Party; or (e) is disclosed by the receiving Party with the disclosing Party's prior written approval. If a receiving Party is required by Law or a Governmental Authority to disclose Proprietary Information and Technology, this Agreement or any portion hereof, then such receiving Party agrees to give the disclosing Party prompt notice of such requirements, and, except as required by Law or a Governmental Authority, neither the receiving Party nor its representatives shall disclose the Proprietary Information and Technology until the disclosing Party has had a reasonable opportunity to seek a protective order or other appropriate relief to contest the disclosure.

b. Employees, Agents, and Representatives. Each Party represents and warrants to the other that it has adopted policies and procedures consistent with the Party's obligations under this Section 14 with respect to the receipt and disclosure of confidential or proprietary information, such as the Proprietary Information and Technology, with its employees, agents, and representatives. Each Party represents and warrants to the other Party that it will cause each of its employees, agents, and representatives to maintain and protect the confidentiality of the other Party's Proprietary Information and Technology and shall be responsible for any breach thereof by any of its employees, agents, or representatives.

c. Term and Enforcement. The confidentiality obligation set forth in this Agreement shall be observed during the term of the Agreement and for a period of five years following the termination of this Agreement. Each Party acknowledges that a breach of any of the terms of this Section 14 may cause the non-breaching Party irreparable damage, for which the award of damages would not be adequate compensation. Consequently, the non-breaching Party may institute an action to enjoin the breaching Party from any and all acts in violation of those provisions, which remedy shall be cumulative and not exclusive, and shall be in addition to any other relief to which the non-breaching Party may be entitled at law or in equity. Such remedy shall not be subject to the arbitration provisions set forth in Section 23.

d. Return of Proprietary Information and Technology. Upon the termination, cancellation, or expiration of this Agreement all Proprietary Information and Technology shall, upon written request, be returned to the respective Party, or at the respective Party's discretion, destroyed by the receiving Party.

15. **Intellectual Property Rights; Assignment.**

a. Company Existing Intellectual Property. Company does not transfer to Supplier any Company Intellectual Property or any right, title, or interest therein, other than the limited right to use such Company Intellectual Property strictly and solely in connection with the manufacture of the Vehicle pursuant to the terms of this Agreement and any related parts and Components thereof as may be authorized in writing by Company and Supplier shall not, without the prior written consent of Company, use, or permit the use of, any Company Intellectual Property, or any materials or information supplied by or on behalf of Company, for any other purpose. Any such use of Company Intellectual Property by Supplier shall be subject to the confidentiality provisions in Section 14. All Company Intellectual Property shall be and remain the sole and exclusive property of Company. Without limiting the generality of the foregoing, Supplier shall not reproduce, distribute, disclose, or sell to any Person or third party other than Company any of Company Intellectual Property or derivation thereof or any materials or information supplied by or on behalf of Company or its applicable Affiliate without the prior written consent of Company or the applicable Affiliate in each instance.

b. Goodwill and Acquired Rights. Any goodwill derived from the use by Supplier of Company Intellectual Property shall inure to the benefit of Company. If Supplier acquires any rights in or relating to any Company Intellectual Property, by operation of law or otherwise, these rights are deemed and are hereby irrevocably assigned to Company without cost or further action by either Party. Supplier agrees to take any and all actions in the future, including executing and delivering any and all requested documents, to assign all right, title, and interest in and to any such Company Intellectual Property.

c. Protection of Intellectual Property. Each Party shall use the same degree of care, but no less than a commercially reasonable degree of care, as such Party uses with respect to its own similar Intellectual Property and to prevent any use of the other's Intellectual Property other than for the purposes of this Agreement.

d. Prohibited Acts. Supplier shall not: (i) take any action that may interfere with any Company's rights in or to Company Intellectual Property, including Company's ownership or exercise thereof; (ii) challenge any right, title, or interest of company in or to Company Intellectual Property; or (iii) make any claim or take any action adverse to Company's ownership of Company Intellectual Property, unless in good faith protection of its own rights under this Agreement.

e. Supplier Existing Intellectual Property. Supplier shall retain all right, title, and ownership to any Supplier Existing Intellectual Property. Upon full payment of all monies due and owing under this Agreement, Supplier will grant to Company a worldwide, non-exclusive, irrevocable, fully paid-up, royalty-free, right and license under Supplier's intellectual property rights to the Supplier Existing Intellectual Property only insofar as is required for Company to use, sell, or distribute the Vehicle provided as part of the Manufacturing Services performed by Supplier pursuant to this Agreement.

f. Inventions and Improvements Made by Supplier. Except for Supplier Existing Intellectual Property (including manufacturing processes and/or manufacturing process improvements), in the event that during the Term, Supplier or Supplier Personnel make any inventions or improvements relating to the Vehicle or the Manufacturing Process ("**Inventions and Improvements**"), Supplier shall immediately furnish Company with all information in connection with such inventions or improvements, and any Intellectual Property rights derived from such inventions or improvements shall insure to the benefit of Company. If Supplier acquires any rights in or relating to such Inventions or Improvements, by operation of law or otherwise, these rights are deemed and are hereby irrevocably assigned to Company without cost or further action by either Party, except that Inventions and Improvements to the Manufacturing Processes shall remain Supplier Existing Intellectual Property, subject to the license set forth in Section 15.e. Supplier agrees to take any and all actions in the future to assign, including executing and delivering any and all requested documents, all right, title, and interest in and to any such Inventions and Improvements. Further, Company and its Affiliates shall have the right to apply for a patent in their own name or their employee's name in any country on such Inventions and Improvements without any payment to Supplier or Supplier Personnel, and Supplier shall immediately comply with any reasonable requests made by Company or its Affiliate in connection with such patent application.

16. **Indemnification.**

a. Third Party Indemnification. Except as otherwise provided herein, each Party ("**Indemnifying Party**") shall indemnify, defend, and hold the other Party and its directors, officers, employees, agents, contractors, successors, and assigns (individually, an "**Indemnified Party**" and, collectively, the "**Indemnified Parties**") harmless from and against any and all Losses from third party claims (a "Third party Loss") for property damage and personal injury or death asserted against an Indemnified Party, to the extent arising out of, or resulting from, directly or indirectly, the other Party's (i) performance or failure to perform any of its obligations under, or breach of, the terms of this Agreement; (ii) negligent acts or willful or intentional misconduct; or (iii) violation of any Laws, in each case except to the extent resulting directly from an Indemnified Party's gross negligence or willful or intentional misconduct. Third Party Losses shall also include all Losses arising from Intellectual Property infringement, with Supplier to be the Indemnifying Party if the infringement arises out of the Manufacturing Services and Company to be the Indemnifying Party otherwise. Neither Party shall be entitled to indemnification except as expressly provided in this Agreement.

b. Indemnification Procedure.

i. Indemnified Party shall promptly notify Indemnifying Party in writing of any Third party Losses and cooperate with Indemnifying Party at the Indemnifying Party's sole cost and expense. Except as provided in Section 16.b.ii:

(1). Indemnifying Party shall immediately take control of the defense and investigation of such Losses and shall employ counsel of its choice to handle and defend the same, at Indemnifying Party's sole cost and expense.

(2). Indemnifying Party shall not settle any Losses in a manner that adversely affects the rights of any Indemnified Party without such Indemnified Party's prior written consent, which shall not be unreasonably withheld or delayed.

(3). Indemnified Party may participate in and observe the proceedings at its own cost and expense, provided that if such counsel is necessary because of a conflict of interest with Indemnifying Party or its counsel or because Indemnifying Party does not assume control of the defense of a claim for which Indemnifying Party is obligated to indemnify an Indemnified Party hereunder, Indemnifying Party shall bear such expense to a reasonable extent.

ii. Notwithstanding anything to the contrary in this Section 16.b, for any Third Party Loss brought or based on the alleged product liabilities of Vehicles or Components resulting in alleged injury to person or property ("**PL Claims**") (i) Supplier agrees that Company shall have full power and control over the negotiation and defense thereof, including sole authority to retain attorneys and experts, establish defense strategies, and settle or take to trial PL Claims, without consultation with or consent of Supplier (subject to the final sentence of this subpart); and (ii) Supplier shall fully cooperate with Company, at Supplier's expense, for the effective defense of such PL Claims to the fullest extent possible in investigation into the facts or circumstances surrounding such PL Claims, including responding to discovery requests, providing technical support and witnesses for deposition or trial, and otherwise fully cooperating in the defense and trial of the matter. Company shall not settle any PL Claims in a manner that materially adversely affects the rights of Supplier without Supplier's prior written consent, which shall not be unreasonably withheld or delayed (the Parties agreeing that the payment of any amount as a result of such settlement shall not be deemed to adversely affect Supplier).

iii. An Indemnified Party's failure to perform any obligations under this Section 16.b shall not relieve Indemnifying Party of its obligations under this Section 16.b except to the extent that Indemnifying Party can demonstrate that it has been materially prejudiced as a result of such failure.

iv. If the Parties disagree as to which (if either) Party is entitled to indemnity, it shall be resolved in accordance with Section 23. If it is determined that one Party has been wrongfully identified by the other Party as an Indemnifying Party, the other Party shall be liable for all such Losses.

17. **Limitation of Damages.**

a. LIMITATIONS. EXCEPT AS OTHERWISE PROVIDED IN SECTION 17.c, UNDER NO CIRCUMSTANCES SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR TO ANY OTHER PERSON OR ENTITY UNDER ANY CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE, OR OTHER LEGAL OR EQUITABLE CLAIM OR THEORY FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, EXEMPLARY, MULTIPLE, OR PUNITIVE DAMAGES WHETHER SUCH PARTY WAS INFORMED OR WAS AWARE OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. THE FOREGOING SHALL NOT EXCLUDE OR LIMIT EITHER PARTY'S LIABILITY FOR DEATH OR PERSONAL INJURY RESULTING FROM ITS NEGLIGENCE TO THE EXTENT THAT SUCH LIABILITY CANNOT BY LAW BE LIMITED OR EXCLUDED. FOR CLARITY, THE FOLLOWING SHALL BE DIRECT DAMAGES: (1) WITH RESPECT TO RECALLS, LMC's REASONABLE COSTS OF ADMINISTRATION AND ISSUING NOTICE AND THE REASONABLE LABOR AND MATERIAL COSTS (INCLUDING THROUGH THIRD PARTY SERVICE PROVIDERS) OF REPAIRING OR REPLACING THE COMPONENT(S) AND ANY OTHER COMPONENT(S) IMPACTED THEREBY; AND (2) WITH RESPECT TO WARRANTY CLAIMS, LMC's REASONABLE LABOR AND MATERIAL COSTS (INCLUDING THROUGH THIRD PARTY SERVICE PROVIDERS) OF REPAIRING OR REPLACING THE COMPONENT(S) AT ISSUE AND ANY OTHER COMPONENT(S) IMPACTED THEREBY.

b. CAP ON AGGREGATE LIABLITY. EXCEPT AS OTHERWISE PROVIDED IN SECTION 17.c, IN NO EVENT SHALL SUPPLIER'S AGGREGATE LIABILITY IN ANY CALENDAR YEAR UNDER THIS AGREEMENT ENTERED INTO PURSUANT HERETO EXCEED THE GREATER OF (I) $6,000,000 AND (II) 100% OF THE TRAILING TWELVE MONTH'S MANUFACTURING VALUE ADD PAYMENT FROM THE FIRST FULL MONTH PRIOR TO THE DATE THE CLAIM OCCURRED.

c. EXCEPTIONS. SECTIONS 17.a AND 17.b SHALL NOT APPLY TO DAMAGES OR LIABILITIES ARISING FROM (i) THE INDEMNITIES SET FORTH HEREIN (PROVIDED THAT THE UNINSURED PORTION OF SUPPLIER'S INDEMNITY LIABILITY SHALL BE SUBJECT TO SECTION 17.b); (ii) LIABILITY FOR BREACH OF SECTION 14; (iii) LIABILITY FOR FRAUD OR WILFULL MISCONDUCT OR VIOLATION OF LAW; OR (iv) A PARTY'S OBLIGATION TO PAY ATTORNEYS' FEES AND COURT COSTS IN ACCORDANCE WITH SECTION 24.d.

18. **Insurance.** Each Party shall procure and maintain at all times during the term of this Agreement and at its own cost (unless otherwise indicated on Schedule 18) with an insurer of good financial standing and repute insurance policies meeting the coverage and requirements specified on Schedule 18; provided that: with respect to Product Recall and Product Liability insurance, the Parties shall: (i) have a commercially reasonable time (but not later than the start of production) to procure insurance; and (ii) if such insurance is not commercially available on mutually acceptable terms (provided that neither Party shall unreasonably withhold its consent to such terms), the Parties shall confer in good faith on any needed amendment to the Agreement and provided, further that for any joint insurance policies, neither Party shall be required to pay its portion of the premium prior to the date that such premium is due. Each Party shall provide the other Party upon request with sufficient proof that it has procured and maintained insurance coverage in accordance with this Section.

19. **Relationship of Parties.** Supplier shall perform its obligations hereunder as an independent contractor. Nothing contained herein shall be construed to imply a partnership or joint venture relationship between the Parties. The Parties shall not be entitled to create any obligations on behalf of the other Party, except as expressly provided by this Agreement. The Parties will not enter into any contracts with third parties in the name of the other Party without the prior written consent of the other Party.

20. **Publicity.** Without the consent of the other Party, neither Party shall refer to this Agreement in any publicity or advertising or disclose to any third party any of the terms of this Agreement. Notwithstanding the foregoing, neither Party will be prevented from, at any time, furnishing any information to any governmental or regulatory authority, including the United States Securities and Exchange Commission or any other foreign stock exchange regulatory authority, that it is by law, regulation, rule or other legal process obligated to disclose. A Party may disclose the existence of this Agreement and its terms to its attorneys and accountants, Component Providers, customers, and others only to the extent necessary to perform its obligations and enforce its rights hereunder.

21. **Force Majeure.** Any delay or failure of either Party to perform its obligations under this Agreement (other than the payment of money) shall not constitute a breach or default under this Agreement if, and only to the extent that, the delay or failure to perform is caused by unforeseen circumstances beyond the reasonable control of the Party that failed to perform or whose performance was delayed, including acts of God; blackouts; power failures; inclement weather; fire; explosions; floods; hurricanes; typhoons; tornadoes; earthquakes; epidemics; component shortages or material shortages; sabotage; accidents; destruction of production facilities; riots or civil disturbances; acts of government or governmental agencies, including changes in law or regulations that materially and adversely impact the Party; provided that the non- performing Party was not a cause of such event or otherwise at fault or negligent and that such cause could not have been prevented or mitigated through Commercially Reasonable Efforts (each such event, a "Force Majeure Event"). The Party declaring a Force Majeure Event shall make Commercially Reasonable Efforts to continue to meet its obligations throughout the duration of the Force Majeure Event and shall notify the other Party promptly (in no event more than five business days of discovery of the event) when the Force Majeure Event begins (including an explanation of the nature of the Force Majeure Event) and when such Force Majeure Event has terminated. The suspension of any obligations shall only last during the time the Force Majeure Event continues and such reasonable time thereafter to allow said Party to respond to such Force Majeure Event. The Party affected by a Force Majeure Event shall have the duty and obligation to mitigate the effects of the Force Majeure Event by making Commercially Reasonable Efforts to limit or prevent any delay or non-performance of any obligation under this Agreement. If the force majeure event can be eliminated or mitigated by a change to the Component or Vehicle or other changes, Section 9 shall apply. If the delay or failure of a Party to perform its obligations caused by the Force Majeure Event lasts (or is reasonably believed by both Parties that it shall last) more than sixty (60) days, the Party not declaring the Force Majeure Event may immediately, in its sole discretion, (a) cancel or modify any performance affected by the Force Majeure Event and seek alternate performance elsewhere; or (b) terminate this Agreement, provided that such action shall not give rise to a claim for damages against the Party unable to perform its obligations. Notwithstanding anything in this Section 21 to the contrary, no delay or failure of Supplier to perform its obligations under this Agreement will be considered a Force Majeure Event, and such delay or failure to perform will not be excused, if and to the extent that it is caused by labor problems of Supplier such as, by way of example and not by way of limitation, lockouts, strikes, and slowdowns.

22. **Governance.**

a. Steering Committee: The Parties will establish a steering committee as the top management body for the Parties' cooperation on all relevant matters related to the Vehicle and to facilitate resolution of any disputes that may arise from time to time ("**Steering Committee**"). The Steering Committee shall be comprised of members appointed by Company from time to time and members appointed by Supplier from time to time. Either Party may convene a meeting of the Steering Committee on at least 10 business days advance notice unless each Party agrees to a different notice period. Each Party shall use Commercially Reasonable Efforts to identify in advance topics to be addressed at a Steering Committee Meeting.

b. Project Management: The Parties shall each appoint a project manager as the daily responsible officer for each Party's team. Each project manager shall be the contact person for the respective other Party. Each project manager shall be entitled to bring any issues forward to the Steering Committee.

23. **Dispute Resolution/Arbitration.**

a. Negotiation. The Parties shall use good faith efforts to resolve disputes, within 20 business days of written notice of such dispute. Such efforts shall include escalation of such dispute to the Steering Committee. All negotiations, statements, and communications pursuant to this Section for the resolution of Disputed Claims will be confidential and shall be treated as compromise and settlement negotiations and no such statements shall be deemed to be admissions of a Party. The Parties shall not rely on, or introduce as evidence in the arbitration or other judicial proceeding: (i) views expressed or suggestions made by a Party with respect to a possible settlement of the dispute; (ii) admissions made by a Party in the course of the settlement discussions; or (iii) the fact that a Party had or had not indicated a willingness to accept a proposal for settlement. There shall be no stenographic or audio record of the settlement discussions.

b. Arbitration. Any and all claims, counterclaims, demands, cause of action, disputes, controversies, and other matters in question arising out of or under this Agreement or the alleged breach of any provision hereof (all of which are referred to herein as "**Disputed Claims**"), whether such Disputed Claims arise at law or in equity, under state or federal law, for damages or any other relief, shall be resolved by binding arbitration in Cuyahoga County, Ohio, USA, by the American Arbitration Association ("**AAA/ ICDR**") in accordance with its International Arbitration Rules (the "**Rules**") then in effect. The arbitration shall be administered by the AAA/ ICDR and shall be conducted by the International Centre for Dispute Resolution, which is a Division of the American Arbitration Association. If the AAA/ ICDR is unable or legally precluded from administering the arbitration, then the parties shall agree upon an alternative arbitration organization, provided that, if the parties cannot agree, such organization shall be selected by the Chief Judge of the United States Federal District Court of the Northern District of Ohio.

c. Procedure. The arbitration shall be conducted by a tribunal of three arbitrators. Within ten days after arbitration is initiated pursuant to the Rules, the initiating Party (the Claimant) shall send written notice to the other Party or Parties (the Respondent), with a copy to the office of the ICDR designating the first arbitrator (who shall not be a representative or agent of any Party but may or may not be an ICDR panel member and, in any case, shall be reasonably believed by the Claimant to possess the requisite experience, education, and expertise in respect of the matters to which the claim relates to enable such person to competently perform arbitral duties. With fifteen days after receipt of such notice, the Respondent shall send written notice to the Claimant, with a copy to the office of the ICDR and to the first arbitrator, designating the second arbitrator who shall not be a representative or agent of any Party but may or may not be an ICDR panel member and, in any case, shall be reasonably believed by the Respondent to possess the requisite experience, education and expertise in respect of the matters to which the claim relates to enable such person to competently perform arbitral duties. Within fifteen days after such notice from the Respondent is received by the Claimant, the Respondent and the Claimant shall cause their respective designated arbitrators to select any mutually agreeable ICDR panel member as the third arbitrator. If the respective designated arbitrators of the Respondent and the Claimant cannot so agree within said fifteen-day period, then the third arbitrator will be determined pursuant to the Rules. Prior to commencement of the arbitration proceeding, each arbitrator shall have provided the Parties with a resume outlining such arbitrator's background and qualifications and shall certify that such arbitrator is not and has not been a representative or agent of any of the parties. If any arbitrator shall die, fail to act, resign, become disqualified or otherwise cease to act, then the arbitration proceeding shall be delayed for 15 days and the Party by or on behalf of whom such arbitrator was appointed shall be entitled to appoint a substitute arbitrator (meeting the qualifications set forth in this Section 23.c within such 15-day period; provided, however, that if the Party by or on behalf of whom such arbitrator was appointed shall fail to appoint a substitute arbitrator within such 15-day period, the substitute arbitrator shall be a neutral arbitrator appointed by mutual consent by the remaining two arbitrators within 15 days thereafter.

d. Enforcement. Notwithstanding the provisions of this Section, a Party may file a complaint limited to: (i) compelling arbitration; (ii) enforcing an arbitral award; or (iii) seeking a preliminary injunction or similar provisional judicial relief pending the outcome of arbitration. Such a proceeding shall be filed either (1) in any state court of competent jurisdiction located in the State of Ohio; or (2) in the United States District Court for the Northern District of Ohio, and the parties expressly consent, and waive any objections, to subject matter jurisdiction, personal jurisdiction, and venue in such courts. In addition, nothing herein shall be construed to require arbitration of a claim or dispute brought by a Person who is not a Party to this Agreement, or affect the ability of any Party to interplead or otherwise join another Party in a proceeding brought by a Person who is not a Party to this Agreement.

24. **Miscellaneous.**

a. Notices. All notices, demands, consents, and other communications required under this Agreement shall be in writing and shall be given either by personal delivery, by nationally recognized overnight courier (with charges prepaid), by facsimile, email, or EDI (with telephone confirmation) addressed to the respective Parties at the following addresses:

Notice to Supplier:	Foxconn EV System LLC 4568 Mayfield Road, Suite 204 Cleveland, OH 44121 Attn: Liting Cai
with a copy to:	Butzel Long 201 W. Big Beaver, Suite 1200 Troy, MI 48084 Attn: Sheldon Klein
Notice to Company:	Lordstown EV Corporation 38555 Hills Tech Drive Farmington Hills, MI 48331 Attn: Daniel Ninivaggi
with a copy to	Baker & Hostetler LLP 127 Public Square, Suite 2000 Cleveland, OH 44114 Attn: Ronald Stepanovic

b. Good Faith. The Parties agree to (a) act in good faith towards each other in performing under this Agreement; and (b) negotiate in good faith all matters, issues, or provisions which arise under or are related to this Agreement that require the parties to reach a consensus, understanding, or agreement ("**Negotiated Matter"**). If Company and Supplier cannot agree on the resolution of a Negotiated Matter after discussion and negotiation, and as a matter of last resort, the Parties shall submit such Negotiated Matter for resolution pursuant to Section 23.

c. Cumulative Remedies; Specific Performance. All rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either Party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any other agreement between the Parties, or otherwise.

d. Attorneys' Fees and Costs. In the event that attorneys' fees or other costs are incurred to enforce payment or performance of any obligation, agreement, or covenant between the Parties or to establish damages for the breach of any obligation, agreement, or covenant under this Agreement, or to obtain any other appropriate relief under this Agreement, whether by way of prosecution or defense, the prevailing Party shall be entitled to recover from the other Party its reasonable attorneys' fees and costs, including any appellate fees and the costs, fees, and expenses incurred to enforce or collect such judgment or award and any other relief granted.

e. Amendment. No course of dealing between the Parties hereto shall be effective to amend, modify, or change any provision of this Agreement. This Agreement may not be amended, modified, or changed in any respect except by an agreement in writing signed by an authorized officer or representative of each Party. The Parties may, subject to the provisions of this Section 24.e, from time to time, enter into supplemental written agreements for the purpose of adding any provisions to this Agreement or changing in any manner the rights and obligations of the Parties under this Agreement or any Schedule hereto. Any such supplemental written agreement executed by the Parties shall be binding upon the Parties.

f. Partial Invalidity. Whenever possible, each provision of this Agreement shall be interpreted in such a way as to be effective and valid under applicable law. If a provision is prohibited by or invalid under applicable law, it shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

g. Monies. All references to monies in this Agreement shall be deemed to mean lawful monies of the United States of America.

h. Further Assurances. Following the Effective Date, each of the Parties shall, and shall cause its respective Affiliates, as applicable, to execute such further documents and perform such further acts, as may be reasonably necessary to effect or complete the agreements and the transactions set forth herein.

i. Severability. If any provision of this Agreement is determined to be invalid, prohibited, or unenforceable in any applicable jurisdiction, then as to such jurisdiction, and provided the essential terms of this Agreement for the Parties remain valid, binding, and enforceable, this Agreement shall be ineffective only to the extent of such invalid, prohibited, or unenforceable provisions without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provisions in any other jurisdiction. Upon such determination that any provision is invalid, prohibited, or unenforceable, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

j. Entire Agreement. This Agreement, the Schedules and any addenda attached hereto or referenced herein, constitute the complete and exclusive statement of the agreement of the Parties with respect to the subject matter of this Agreement, and replace and supersede all prior agreements and negotiations by and between the Parties, provided that this Agreement does not supersede the Asset Purchase Agreement. Each Party acknowledges and agrees that no agreements, representations, warranties, or collateral promises or inducements have been made by any Party to this Agreement except as expressly set forth herein or in the Schedules and any addenda attached hereto or referenced herein, and that it has not relied upon any other agreement or document, or any verbal statement or act in executing this Agreement. These acknowledgments and agreements are contractual and not mere recitals. In the event of any inconsistency between the provisions of this Agreement and any Schedule and any addenda attached hereto or referenced herein, the provisions of this Agreement shall prevail unless expressly stipulated otherwise, in writing executed by the Parties. If there is a conflict between this Agreement and pre-printed language on each Party's forms, for example, purchase orders, this Agreement shall prevail.

k. Binding Effect; Assignment. This Agreement shall be binding on the Parties and their successors and assigns; provided, however, that except as allowed in this sub-section, neither Party shall assign, delegate, or transfer, in whole or in part, this Agreement or any of its rights or obligations arising hereunder without the prior written consent of the other Party, which shall not be unreasonably withheld. Any purported assignment without such consent shall be null and void. Notwithstanding the foregoing:

   i. Supplier shall have the right to assign its rights to receive monies hereunder without the prior written consent of Company; and

   ii. Supplier shall have the right to delegate its duties under this Agreement to one or more Subsidiaries, in which case the Subsidiary shall be solely responsible for performance of the delegated duty. Supplier will inform Company in writing within ten business days after exercising such right or assignment or delegation.

l. Waiver. Waiver by either Party of any breach of any provision of this Agreement shall not be considered as or constitute a continuing waiver or a waiver of any other breach of the same or any other provision of this Agreement. No waiver shall be effective unless in writing and signed by the waiving Party.

m. No Third-Party Beneficiaries. Except as expressly set forth in this Section 24.m, this Agreement benefits solely the parties to this Agreement and their respective permitted successors and permitted assigns, and nothing in this Agreement, express or implied, confers on any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement. The Parties hereby designate each Indemnified Party as a third-party beneficiary of Section 16 having the right to enforce such Sections.

n. Headings; Rules of Interpretation. The captions and headings in this Agreement are inserted only as a matter of convenience and for reference and in no way define the scope or content of this Agreement or the construction of any provision hereof or of any document or instrument referred to herein. In the event of an ambiguity or a question of intent or interpretation arises, this Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument (or any portion thereof to be drafted. For all purposes of this Agreement, unless otherwise expressly provided or unless the context requires otherwise:

   i. definitions are equally applicable to both the singular and plural forms of the terms defined, and references to the masculine, feminine, or neuter gender include each other gender;

   ii. the words “hereof,” “herein,” and “hereunder” and words of similar import when used in any document shall refer to such document as a whole and not to any particular provision of such document;

   iii. references to an “Attachment,” “Exhibit,” “Schedule,” “Appendix,” or “Section” refer to the corresponding Attachment, Exhibit, Schedule, Appendix, or Section of this Agreement;

   iv. whenever the words “include,” “includes,” and “including” and other words of similar import are used in this Agreement, they shall be deemed to be followed by the phrase “without limitation”;

v. references to “days” shall mean calendar days, unless the term “business days” shall be used, in which case “business day” shall mean any calendar day other than a Saturday, Sunday or U.S. national, legal or bank holiday;

vi. any reference to a Law means such Law as amended from time to time and includes any successor legislation thereto and all regulations, rulings, and other Laws promulgated thereunder;

vii. references to any document, instrument, or agreement mean such document, instrument, or agreement as amended, supplemented, and modified from time to time to the extent permitted by the provisions thereof; and

viii. whenever the word “or” is used in this Agreement, it shall be deemed to be used in the inclusive sense.

o. Section References. All references to Sections or Schedules shall be deemed to be references to Sections of this Agreement and Schedules attached to this Agreement, except to the extent that any such reference specifically refers to another document. All references to Sections shall be deemed to also refer to all subsections of such Sections, if any.

p. Business Day. If any time period set forth in this Agreement expires upon a Saturday, Sunday or U.S. national, legal, or bank holiday, such period shall be extended to and through the next succeeding business day.

q. Other Documents. The Parties shall take all such actions and execute all such documents that may be necessary to carry out the purposes of this Agreement, whether or not specifically provided for in this Agreement.

r. Counterparts. This Agreement may be executed by facsimile and delivered in one or more counterparts, each of which shall be deemed to be an original and all of which, taken together, shall be deemed to be one agreement.

s. Governing Law and Jurisdiction. This Agreement and the interpretation of its terms shall be governed by the laws of the State of Ohio, inclusive of the Uniform Commercial Code as adopted in that state, without application of conflicts of law principles. The provisions of the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

t. Survival. The provisions of this Agreement which by their very nature are intended to survive the expiration or termination of this Agreement, including Sections 3.a.i, 4, 5, 12, 14, 15, 16, 17, 18 (for purposes of any tail coverage to be maintained by a Party), 23, 24.a, 24.c, 24.d, 24.n, 24.s, and 24.t, shall survive the expiration, cancellation or termination of this Agreement for any reason.

[Signate page follows.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives.

COMPANY:	**SUPPLIER:**
LORDSTOWN EV CORPORATION	**FOXCONN EV SYSTEM LLC**
By: /s/ Melissa Leonard (Signature)	By: /s/ Liting Cai (Signature)
Name: Melissa Leonard (Print)	Name: Liting Cai (Print)
Title: Executive Vice President, General Counsel & Secretary	Title: Authorized Officer
Date: May 11, 2022	Date: May 11, 2022

Exhibit 10.2

EXECUTION VERSION

LIMITED LIABILITY COMPANY AGREEMENT

OF

MIH EV DESIGN LLC

THE EQUITY INTERESTS ISSUED PURSUANT TO THIS LIMITED LIABILITY COMPANY AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER ANY OTHER APPLICABLE SECURITIES LAWS. SUCH EQUITY INTERESTS MAY NOT BE SOLD, TRANSFERRED, ASSIGNED, PLEDGED OR OTHERWISE DISPOSED OF AT ANY TIME WITHOUT EFFECTIVE REGISTRATION UNDER SUCH ACT AND LAWS OR AN EXEMPTION THEREFROM, AND COMPLIANCE WITH THE OTHER RESTRICTIONS ON TRANSFERABILITY SET FORTH HEREIN.

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LIMITED LIABILITY COMPANY AGREEMENT
of
MIH EV DESIGN LLC

This LIMITED LIABILITY COMPANY AGREEMENT (as amended, restated, supplemented or otherwise modified in accordance with Section 13.4, this "Agreement"), dated as of May 11, 2022, by and among MIH EV Design LLC, a Delaware limited liability company (the "Company"), Foxconn EV Technology, Inc., an Ohio corporation ("FX"), and Lordstown EV Corporation**,** a Delaware corporation ("LMC" and, together with FX and any additional Person who is admitted as a member of the Company in accordance with this Agreement, the "Members" or each a "Member"). Capitalized terms used herein shall have the respective meanings ascribed to such terms in Article I.

WHEREAS, the Company was formed on May 11, 2022 as a Delaware limited liability company pursuant to and in accordance with the Delaware Limited Liability Company Act, as the same may be further amended, supplemented or otherwise modified from time to time (the "Delaware Act"); and

WHEREAS, the undersigned desire to enter into this Agreement to, among other things, govern the organization, operation and governance of the Company, including the conduct of the In-Scope Business.

NOW, THEREFORE, in consideration of the mutual promises and covenants made herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned, intending to be legally bound, hereby agree as follows:

ARTICLE I
DEFINITIONS

Section 1.1 Definitions.

"Accountants" has the meaning set forth in Section 7.4(a).

"Affiliate" means, in respect of a Person, any other Person who Controls, is Controlled by or is under common Control with such Person; provided that the Company shall not be deemed an Affiliate of any Member.

"Agreement" has the meaning set forth in the preamble hereto.

"Annual Budget" means, with respect to a Fiscal Year, the annual operating budget of the Company for such Fiscal Year (displaying anticipated statements of income and cash flows); provided, that the Board may approve an Annual Budget for a period of less than a Fiscal Year and, if it does, the provisions of this Agreement referring to an Annual Budget shall be modified as appropriate to reflect such shorter period.

"Anti-Bribery Laws" means any of the following: (a) the FCPA, (b) the Organization for Economic Cooperation and Development Convention against Bribery of Foreign Public Officials in International Business Transactions and legislation implementing such convention, (c) international anti-bribery conventions (other than the convention described in clause (b)), and (d) local anti-corruption and anti-bribery Laws of any other applicable country or jurisdiction.

"Board" means, as of any date, the then-current board of managers of the Company, which shall have the power and authority described in this Agreement.

"Board Deadlock" has the meaning set forth in Section 5.3(a)(v).

"Business Day" means a day, other than a Saturday or a Sunday, on which commercial banks located in Cleveland, Ohio or New York, New York are not required or authorized by Law to close.

"Business Opportunities" has the meaning set forth in Section 11.2.

"Business Plan" has the meaning set forth in Section 2.7.

"Capital Commitments" means the FX Capital Commitment and the LMC Capital Commitment.

"Capital Contribution" means any cash, cash equivalents or the fair market value (as reasonably determined by the Board in good faith) of other tangible or intangible assets that a Member contributes or is deemed to contribute to the Company each pursuant to Article III and net of any Liabilities of such Member assumed by the Company in connection with such contribution and net of any other Liabilities to which the assets contributed by such Member are subject.

"Certificate of Formation" means the certificate of formation of the Company filed with the State of Delaware on May 11, 2022, as may be amended by the Board in accordance with this Agreement and the Delaware Act from time to time.

"Chairperson" has the meaning set forth in Section 5.2(g).

"Change of Control" means, at any time, (a) the acquisition by any Person or any group of Persons acting together which would constitute a "group" (a "Group") for purposes of Section 13(d) of the Exchange Act, or any successor provision thereto, other than FX and its respective Permitted Transferees, of beneficial ownership of such Company Interests representing more than 50% of the aggregate voting power of all classes of voting securities of the Company, (b) any transaction or series of related transaction pursuant to which the Persons who were the respective beneficial owners of the voting securities of the Company immediately prior to such transaction or series of related transactions do not, following such transaction or series of related transactions, beneficially own, directly or indirectly more than 50% of the aggregate voting power of all classes of voting securities of the Company resulting from such transaction or series of related transactions, (c) the direct or indirect sale or other disposition, in one or a series of transactions, of assets representing all or substantially all of the assets of the Company to any Person or Group or (d) any transaction or series of related transactions pursuant to which following such transaction or series of related transactions FX does not have the power to appoint at least a majority of the Managers of the Company.

"Claim" means any and all claims (including any cross-claims or counterclaims), causes of action, allegations, charges, complaints, demands, inquiries, investigations, audits, disputes and other assertions of Liability, whenever or however arising.

"Code" means the U.S. Internal Revenue Code of 1986, as amended, or any successor to such statute.

"Company" has the meaning set forth in the preamble hereto.

"Company Interest" means a membership interest of the Company issued to a Member, including those represented by Units.

"Competing Business Opportunity" means undertaking any of the development services described in the Business Plan (other than contract manufacturing) with respect to EC Vehicles to be built and designed utilizing the MIH open platform and for sale in North America.

"Confidential Information" means all confidential and proprietary information (irrespective of the form of communication) obtained by or on behalf of a Member from the Company or its Representatives, other than information which (a) was or becomes generally available to the public other than as a result of a breach of this Agreement by such Member, (b) was or becomes available to such Member on a nonconfidential basis prior to disclosure to the Member by the Company or its Representatives (other than as a result of any breach by a Member or its Representatives of the confidentiality provisions of this Agreement), (c) was or becomes available to the Member from a source other than the Company and its Representatives, provided, that such source is not known by such Member to be bound by a confidentiality agreement with the Company, or (d) is independently developed by such Member without the use of any such information received under this Agreement.

"Contract" means any contract, agreement, purchase order, modification, obligation, promise, commitment or undertaking (whether written, electronic or oral) that is, or purports by its written terms to be, legally binding.

"Control" (including the terms "Controlled by," "Controlling" and "under common Control with") means, as used with respect to any Person, possession of the power or authority, directly or indirectly, to direct or cause the direction of management or policies of such Person, whether through ownership of voting securities, as trustee or executor, by Contract or otherwise, including by virtue of having the power to elect a majority of the board of directors or similar body governing the affairs of such Person.

"Covered Person" has the meaning set forth in Section 12.1.

"Damages" has the meaning set forth in Section 12.1.

"Default Contribution" has the meaning set forth in Section 3.2(a).

"Default Funding" has the meaning set forth in Section 3.2(a).

"Defaulting Member" has the meaning set forth in Section 3.2(a).

"Default Notice" has the meaning set forth in Section 3.2(a).

"Delaware Act" has the meaning set forth in the recitals hereto.

"Distribution" means each distribution made by the Company pursuant to this Agreement to a Member in respect of such Member's Company Interest, whether in cash, securities or other assets of the Company and whether by liquidating distribution or otherwise.

"EC Vehicle" means all-electric commercial vehicles designed by the Company.

"Electing Member" has the meaning set forth in Section 3.2(a).

"Emergency Funding" has the meaning set forth in Section 3.1(b)(i).

"Equity Interest" means, with respect to any Person (a) any unit, capital stock, partnership, membership or limited liability company interests or other equity interests in such Person or a successor, (b) obligations, notes or other indebtedness or other securities or interests convertible or exchangeable into units, capital stock, partnership interests, membership or limited liability company interests or other equity interests in such Person or a successor, and (c) warrants, options, certificates of interest or participation in any profit sharing agreement, or other rights to purchase or otherwise acquire units, capital stock, partnership interests, membership or limited liability company interests or other equity interests in such Person or a successor.

"Excess Cash" means, with respect to any Fiscal Year (or any other applicable period) with a positive budgeted net cash flow as set forth in the applicable Annual Budget, all cash revenues generated by the Company in excess of such budgeted net cash flow for such Fiscal Year, subject to (a) any mandatory provisions of applicable Law, (b) restrictions on distributions set forth in any agreement referenced in any credit or other agreement that is binding on the Company, and (c) any reserve amounts necessary to fund expenditures contemplated in the Annual Budget for the immediately succeeding Fiscal Year, as reasonably determined by the Board (subject to Section 5.3(a)(iv)) in good faith.

"Export Control Laws" means (a) all statutory and regulatory requirements under the Arms Export Control Act (22 U.S.C. 2778), the International Traffic in Arms Regulations (22 C.F.R. §120, et. seq.), the Export Administration Regulations (15 C.F.R. §730, et. seq.) as well as the anti-boycott and embargo regulations and guidelines issued thereunder, and associated executive orders, and the statutes implemented by the Office of Foreign Assets Controls and the U.S. Department of the Treasury and (b) any Laws of any jurisdiction outside the U.S. regulating the disclosure, shipment, transfer or transmission of commodities, goods, services, technology, information and technical data to any Person outside such jurisdiction.

"FCPA" means the U.S. Foreign Corrupt Practices Act of 1977 (15 U.S.C. § 78dd-1, et seq.).

"Fiscal Year" means the Company's annual accounting period established pursuant to Section 7.3.

"Fully-Participating ROFR Purchasing Member" has the meaning set forth in Section 9.6(c).

"FX" has the meaning set forth in the preamble hereto.

"FX Background IP License" has the meaning set forth in Section 2.10(a).

"FX Capital Commitment" means $55,000,000.

"FX Advance" means an advance by the FX Lender to LMC under an FX Financing Note.

"FX Lender" has the meaning set forth in Section 3.1(a)(v).

"FX Financing Note" means a note in substantially the form attached hereto as Exhibit A, to be entered into between FX Lender and LMC to evidence each FX Advance.

"FX Parent" means Hon Hai Precision Industry Co., Ltd.

"GAAP" means United States generally accepted accounting principles.

"Governmental Authority" means the United States and any other sovereign nation or city-state, and any state or other political subdivision thereof and any other individual, body or entity exercising or having the authority to exercise under the Laws thereof any executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including any government authority, agency, organization, department, bureau, office (including any public international, multinational or transnational authority, as well as the European Commission or any other competent body of the European Union and corresponding entities or agencies in any other jurisdiction), board, commission or instrumentality, and any arbitrator or arbitration panel with proper authority and jurisdiction under such Laws.

"Governmental Authorization" means any permit, consent, license, ratification, waiver, permission, variance, clearance, registration, qualification, approval or authorization issued, granted, given or otherwise made available by or under the lawful authority of any Governmental Authority or pursuant to any Law.

"ICC" has the meaning set forth in Section 13.8(d)(i).

"ICC Rules" has the meaning set forth in Section 13.8(d)(i).

"Imputed Underpayment" has the meaning set forth in Section 7.5(f)(ii).

"Initial Budget" has the meaning set forth in Section 2.8(a).

"In-Scope Business" means the businesses of (a) designing, developing, manufacturing, assembling, testing, certifying, marketing, selling, distributing and delivering EC Vehicles and their hardware and software components, (b) maintaining, sustaining and supporting, and providing other aftermarket services for, EC Vehicles, including parts distribution and other logistics, maintenance, repair and overhaul services, modifications and training, and (c) any combination of any aspects of any of the foregoing clauses (a) and (b).

"Indebtedness" means, with respect to a Person and without duplication, (a) all obligations of such Person for borrowed money (or issued in substitution for or exchange of indebtedness for borrowed money), including all principal, interest and fees, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person upon which interest charges are customarily paid (other than any Taxes), (d) all guarantees, whether direct or indirect, by such Person of Indebtedness of any other Person or Indebtedness of any other Person secured by any assets of such Person, whether such guarantees are in the form of letters of credit or other forms of security, surety or guaranty and (e) all finance lease obligations of such Person, but in all such cases excluding trade payables.

"Initial Business Plan End Date" means December 31, 2024.

"Initial Business Plan Timeline" has the meaning set forth in Section 2.7.

"Initial Capital Contribution" means $30,000,000.

"Initial Expenditures" means, individually and collectively, (a) expenditures in respect of Pre-Development Activities, including (i) direct third party expenditures incurred or to be incurred by the Company or incurred or to be incurred by LMC on behalf of the Company (including IT expenditures), and (ii) reimbursement to LMC, at agreed upon rates, for time spent by LMC personnel working on Company activities, (b) expenditures in respect of payroll for Company employees and (c) expenditures in respect of Company organizational and administrative activities.

"Initial Notice" has the meaning set forth in Section 3.3.

"Intellectual Property" means all intellectual property and industrial property rights arising under the Laws of any jurisdiction, including: (a) patents, patent applications and statutory invention registrations, (b) copyrights and all rights in any original works of authorship that are within the scope of any applicable copyright Law, together with all registrations and applications associated with any of the foregoing, (c) trade secrets and all other intellectual property rights in confidential or proprietary information, processes, technology, designs, formulae, algorithms, procedures, methods, discoveries, specifications, inventions, compositions, and know-how, and (d) any trademarks, service marks, trade names, service names, trade dress, logos, domain names, and other identifiers of source or origin, together with all registrations, applications and goodwill associated with any of the foregoing (the items set forth in clause (d), collectively, "Trademarks").

"Investment" as applied to any Person means (a) any direct or indirect purchase or other acquisition by such Person of any notes, obligations, instruments, stock, securities or ownership interests (including partnership interests and joint venture interests) of any other Person, other than cash and cash equivalents and (b) any capital contribution by such Person to any other Person.

"IRS" has the meaning set forth in Section 7.5(f)(i).

"Law" means any and all laws (including common laws), constitutions, statutes, ordinances, standards, guidelines, regulations, rules, codes and any other legislation enacted, promulgated or prescribed by or under the authority of any Governmental Authority, and including all Orders and the terms of any Governmental Authorizations, whether in effect on the date of this Agreement or coming into effect thereafter.

"Legal Proceeding" means any Claim commenced, brought, conducted or heard by or before any Governmental Authority.

"Liability" means any and all debts, liabilities, guarantees, assurances, commitments and obligations, whether fixed, contingent or absolute, asserted or unasserted, matured or unmatured, liquidated or unliquidated, accrued or not accrued, known or unknown, due or to become due and whenever or however arising.

"Lien" means any mortgage, deed of trust, pledge, hypothecation, security interest, encumbrance, claim, lien or charge of any kind.

"Liquidation Statement" has the meaning set forth in Section 8.2(a)(iii).

"LMC" has the meaning set forth in the preamble hereto.

"LMC Capital Commitment" means $45,000,000.

"LMC Parent" means Lordstown Motors Corp.

"Management Incentive Units" has the meaning set forth in Section 2.9.

"Manager" means a current member of the Board, who, for purposes of the Delaware Act, shall be deemed a "manager" as defined in the Delaware Act but who shall be subject to the rights and obligations set forth in this Agreement and, to the extent not inconsistent with the rights and obligations set forth in this Agreement, to the rights and obligations set forth in the Delaware Act.

"Maturing FX Note" has the meaning set forth in Section 3.4.

"Member" has the meaning set forth in the preamble hereto.

"Member Loan" has the meaning set forth in Section 3.1(b)(iii).

"Member Names and Marks" means, with respect to a Member and its Affiliates, the Trademarks which such Member or one of its Affiliates owns or otherwise has the right to use.

"Minimum Monthly Contribution" means $4,000,000.00.

"Model C and E Designs" means the designs for each of the following electric vehicles developed under the Foxtron brand and built on the MIH software and hardware open platform for electric vehicles: (a) the Model C crossover utility vehicle (CUV); and (b) the Model E sedan.

"Non-Defaulting Member" has the meaning set forth in Section 3.2.

"OFAC" means the U.S. Treasury Department's Office of Foreign Assets Control.

"Offered Units" has the meaning set forth in Section 9.6(a).

"Official" has the meaning set forth in Section 11.4(b)(i)(C).

"Order" means any order (other than an order constituting an approval), writ, judgment, injunction, decree, stipulation, determination or award entered, rendered, issued or made by any Governmental Authority.

"Overallotment Notice" has the meaning set forth in Section 9.6(c).

"Ownership Percentage" means, as to each Member, at any time of determination, a number (expressed as a percentage) equal to the quotient obtained by dividing: (a) all of such Member's Units by (b) the aggregate Units held by all Members; provided, that prior to the making of the Capital Contributions contemplated by Section 3.1(a)(i), FX's Ownership Percentage shall be deemed to be fifty-five percent (55)% and LMC's Ownership Percentage shall be deemed to be forty-five percent (45%).

"Participating Member" has the meaning set forth in Section 3.1(b)(i).

"Partnership Representative" means the "partnership representative" of the Company within the meaning of and for the purposes set forth in Code Section 6223(a) and as otherwise set forth in this Agreement.

"Permitted Transfer" has the meaning set forth in Section 9.3.

"Permitted Transferee" has the meaning set forth in Section 9.3.

"Person" means any individual, sole proprietorship, partnership, joint venture, trust, unincorporated association, corporation, limited liability company or other entity, including any Governmental Authority.

"Pre-Development Activities" means the initial pre-development activities described on Exhibit B.

"Prohibited Persons" means (a) any Person that (i) is named as a "Specially Designated National or Blocked Person" under OFAC; or (ii) is otherwise the target of any economic sanctions program administered by a Governmental Authority, including those administered by OFAC, Her Majesty's Treasury, the European Union and the Bureau of Industry Security of the U.S. Department of Commerce; or (b) any Person that is an Affiliate of any Person identified in of clause (a).

"Pro Rata Share" means, as to each Member, at any time of determination, a number (expressed as a percentage) equal to the quotient obtained by dividing: (a) such Member's remaining unfunded Capital Commitment at such time by (b) the remaining unfunded Capital Commitments of all Members at such time.

"Representative" means, with respect to a particular Person, any director, manager, member, officer, employee, agent, consultant, advisor, or other representative of such Person, including legal counsel, accountants and financial advisors, in their respective capacities as such.

"ROFR Purchasing Member" has the meaning set forth in Section 9.6(b).

"Schedule of Members" has the meaning set forth in Section 3.1(d).

"Selling Member" has the meaning set forth in Section 9.6(a).

"Shortfall Amount" has the meaning set forth in Section 3.2(a).

"Specified Persons" has the meaning set forth in Section 11.2.

"Subsidiary" means, with respect to any given Person, any corporation, limited liability company, partnership, association or other entity, more than 50% of the Equity Interests of which are owned, directly or indirectly, by that Person (except for any Equity Interests issued or transferred to "nominee" equityholders (or the equivalent) as necessary or desirable under the Laws of the jurisdiction of formation of such corporation, limited liability company, partnership, association or other entity).

"Tagging Person" has the meaning set forth in Section 9.7(a).

"Tag-Along Acceptance Period" has the meaning set forth in Section 9.7(a).

"Tag-Along Company Interests" has the meaning set forth in Section 9.7(a).

"Tag-Along Offered Company Interests" has the meaning set forth in Section 9.7(a).

"Tag-Along Right" has the meaning set forth in Section 9.7(a).

"Tag-Along Sale" has the meaning set forth in Section 9.7(a).

"Tag-Along Seller" has the meaning set forth in Section 9.7(a).

"Tag Exercise Notice" has the meaning set forth in Section 9.7(a).

"Tag Notice" has the meaning set forth in Section 9.7(a).

"Tax" or "Taxes" (and, with correlative meaning, "Taxable" or "Taxation") means all national, federal, state, local, municipal and foreign income, capital gains, profits, franchise, gross receipts, margin, capital, net worth, sales, use, withholding, payroll, estimated, goods and services, value added, ad valorem, alternative or add-on, registration, custom, general business, employment, social security (or similar), disability, workmen's compensation, business, occupation, unemployment, premium, real property, personal property (tangible and intangible), capital stock, stamp, customs, transfer (including real property transfer or gains), conveyance, severance, production, excise, unclaimed property, escheat, environmental, windfall profits and other taxes (including Section 59A of the Code) or charges of any kind whatsoever in the nature of or in lieu of a tax, including any and all fines, penalties, assessments, and additions attributable to or otherwise imposed on or with respect to any such taxes, and interest thereon, whether disputed or not, computed on a separate or consolidated, unitary or combined basis, imposed by or on behalf of any Tax Authority.

"Tax Authority" means any Governmental Authority having the power to regulate, impose or collect Taxes, including the IRS and any state or local department of revenue.

"Tax Proceeding" has the meaning set forth in Section 7.5(e).

"Taxable Year" has the meaning set forth in Section 7.5(b).

"Tax-Related Costs" has the meaning set forth in Section 7.5(g)(i).

"Third Party" means any Person who is not a party hereto or an Affiliate of a party hereto.

"Third Party Purchaser" means any Person other than a Member or a Permitted Transferee.

"Transfer" has the meaning set forth in Section 9.1.

"Transferring Member" has the meaning set forth in Section 9.3.

"Transfer Notice" has the meaning set forth in Section 9.6(a).

"Treasury Regulations" means the U.S. federal income Tax regulations promulgated under the Code and effective as of the date hereof, as amended, and including any successor regulations.

"U.S." or "United States" means the United States of America.

"Unfunded Emergency Funding Amount" has the meaning set forth in Section 3.1(b)(i).

"Vehicle Foreground IP" has the meaning set forth in Section 2.10(b).

Section 1.2 Rules of Construction.

(a) The descriptive headings of this Agreement are inserted for convenience only and do not constitute a substantive part of this Agreement.

(b) Whenever required by the context, any pronoun used in this Agreement shall include the corresponding masculine, feminine or neuter forms.

(c) The use of the word "include" and "including" and variations thereof in this Agreement shall be by way of example rather than by limitation and interpreted as though followed by the words "without limitation," and shall not be construed to restrict the meaning of any preceding word or statement to the specific or similar items or matters immediately following it. The use of the words "or," "either" and "any" shall not be exclusive. The word "extent" in the phrase "to the extent" shall convey the concept of degree, and such phrase shall not mean simply "if". The terms "hereof," "hereunder," "herein" and words of similar import shall refer to this Agreement as a whole and not to any particular provision of this Agreement. References to "writing," "written" and variations thereof include any manner of representing or manifesting words in a legible form (including on an electronic or visual display screen) or other non-transitory form.

(d) Except as otherwise indicated, all references in this Agreement to “Schedules,” “Articles,” “Sections” and “Exhibits” are intended to refer to Schedules, Articles, Sections and Exhibits to this Agreement.

(e) Reference to any agreement, document or instrument means such agreement, document or instrument as amended or otherwise modified from time to time in accordance with the terms thereof, and if applicable hereof.

(f) All references to “days” herein shall be to calendar days unless Business Days are specified. When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is referenced in the beginning or at the end of the calculation of such period shall be excluded (for example, if an action is to be taken within two (2) days after a triggering event and such event occurs on a Tuesday, then the action must be taken by Thursday or if an action is to be taken within two (2) days of a target date and the target date is a Thursday, the action must be taken by Tuesday); if the last day of any period referenced herein is a non-Business Day, the period in question shall end on the next succeeding Business Day.

(g) The parties hereto have participated jointly in the negotiation and drafting of this Agreement, which parties hereto acknowledge is the result of extensive negotiations between the parties.

(h) References to any Person are also to such Person's successors and permitted assigns.

(i) If an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by all parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any of parties hereto by virtue of the authorship of any of the provisions of this Agreement.

(j) All amounts of currency in this Agreement are expressed in, and all payments pursuant to this Agreement will be made in, United States Dollars unless otherwise expressly provided.

(k) Reference to any Law means such Law as in effect from time to time, including all past and future amendments, all successor Laws, and all rules and regulations promulgated thereunder.

ARTICLE II
GENERAL PROVISIONS

Section 2.1 Formation of the Company; Term. The Company was formed on May 11, 2022 as a Delaware limited liability company under the Delaware Act and shall continue in existence until the dissolution and liquidation of the Company in accordance with the provisions of Article VIII hereof. Effective upon the execution of this Agreement, the rights and Liabilities of the Members shall be determined pursuant to the Delaware Act and this Agreement; provided, that to the extent of any inconsistency between this Agreement and waivable or non-mandatory provisions of the Delaware Act, then this Agreement shall govern.

Section 2.2 Limited Liability Company Agreement. The Members have entered into this Agreement for the purpose of establishing the organization and governance of the Company and the conduct of its business. The Members hereby agree that, during the term of the Company set forth in Section 2.1, the rights and obligations of the Members with respect to the Company shall be determined in accordance with the terms and conditions of this Agreement, the Certificate of Formation and non-waivable provisions of the Delaware Act.

Section 2.3 Name. The name of the Company shall be "MIH EV Design LLC" or such other name or names as may from time to time be determined by the Board.

Section 2.4 Purpose, Scope and Powers. The Company has been duly formed for the sole object and purpose of engaging in such lawful transactions and business activities (including through its Subsidiaries) as are in furtherance of and in connection with conducting the In-Scope Business as contemplated by the Business Plan. Subject to the terms and conditions set forth herein, the Company and its Subsidiaries shall have any and all powers necessary to carry out the purposes of the Company and the conduct of the In-Scope Business as specified in this Section 2.4.

Section 2.5 Principal Office, Registered Office and Agent. The principal office of the Company shall be located at 26555 Evergreen Rd, Suite 1540, Southfield, Michigan, 48076-4206, or at such other place (whether inside or outside the State of Delaware) in the United States as the Board may from time to time designate. The Company may have such other offices (whether inside or outside the State of Delaware) in the United States and/or any other country as the Board may from time to time designate. The registered office and registered agent of the Company in the State of Delaware shall be the office of the initial registered office and registered agent set forth in the Certificate of Formation or such other office as the Board may from time to time designate. The Board may change the registered office and/or registered agent from time to time by (a) filing the address of the new registered office and/or the name of the new registered agent with the Delaware Secretary of State pursuant to the Delaware Act and (b) giving notice of such change to each of the Members.

Section 2.6 Qualification in Other Jurisdictions. Subject to the limitations set forth herein regarding situations in which the approval of the Members is required by the terms of this Agreement, (a) the Board shall cause the Company to be qualified or registered under foreign entity related statutes or assumed or fictitious name statutes or similar Laws in any jurisdiction in which the Company owns property or transacts business to the extent such qualification or registration is necessary or advisable in order to protect the limited liability of the Members or to permit the Company lawfully to own property or transact business and (b) in connection with the immediately foregoing, any officer appointed pursuant to Section 5.4 may execute, deliver and file any certificates (and any amendment and/or restatement thereof) necessary for the Company to qualify to do business in a jurisdiction in which the Company is permitted to conduct business pursuant to this Agreement.

Section 2.7 Business Plan. The "Business Plan" is the business plan of the Company that shall apply from the date hereof through the Initial Business Plan End Date (the "Initial Business Plan Timeline"), as set forth on Exhibit C. On at least an annual basis during the Initial Business Plan Timeline, the Board, with the assistance of the Officers, will review the Business Plan in conjunction with its review of the Annual Budget. Any proposed changes to the Business Plan during the Initial Business Plan Timeline shall be reviewed and shall require the approval of the Board. Following the period covered by the Initial Business Plan Timeline, any new Business Plans shall be adopted and approved by the Board. Subject to the then effective Initial Budget or Annual Budget, as applicable, (or if no Initial Budget or Annual Budget is then in effect, the cash and other resources then available to the Company), the Board shall cause the Company to operate in a manner consistent with the principals and objectives set forth in the Business Plan as the same is approved from time to time by the Board.

Section 2.8 Annual Budget.

(a) Following the date hereof, each of FX and LMC shall use its commercially reasonable efforts to prepare and agree to a Fiscal Year 2022 budget to design and develop its first EC Vehicle, which budget shall (i) be prepared to reflect expenditures on a monthly basis, (ii) include the timing and amounts of funding of the Capital Commitments (provided, that Capital Commitments shall be funded no more frequently than monthly and each Capital Contribution shall be no less than $7,500,000) and (iii) include all anticipated Company expenditures for Fiscal Year 2022, including the Initial Expenditures and any licensing fees payable under the FX Background IP License (the "Initial Budget"). Not later than sixty (60) days prior to (A) the end of the period covered by the Initial Budget and (B) each Fiscal Year thereafter, the Officers shall prepare and submit to the Board for approval the Annual Budget for such Fiscal Year (or portion thereof). If the Board fails to adopt and approve an Annual Budget for a Fiscal Year, then until an Annual Budget for such Fiscal Year (or portion thereof) is adopted and approved by the Board, the Company shall operate on the Annual Budget for the immediately preceding Fiscal Year (or portion thereof) (or, in the case of there are no Annual Budgets for the immediately preceding Fiscal Year, the Initial Budget), with (x) all recurring ordinary course line items (other than applicable costs for the relevant upcoming Fiscal Year governed by contracts that by their terms provide for fixed amounts or annual escalations or increases in such costs, which shall be based on such applicable contract provisions) increased by up to five percent (5%) in the aggregate, and (y) any nonrecurring or non-ordinary course line items excluded entirely.

(b) No expenditures or commitments for expenditures may be made by the Company, or any Member on behalf of the Company, if such expenditure individually or in the aggregate with other expenditures or commitments results in a deviation from any Initial Budget or Annual Budget, as applicable, then in effect that increases the costs and expenses incurred by the Company in the applicable period covered by the Initial Budget or Annual Budget, as applicable, by an amount equal to or greater than five percent (5%) of the aggregate projected costs and expenditures set forth in such Initial Budget or Annual Budget, as applicable.

Section 2.9 Company Interests; Units. The Company Interests shall be represented by units ("Units"). The total Units and the number of Units of each class or series which the Company has authority to issue shall be determined by the Board from time to time (which determination the Board shall cause to be reflected on the Schedule of Members) and as of the date hereof shall consist of 100,000,000 Units, all of which shall be voting Units. The Units shall not be certificated, provided the Board may in its discretion cause the Company to issue certificates representing Units from time to time. The Company may issue fractional Units. The Members hereby agree that the Units shall be securities governed by Article 8 of the Uniform Commercial Code of the State of Delaware (and the Uniform Commercial Code of any other applicable jurisdiction). The Company is authorized to issue up to an additional 5,000,000 Units (the "Management Incentive Units") to employees, consultants and other services providers of the Company or any Subsidiary, which will have the rights and obligations set forth herein and in a management incentive plan adopted by the Board and will be subject to the terms of applicable award agreements (including with respect to vesting), in each case as determined by the Board from time to time. On or prior to the adoption of a management incentive plan by the Board, the Board shall cause such amendments to this Agreement as necessary to be entered into so that the Management Incentive Units will be structured as "profits interests" as that term is used in Revenue Procedures 93-27 and 2001-43 or, to the extent Revenue Procedures 93-27 and 2001-43 are superseded by the proposed regulations referenced in IRS Notice 2005-43, then to the extent such regulations are applicable, if at all, to such Management Incentive Units.

Section 2.10 Intellectual Property.

(a) As promptly as practicable following the date hereof (but in no event later than thirty (30) days after the date hereof), FX shall cause access to be granted to the Company of all information and data for the Model C and Model E Designs necessary for the Company to commence the Pre-Development Activities. FX shall use its commercially reasonable efforts to cause to be granted to the Company within sixty (60) days of the date hereof, a perpetual, irrevocable, non-exclusive, worldwide, license to the Intellectual Property that FX or one or more of its Affiliates owns or has the right to use with respect to the Model C and Model E Designs (the "FX Background IP") for use by the Company in conducting the In-Scope Business (the "FX Background IP License") on terms and conditions acceptable to the Company, including the right to sublicense the FX Background IP to the Members in connection with the licenses granted pursuant to Section 2.10(c).

(b) The Company will exclusively own all right, title and interest in and to all Intellectual Property conceived, developed, or reduced to practice by the Company that describes, embodies or protects any EC Vehicle designed by the Company or is conceived, developed or reduced to practice by any employee of any Member that describes, embodies or protects any EC Vehicle within the In-Scope Business and is based on the MIH platform (the "Vehicle Foreground IP").

(c) The Company will exclusively license any Vehicle Foreground IP (i) to LMC or any of its Affiliates for use in the North American commercial market, subject to terms and conditions, including customary and reasonable licensing fees, that are agreed upon by the Board and LMC, and (ii) to FX or any of its Affiliates for use outside of North America, subject to terms and conditions, including customary and reasonable licensing fees, that are agreed upon by the Board and FX.

ARTICLE III
CAPITAL COMMITMENTS; CAPITAL CONTRIBUTIONS

Section 3.1 Commitments, Capital Contributions and Issuance of Company Interests.

(a) Capital Commitments and Capital Contributions. In furtherance and support of the Company, each of FX and LMC hereby agrees to make Capital Contributions to the Company as follows:

(i) Within forty-five (45) days of the date hereof (and subject to the Company having established the required banking account), each of FX and LMC shall fund its Pro Rata Share of the Initial Capital Contribution by wire transfer of immediately available funds to an account specified by the Board. The Company shall utilize the Initial Capital Contribution to fund the Initial Expenditures.

(ii) Thereafter, each of FX and LMC shall fund its Pro Rata Share of additional Capital Contributions in such amounts and at such times as set forth in the Initial Budget or Annual Budget in effect at such time, by wire transfer of immediately available funds to an account specified by the Board; provided, that in the event no Initial Budget has been approved by the Board by sixtieth (60^{th}) day following the date of this Agreement, then on the fifth (5^{th}) Business Day of each calendar month thereafter until the earlier to occur of (x) each Member having funded aggregate Capital Contributions equal to its Capital Commitment and (y) approval of the Initial Budget by the Board, each of FX and LMC shall fund Capital Contributions to the Company in an amount equal to its Pro Rata Share of the Minimum Monthly Contribution by wire transfer of immediately available funds to an account specified by the Board. So long as the Initial Budget has not been approved, proceeds from the Minimum Monthly Contributions may only be used to fund expenditures within the categories set forth on Exhibit D attached hereto and Initial Expenditures.

(iii) Notwithstanding anything to the contrary contained herein, in no event shall any Member be required to make aggregate Capital Contributions to the Company in excess of its Capital Commitment.

(iv) Each Member that makes a Capital Contribution pursuant to this Section 3.1(a) shall receive a number of Units equal to (A) the aggregate amount of such Capital Contribution divided by (B) $1.00 (the "Unit Price").

(v) Notwithstanding anything to the contrary in the foregoing, FX and LMC acknowledge and agree that LMC's obligations to make any Capital Contributions pursuant to this Section 3.1(a) is subject to the satisfaction of the following conditions: (A) FX or one of its Affiliates (the "FX Lender") shall have delivered to LMC a duly executed copy of an FX Financing Note in the aggregate principal amount equal to the amount of such Capital Contributions required to be made by LMC; and (B) following the due execution and delivery of such FX Financing Note by the parties thereto, the FX Lender shall not have breached its obligation to make the advance to LMC required under such FX Financing Note in accordance with the terms and conditions thereof. For the avoidance of doubt, LMC will not be deemed a Defaulting Member under Section 3.2 if it does not make a Capital Contribution otherwise required under this Section 3.1(a) as a result of the conditions set forth in clauses (A) and (B) in the immediately preceding sentence not being satisfied.

(b) Emergency Funding.

(i) The Members shall also have the right, but not the obligation, to make Member Loans, pro rata in accordance with their respective Ownership Percentages, of the amounts determined necessary by the Board to fund emergency expenditures to (A) prevent imminent risk to health and safety to employees or others Persons, (B) prevent imminent damage to Company property, (C) replace Company property damaged due to casualty (but only to the extent of any shortfall in insurance proceeds), or (D) avoid or cure a default under any Indebtedness of the Company or any of its Subsidiaries to an unrelated third party (such amounts, "Emergency Funding"). Upon the Board making such a determination that an Emergency Funding is necessary, the Company shall provide each Member with notice not less than ten (10) Business Days prior to the requested funding date of such Member Loans, which notice shall include (i) the requested funding date of such Member Loans, (ii) the aggregate amount of funding the Company is seeking from all Members in respect of such Emergency Funding, (iii) the amount that may be loaned by such Member (pro rata in accordance with their respective Ownership Percentages), (iv) the account to which such Member Loans shall be paid and (v) the purpose for which such Emergency Funding will be used. If any Member elects not to make its pro rata portion (in accordance with their respective relative Ownership Percentages) of such Member Loans or fails to timely make such Member Loans (such amount of unfunded Member Loans, the "Unfunded Emergency Funding Amount"), the Company shall notify any other Member making its full pro rata portion (in accordance with its Ownership Percentage) of such Member Loan (a "Participating Member") of such Unfunded Emergency Funding Amount, which notice shall include (i) the requested funding date for such Unfunded Emergency Funding Amount (which shall not be less than ten (10) Business Days following such notice), (ii) the aggregate Unfunded Emergency Funding Amount and (iii) the account to which such Unfunded Emergency Funding Amount shall be paid. Each Participating Member shall have the right, but not the obligation, to make additional Member Loans equal to the Unfunded Emergency Funding Amount; provided, that if more than one Participating Member elects to make additional Member Loans that collectively exceed the Unfunded Emergency Funding Amount, each such Participating Member's additional Member Loans shall be reduced ratably (in accordance with their respective relative portions of the Member Loans such Participating Members committed (and did not fail to timely fund) prior to any Unfunded Emergency Funding Amount) by an amount equal to such excess.

(ii) Notwithstanding the foregoing, the Company may, without complying with the notice procedures set forth in Section 3.1(b)(i), accept a Member Loan from any Member if the Board determines that the funding of such Emergency Funding on an expedited basis (relative to the procedures set forth in Section 3.1(b)(i)) is necessary in exigent circumstances to prevent an imminent material and adverse impact on the business or operations of the Company or any of its subsidiaries; provided, that promptly (and in any event within ten (10) Business Days) following the funding of such Member Loan, such Member shall offer to each other Member the right to purchase, at par value (without any accrual for interest thereon), such other Member's pro rata amount (in accordance with their respective relative Ownership Percentages) of such Member Loan, which offer shall remain open for at least 30 days before terminating and specify in reasonable detail the circumstances giving rise to such Member Loan, together with wire instructions for purposes of such purchase, and to accept such offer the other Member shall fund its pro rata amount (in accordance with its Ownership Percentage) thereof (or such lesser amount as such Member shall elect, in its sole discretion) while such offer remains open and upon any such acceptance and funding, the other Member shall be deemed to have purchased its funded portion of such Member Loan (and thereafter hold such portion of the Member Loan in lieu of the offering Member).

(iii) A "Member Loan" is a loan that shall (i) be unsecured, (ii) bear interest at a per annum interest rate (accruing daily and compounding annually, to the extent not paid in cash) equal to three percent (3%), (iii) have no stated maturity or scheduled amortization, but be mandatorily repaid by the Company solely out of Distributable Cash (and shall, upon such payment, reduce Distributable Cash correspondingly) before any distributions are made to the Members pursuant to Section 4.1 or Section 8.2, (iv) not be subject to any rights of acceleration of maturity, notwithstanding the occurrence of any event of default in connection with such loan, (v) have no up-front, commitment, arrangement, prepayment, breakage, "make-whole" or other fees (apart from the interest described in clause (ii) above), (vi) be non-Transferrable, except in connection with a Permitted Transfer or Transfer of Membership Interests (with any Transfer of Member Loans by a Member that is not a Permitted Transfer to be in the same percentage of the aggregate outstanding amount of Member Loans held by such Member as the percentage of the Membership Interests held by such Member being so Transferred), (vii) not be deemed to be a Capital Contribution and not be convertible into Membership Interests, (viii) at the option of the Member making the Member Loan, be represented by a promissory note in customary form consistent with this Section 3.1(b)(iii).

(c) Additional Issuances of Equity Interests. Subject to Section 3.3 and Section 5.3(a)(iv), the Board shall have the right at any time and from time to time to cause the Company to create and/or issue Equity Interests at such price and on such other terms and conditions as shall be determined and approved by the Board (including other classes, groups or series thereof having such relative rights, powers, and/or obligations as may from time to time be established by the Board, including rights, powers, and/or obligations different from, senior to or more favorable than existing classes, groups and series of Equity Interests), in which event, notwithstanding anything herein to the contrary, the Board shall have the power, subject to Section 5.3(a)(iv), to amend this Agreement to reflect such creation and/or additional issuances and dilution and to make any such other amendments as it deems necessary or desirable (in its sole discretion) to reflect such creation and/or additional issuances and dilution (including amending this Agreement to increase the authorized number of Equity Interests of any class, group or series, to create and authorize a new class, group or series of Equity Interests and to add the terms of such new class, group or series of Equity Interests including economic and governance rights which may be different from, senior to or more favorable than the other existing Equity Interests), in each case without the approval or consent of any other Person.

(d) Schedule of Members. The Company shall create and maintain a Schedule of Members, setting forth the name and address of each Member, the number and class of Units held by each such Member, each Member's Ownership Percentage, the aggregate Capital Contributions of each Member and the aggregate Capital Commitment of each Member (the "Schedule of Members"). A copy of the Schedule of Members, as of the date hereof, is attached hereto as Schedule 3.1. Upon any additional Capital Contribution or change in the number, amount or ownership of outstanding Units, the Company shall update the Schedule of Members. Any update to the Schedule of Members made in accordance with this Agreement shall not be deemed an amendment to this Agreement. Any reference in this Agreement to the Schedule of Members shall be deemed to be a reference to the Schedule of Members as validly updated and in effect from time to time.

Section 3.2 Default Funding.

(a) Right to Fund Shortfall Amounts. If a Member fails to fund all or any portion of its Capital Commitment when due pursuant to Section 3.1(a) (such Member failing to fund, a "Defaulting Member"), the Company shall promptly, and in any case within five (5) Business Days after such funding default, provide written notice (a "Default Notice") to each Member setting forth: (i) the name of the Defaulting Member; (ii) the aggregate amount required to have been funded by such Defaulting Member for such contribution; (iii) the amount actually funded (if any) by such Defaulting Member for such contribution; and (iv) the shortfall amount calculated by subtracting the amount described in clause (iii) from the amount described in clause (ii) (such amount, the "Shortfall Amount"). Any other Member that is not identified as a Defaulting Member in such Default Notice (each, a "Non-Defaulting Member"), shall have the option to fund all or any portion of the Shortfall Amount set forth in the Default Notice by delivering written notice thereof to the Company within ten (10) Business Days after receipt of the Default Notice. If a Non-Defaulting Member elects to fund all or a portion of the Shortfall Amount within such time period (if so elected, a "Default Funding" and such Member, an "Electing Member"), then such Default Funding, when paid to the Company, shall constitute a Capital Contribution (a "Default Contribution").

(b) Issuance of Company Interests. The Company shall issue to each Non-Defaulting Member that has funded a Default Contribution additional Units equal to (A) the aggregate amount of such Default Contribution funded by such Electing Member divided by (B) the Unit Price.

Section 3.3 Pre-Emptive Right. If the Company or any of its Subsidiaries proposes (following approval by the Board) to sell any Equity Interest in the Company or any of its Subsidiaries to any Person in a transaction or transactions other than (a) Equity Interests issued to another entity or its owners in connection with the acquisition of all or a portion of such entity or its assets that is approved in accordance with the terms of this Agreement, (b) Equity Interests offered to employees of the Company or any Subsidiary pursuant to employee benefit plans, equity incentive plans or arrangements approved by the Board in accordance with the terms of this Agreement (including upon the exercise of employee equity options granted pursuant to any such plans or arrangements) or (c) Equity Interests issued by a Subsidiary of the Company to the Company or another Subsidiary of the Company, each Member shall have the right to purchase directly or through any Affiliate a percentage of such Equity Interests equal to such Member's Ownership Percentage. Any participation pursuant to this Section 3.3 shall be on the same terms and conditions as applied to all offerees in the respective offering. In the event of a proposed transaction or transactions, as the case may be, that would give rise to preemptive rights of the Members, the Company shall provide notice (the "Initial Notice") to the Members no later than ten (10) Business Days prior to the expected consummation of such transaction or transactions. Each Member shall provide notice of its election to exercise such rights within five (5) Business Days after delivery of such Initial Notice from the Company. The failure of a Member to respond to the Initial Notice and affirmatively exercise its preemptive right in accordance with the terms of this Agreement shall be deemed an election not to exercise its preemptive right in connection with such proposed transaction or transactions. If a Member fails to exercise its preemptive right with respect to all or any portion of the Equity Interests subject to that preemptive right and any other Member(s) exercise their preemptive rights in full, the Company shall give the exercising Member(s) notice and the exercising Member(s) shall have the right to elect to purchase their pro rata share (calculated based on the exercising Member(s) Ownership Percentage) of the Equity Interests subject to the unexercised preemptive right, all in accordance with the procedure set forth above in this Section 3.3.

Section 3.4 Refinancing of FX Financing Notes. On or prior to the date that any FX Financing Note matures in accordance with its terms (a "Maturing FX Note"), so long as no Event of Default (as defined in such Maturing FX Note) has occurred and is continuing, FX shall provide an FX Advance to LMC in the aggregate principal amount necessary to repay all obligations due at maturity on such Maturing FX Note; provided, that FX's obligations under this Section 3.4 shall not apply to any FX Financing Note that matures on or after December 31, 2025.

ARTICLE IV
DISTRIBUTIONS

Section 4.1 Distributions.

(a) Subject to applicable Laws and the provisions of Section 4.1(b) and Section 4.1(d), the Company shall make Distributions of Excess Cash to the Members in respect of their Units at any time and from time to time (i) as approved by the Board or (ii) after the Company's first commercial launch of an EC Vehicle, as requested by a Member in writing, provided that a Member may not request a Distribution more than once per Fiscal Year.

(b) Subject to applicable Laws and Section 8.2, all Distributions shall be made to the Members pro rata in accordance with their respective Ownership Percentages at the time such Distribution is approved by the Board or is otherwise required to be made pursuant to Section 4.1(a).

(c) If the Company has, pursuant to any clear and manifest accounting or similar error, paid any Member an amount in excess of the amount to which it is entitled pursuant to this Article IV, such Member shall reimburse the Company to the extent of such excess, without interest, within thirty (30) days after demand by the Company, and, upon receipt of such funds, the Company shall redistribute such funds in accordance with Section 4.1(b).

(d) For the avoidance of doubt, any Distributions to be made to the Members following the dissolution of the Company shall be made in accordance with Section 8.2.

Section 4.2 Tax Withholding. As further described below in this Section 4.2, where withholding is required by Law, the Company shall be responsible for withholding any and all Taxes in relation to payments made pursuant to this Agreement, including payments made with respect to any Distributions. The Company shall remit the Taxes withheld to the relevant Tax Authority and provide the applicable Member with the withholding Tax receipt or reasonable supporting document and/or evidence of such remittance in a timely manner.

(a) Documentation. Promptly upon request, each Member shall provide the Partnership Representative with any information related to such Member necessary to (i) allow the Company to comply with any Tax reporting, Tax withholding or Tax payment obligations of the Company, or (ii) establish the Company's legal entitlement to an exemption from, or reduction of, withholding Tax, including U.S. federal withholding Tax under Sections 1471 and 1472 of the Code. The withholdings referred to in this Section 4.2(a) shall be made at the maximum applicable statutory rate under applicable Tax Law unless the Company and the Partnership Representative receive documentation, satisfactory to the Partnership Representative, to the effect that a lower rate is applicable, or that no withholding is applicable. Without limiting the generality of the foregoing, if requested by the Partnership Representative, each Member shall, if legally entitled to do so, deliver to the Company: (x) an affidavit in form satisfactory to the Partnership Representative that the applicable Member (or its partners or members, as the case may be) is not subject to withholding under the provisions of any U.S. federal, state, or local, foreign or other Law; (y) any certificate that the Company or the Partnership Representative may reasonably request with respect to any such Laws; and/or (z) any other form, instrument, declaration or other document reasonably requested by the Company or the Partnership Representative relating to any Member's status under such Law.

(b) Authorization. The Company is hereby authorized at all times to make payments with respect to each Member in amounts required to discharge any obligation of the Company (as reasonably determined by the Partnership Representative, which may be based on the advice of legal or Tax counsel to the Company) to withhold or make payments to any U.S. federal, state, local or foreign Tax Authority with respect to any Distribution or allocation by the Company to such Member and to withhold the same from Distributions to such Member. In the event that the Partnership Representative determines that withholding is required with respect to any Distribution or allocation by the Company to a Member, the Partnership Representative shall use its best efforts to notify such Member promptly so that the Member may have the opportunity to establish an exemption or reduced rate of withholding with respect to such Tax. The Company is further authorized to make payments with respect to each Member in amounts required to discharge any obligation of the Company (as determined by the Partnership Representative, which may be based on the advice of legal or Tax counsel to the Company) to withhold or make payments to a Tax Authority with respect to any payments made to the Company. In the event that the Distributions or proceeds to the Company are reduced on account of Taxes withheld at the source or any Taxes are otherwise required to be paid by the Company and such Taxes are imposed on or with respect to one or more, but not all of the Members in the Company, the amount of the reduction shall be borne by the relevant Members. Any amounts paid to a Tax Authority pursuant to this Section 4.2(b) shall be deemed distributed to the applicable Member with respect to which such amounts were withheld for all purposes of this Agreement, and taken into account in determining the amount of future Distributions to such Member pursuant to Section 4.2(c).

(c) Deemed Loan. Any withholding pursuant to Section 4.2(b) made by the Company to a Tax Authority on behalf of a Member and not simultaneously withheld from a Distribution or payment to that Member shall, with interest thereon accruing from the date of payment at a rate equal to the floating rate of the one-year LIBOR Rate plus 2.0% per annum, be treated as a loan, and: (i) be repaid by reducing the amount of the next succeeding Distribution or Distributions to be made to such Member; or (ii) at the reasonable discretion of the Partnership Representative, be promptly repaid to the Company, in whole or in part, by the Member on whose behalf the withholding was made (which repayment by the Member shall not be treated as a Capital Contribution for purposes of Article III and shall not reduce the amount of such Member's unfunded Capital Commitment). Interest shall cease to accrue from the time the Member on whose behalf the withholding was made repays such withholding (and all accrued interest) by either method of repayment described above. A Member's obligation to repay any amount treated as a loan and any accrued but unpaid interest thereon pursuant to the foregoing shall survive the winding up and dissolution of the Company and any Transfer of such Member's Company Interests, and the Company may pursue and enforce all rights and remedies it may have against each such Member under this Section 4.2(c) notwithstanding such winding up, dissolution or Transfer.

ARTICLE V
MANAGEMENT

Section 5.1 Authority of Board. Except for situations in which (a) the approval of the Members or any specific Member is required by this Agreement or the Delaware Act or (b) the authority of the Board is otherwise limited by the terms of this Agreement, and in each case subject to the other provisions of this Article V, the Board shall direct and exercise full supervisory control over all activities of the Company, and have the power to bind or take any action on behalf of the Company within its scope and in accordance with this Agreement. For the avoidance of doubt, no individual Manager acting in his capacity as a "manager" shall have the authority to bind the Company except as a member of the Board acting collectively as the Board, and all actions by the Managers shall be taken collectively as the Board, subject to the other provisions of this Agreement.

Section 5.2 Composition of the Board.

(a) The initial authorized number of Managers on the Board shall be five (5). FX's initial Manager shall be Jerry Hsiao and LMC's initial Manager shall be Edward Hightower.

(b) The number of Managers serving on the Board at any time shall be adjusted from time to time in accordance with Section 5.2(c). Each Manager shall hold office until his or her death, disability, retirement, resignation or removal.

(c) Each Member shall take all necessary action to effectuate fully the provisions in this Section 5.2 to ensure that the Board consists of the Managers that are duly designated, elected or appointed in accordance with this Section 5.2, including by promptly calling and/or voting, as the case may be, in any annual or special meetings or promptly participating in an action by written consent such that the Board shall be composed as follows:

(i) Each initial Member shall be entitled to appoint a number of Managers equal to the total number of Managers multiplied by its Ownership Percentage, round up or down, as applicable, to the nearest whole number. If at any time LMC owns less than 20% but 10% or more of the Ownership Percentages,
then LMC shall be entitled to designate a board observer who shall be entitled to notice of all meetings and distributions of all materials in the same manner and at the same time as such notices and materials are provided to the Managers, and shall be entitled to attend all meetings of Managers (but not to vote on any matters thereat).

(ii) If at any point the number of Managers that a Member is entitled to appoint is reduced pursuant to the preceding, the other Member may remove as a Manager the appropriate number of such Member Manager(s) and fill the vacancy or vacancies caused by such removal.

(d) Subject to Section 5.2(c), the removal of any Manager from the Board may be effected only by the Member entitled to appoint such Manager.

(e) If any Manager ceases to serve as a member of the Board during such Manager's term of office by reason of death, disability, resignation or removal, the resulting vacancy on the Board shall be filled by the Member entitled to appoint such Manager pursuant to Section 5.2(c).

(f) The Managers (including the Chairperson) shall not be compensated for their services as members of the Board. Each Member shall be solely responsible for all out-of-pocket fees and expenses incurred by the Managers appointed by such Member in connection with their service on the Board, including, in each case, attending any meeting of the Board.

(g) FX shall be entitled to designate one (1) of its Manager appointees to serve as Chairperson of the Board (the "Chairperson"). The Chairperson's duties shall be strictly limited to convening meetings of the Board and establishing meeting agendas. The Chairperson shall not in this capacity have the authority contractually or legally to bind the Company. The Chairperson shall not be entitled to vote on any matter submitted to the Board, other than in such individual's capacity as a Manager and, for the avoidance of doubt, the Chairperson shall not have a casting vote to break any tie among the Managers that may arise on matters submitted to a vote of the Board.

(h) A Member shall be entitled to appoint a number of Managers to any committee of the Board formed by the Board in proportion to the number of Managers such Member is entitled to appoint to the Board; provided, that absent a specific grant of authority from the Board, no committee of the Board shall have any authority to bind the Board or the Company and no act of any committee shall be deemed to be the act of the Board.

Section 5.3 Meetings.

(a) Votes per Manager; Quorum; Required Vote for Board Action.

(i) Each Manager shall have one vote; provided that if any FX Manager or LMC Manager is absent or if there is a vacancy in the FX Managers or LMC Managers at any time when there is at least one (1) FX Manager or LMC Manager, as the case may be (for example, if FX has only designated one (1) of its initial three (3) Managers), the vote of each Manager appointed by such Member present at a meeting (or consenting to any written consent) shall be automatically multiplied by a fraction, the numerator of which is the total number of Managers that may be appointed by such Member pursuant to Section 5.2(c)(i) and the denominator of which is the number of Managers that may be appointed by such Member pursuant to Section 5.2(c)(i) that is present or consenting.

(ii) Unless otherwise provided in this Agreement, at least one (1) Manager appointed by each of FX and LMC, either present (in person or by teleconference) or represented by proxy, shall constitute a quorum for the transaction of business at a meeting of the Board; provided that if (A) two (2) consecutive Board meetings with respect to the same subject matter are duly called and (B) there is not at least one (1) Manager appointed by a Member in attendance at either of those meetings, then attendance by such Member's Managers will not be required for a quorum at a third duly called meeting of the Board with respect to such subject matter. The Company shall provide copies of the minutes of each meeting of the Board to any Managers not in attendance promptly following such meeting.

(iii) Unless otherwise provided in this Agreement, any action (including the giving of consent, waivers or approvals) by the Board shall require the affirmative vote of, or written consent signed by, the Managers holding a majority of the number of votes held by all Managers then entitled to be appointed.

(iv) Without the approval of the Board, which approval shall include at least one (1) Manager designated by LMC for so long as LMC's Ownership Percentage is at least thirty percent (30%), none of the Board or any Manager shall have the power or authority to cause the Company to engage in any of the following:

(A) any merger, consolidation or other business combination involving the Company;

(B) any sale of all or substantially all of the assets of the Company;

(C) any reorganization or transaction or series of transactions resulting in a Change of Control;

(D) the Company entering into a new line of business that is outside of the In-Scope Business;

(E) licensing any EC Vehicles or any Vehicle Foreground IP or other Company owned Intellectual Property, except pursuant to Section 2.10(c);

(F) any material change to the Company's accounting policies and practices, other than as required to comply with GAAP or applicable Laws, and the selection of the Accountants or any auditor;

(G) any material amendments or deviations from the Business Plan (or the adoption of any new Business Plan for any period following the Initial Business Plan Timeline);

(H) any approval of the Initial Budget or an Annual Budget and any amendments or modifications thereto;

(I) amendment, supplement or modification of this Agreement or the Certificate of Formation;

(J) increasing or decreasing the size of the Board;

(K) an initial public offering of any Units or other Equity Interests in the Company;

(L) a transaction (whether by merger, consolidation or issuance of equity interest or otherwise) whereby a special purpose acquisition company that is not an Affiliate of the Company or any Member acquires Equity Interests of the Company (or any surviving successor or resulting company);

(M) any election to dissolve, wind-up or liquidate the Company or any of its Subsidiaries and the appointment of any liquidator in connection therewith;

(N) the entry into or the amendment or termination of any Contract or transaction between the Company, on the one hand, and any Manager or Member (or its Affiliates), on the other hand, other than expiration of any Contract according to its scheduled term or failure to renew, and other than those Contracts specifically contemplated by this Agreement (including Member Loans, licenses contemplated by Section 2.10(c) (but subject to clause (P) below) and any other agreements entered into pursuant to and in compliance with the indemnification provisions in Article XII);

(O) the terms of any license contemplated by Section 2.10(c), or any amendment, supplement or modification to any such license;

(P) making material Tax elections;

(Q) making Distributions, except as requested by a Member in accordance with Section 4.1(a) or making any determination as to the amount of Excess Cash;

(R) any authorization or issuance of any Company Interest or other Equity Interest in the Company, including any additional Units;

(S) except for Member Loans, the incurrence of any Indebtedness by the Company in excess of the amounts contemplated in the Annual Budget then in effect;

(T) any declaration of bankruptcy or insolvency of, or any failure to oppose any involuntary insolvency proceeding initiated against the Company;

(U) adoption of a management incentive plan and associated award agreements (including the terms thereof) with respect to the issuance by the Company of up to 5,000,000 Units to employees, consultants and other services providers of the Company and any Subsidiary as contemplated by Section 2.9; and

(V) entering into any agreement, arrangement or understanding to do any of the foregoing.

(v) Except as expressly set forth herein, including in Section 2.8(a), if the Board is unable to obtain the requisite the affirmative vote or written consent pursuant to this Agreement (a "Board Deadlock"), any Member may refer such matter to the chief executive officers of the Members for resolution thereof by providing written notice to the other Members. If such Board Deadlock remains unresolved for more than thirty (30) days after such referral, then no decision or action shall be taken by the Company (and the Company shall not be authorized to take any action) with respect such matter unless and until such Board Deadlock is subsequently resolved by (A) the Board obtaining the affirmative vote or written consent pursuant to this Agreement or (B) agreement between the chief executive officers of the Members.

(b) Place of Meetings; Order of Business. The Board may hold its meetings telephonically or in such place or places within the United States, either inside or outside the State of Delaware, as the Board may from time to time determine by resolution. At all meetings of the Board, business shall be transacted in such order as shall from time to time be determined by resolution of the Board.

(c) Regular Meetings. Regular meetings of the Board shall be held telephonically or at such times and places within the United States as shall be determined from time to time by resolution of the Board. Such regular meetings shall be held at least as frequently as once per calendar quarter. Notice of such regular meetings shall not be required if held at the times and places set forth in the relevant resolution and such resolution has been provided to each Manager.

(d) Special Meetings. Special meetings of the Board may be called by the Chairperson or any Managers having at least two (2) votes (in the aggregate) on at least five (5) Business Days personal, written or electronic notice to each Manager, which notice must include appropriate dial-in information to permit each Manager to participate in such meeting by means of telephone conference. Such notice need not state the purpose or purposes of such meeting, except as may otherwise be required by the Delaware Act.

(e) Action Without a Meeting; Telephone Meeting.

(i) Notwithstanding Section 5.3(a) hereof, any action required or permitted to be taken at any meeting of the Board may be taken without a meeting if a consent in writing, setting forth the action so taken shall be signed by all Managers and, when so signed, such written consent shall constitute Board approval of such action. The Company shall provide copies of executed consents to all Members promptly following execution of such consents.

(ii) Subject to the requirement for notice of meetings, Managers may participate in a meeting by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in such meeting shall constitute attendance and presence in person at such meeting.

(f) Attendance. Each Member shall use its reasonable best efforts to cause the Managers appointed by it to attend all regular meetings of the Board and all special meetings of the Board for which notice has been given in accordance with Section 5.3(d).

(g) Waiver of Notice Through Attendance. Attendance of a Manager at any meeting of the Board (including by telephone or similar communication) shall constitute a waiver of notice of such meeting, except where such Manager attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or convened and notifies the other Managers at such meeting of such purpose.

(h) Reliance on Books, Reports and Records. In accordance with Article XI each Manager shall, in the performance of his or her duties, be fully protected in relying in good faith upon the books of account or reports made to the Company by any of its officers or by an independent certified public accountant or by an appraiser selected with reasonable care by the Board, or in relying in good faith upon other records of the Company.

Section 5.4 Officers.

(a) General. Subject to the terms set forth in this Agreement, the Board may, from time to time, approve the appointment, employment, replacement and removal of individuals as may be necessary or appropriate for the conduct of the Company's business (subject to the supervision and control of the Board), including individuals who may be designated as officers of the Company, with titles including "general manager," "president," "vice president," "treasurer," "secretary," "chief executive officer," "chief financial officer" "chief operating officer," "chief compliance officer," and "chief technology officer," as and to the extent authorized by the Board and the Delaware Act. Any number of offices may be held by the same individual; provided that the chief executive officer and the chief financial officer shall always be different individuals. Subject to the terms set forth in this Agreement, the Board may, in its discretion, remove any officers or choose not to fill any office for any period as it may deem advisable, subject to the requirements of the Delaware Act. Officers need not be residents of the United States or any other particular jurisdiction. Subject to the requirements of the Delaware Act, any officers so designated shall have such authority and perform such duties as the Board may, from time to time, delegate to them. The salaries or other compensation, if any, of the officers of the Company shall be fixed from time to time by the Board.

(b) Chief Executive Officer. The chief executive officer, subject to the powers of the Board, shall have general charge of the business, affairs and property of the Company, and control over its officers, agents and employees, and shall see that all orders and resolutions of the Board are carried into effect. The chief executive officer shall have such other powers and perform such other duties as may be prescribed by the Board. FX shall have the right to approve the appointment, employment, replacement and removal of the chief executive officer that is reasonably acceptable to LMC without the approval of the Board.

(c) Chief Financial Officer. The chief financial officer of the Company, subject to the powers of the Board, shall be responsible for all financial and accounting matters and for the direction of the offices of treasurer and controller, if any. The chief financial officer shall have such other powers and perform such other duties as may be prescribed by the Board. FX shall have the right to approve the appointment, employment, replacement and removal of the chief financial officer that is reasonably acceptable to LMC without the approval of the Board.

(d) Resignation/Removal. Subject to the terms set forth in this Agreement, each officer shall hold office until his or her successor shall be duly designated and qualified or until his or her death or until he or she shall resign or shall have been removed by the Board. Any officer may resign as such at any time. Such resignation shall be made in a written notice to the Board and shall take effect at the time specified therein, or if no time is specified, at the time of its receipt by the Board. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

ARTICLE VI
MEMBERS

Section 6.1 Lack of Authority of Individual Members. No Member shall in its capacity as a Member have the authority or power to act for or on behalf of the Company in any manner, to do any act that would be (or could be construed as) binding on the Company or to make any expenditure on behalf of the Company (except to the extent specifically approved by the Board or included in the approved Initial Budget or an approved Annual Budget).

Section 6.2 No Right of Partition. Except as set forth in Section 8.2 or pursuant to a license granted to a Member pursuant to Section 2.10, no Member shall have the right to seek or obtain partition by court decree or operation of law of any of the Company's property, or the right to own or use particular or individual assets of the Company.

Section 6.3 Members Right to Act. For situations in which the approval of the Members is required pursuant to this Agreement or a non-waivable provision of the Delaware Act, the Members shall act through written consent or meetings as set forth in Section 6.3(a) and Section 6.3(b). Unless otherwise provided in this Agreement, any action (including the giving of consent, waivers or approvals) by the Members shall require the affirmative vote of, or written consent signed by, the Members holding a majority Ownership Percentage. Except for the voting, approval and consent rights of the Members expressly provided in this Agreement and the non-waivable provisions of the Delaware Act, none of the Members shall have any voting, approval or consent rights under this Agreement or the Delaware Act, and each Member expressly waives (a) any consent, approval or voting rights that are not expressly provided in this Agreement and (b) any other rights to participate in the governance of the Company, whether such rights may be provided under the Delaware Act or otherwise. For the avoidance of doubt, if an action requires approval of LMC pursuant to Section 5.3(a)(iv) of this Agreement, such action shall not be taken even if approved by Members holding a majority Ownership Percentage unless such action is also approved by LMC notwithstanding any other provision of this Agreement.

(a) Action by the Members at Meetings; Meetings by Telephone Conference.

(i) The actions taken by the Members at any meeting (as opposed to by written consent), however called and however notice has been given, shall be as valid as though taken at a meeting duly held after regular call and notice if (but not until), either before, at or after the meeting, the Members as to whom it was improperly held sign a written waiver of notice or a consent to the holding of such meeting or an approval of the minutes thereof.

(ii) Subject to the requirements of the Delaware Act, the Certificate of Formation and this Agreement, the Members may participate in and hold a meeting of the Members by means of a conference telephone or similar communications equipment by means of which all individuals participating in the meeting can hear each other, and participation in such meeting shall constitute attendance and presence in person at such meeting, except where a Member participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

(b) Action by the Members via Written Consent. Any action permitted or required by the Delaware Act, the Certificate of Formation, or this Agreement to be taken at a meeting of the Members may be taken without a meeting, without notice and without a vote if a consent in writing, setting forth the action to be taken, is signed by such Members as would be required to take the applicable action at a meeting of the Members and, when so signed, such written consent shall constitute Member approval of such action, and notice of any such action taken shall be provided to those Members who have not consented in writing promptly following the taking of such action. Such consent shall have the same force and effect as a vote at a meeting and may be stated as such in any document or instrument filed with the Delaware Secretary of State, and the execution of such consent shall constitute attendance or presence in person at a meeting of the Members.

ARTICLE VII
BOOKS OF ACCOUNT

Section 7.1 Records and Accounting.

(a) The Company shall keep, or cause to be kept, appropriate books and records with respect to the Company's business, including all books and records necessary to provide any information, lists and copies of documents required to be provided pursuant to Section 7.4 or applicable Law.

(b) All matters concerning accounting procedures and determinations, and other determinations not specifically and expressly provided for by the terms of this Agreement, shall be determined by the Board.

Section 7.2 Bank Accounts. The Company may establish accounts for the deposit of Company funds, in such types and at such institutions as shall be determined from time to time by the Board.

Section 7.3 Fiscal Year. The Fiscal Year of the Company shall be the 12-month period ending on the 31st day of December of each calendar year, except for: (a) the first Fiscal Year of the Company, which shall begin on the date hereof and shall end on the 31st day of December of the same year; and (b) the last Fiscal Year of the Company, which shall begin on the first day of January and shall end on the date of the Company's dissolution.

Section 7.4 Reports; Access; Accountants.

(a) The Company shall, and the Members shall use their respective reasonable efforts to cause the Company to, have its and its Subsidiaries' financial statements reviewed in accordance with GAAP, by any nationally recognized accounting firm that is approved by the Board pursuant to Section 5.3 ("Accountants"); provided, that if the ownership of the Company Interest of any Member requires that Member to have the Company's financial statements audited, then such Member shall notify the Company and the Board will select a nationally recognized auditor to conduct an audit of the Company's financial statements in accordance with GAAP.

(b) The Company shall, at its sole cost and expense, prepare and deliver to each Member:

(i) as soon as practicable after the end of each Fiscal Year of the Company, and in any event upon the earlier of ninety (90) days after the end of each Fiscal Year and ten (10) Business Days prior to the date required by any securities exchange upon which such Member or any of its Affiliates' securities are listed for a Member to comply with its or any of its Affiliates' reporting obligations with respect to the Company on such exchange, consolidated statements of income and cash flows of the Company and its Subsidiaries for such Fiscal Year and consolidated balance sheets of the Company and its Subsidiaries as of the end of such Fiscal Year and, in each case along with comparisons to the preceding Fiscal Year, all prepared in accordance with GAAP and, if such financial statements are audited statements, accompanied by (A) an opinion of the auditors and (B) a copy of the auditors' annual management letter to the Board;

(ii) as soon as practicable after the end of each quarter of each Fiscal Year and in any event upon the earlier of forty-five (45) days after the end of each quarter and ten (10) Business Days prior to the date required by any securities exchange upon which such Member or any of its Affiliates' securities are listed for a Member to comply with its or any of its Affiliates' reporting obligations with respect to the Company on such exchange, unaudited consolidated balance sheets of the Company and its Subsidiaries as of the end of such period and unaudited consolidated statements of income and cash flows of the Company and its Subsidiaries for such period and for the current Fiscal Year to date and, in each case along with comparisons to the equivalent period from the preceding Fiscal Year, in each case prepared in accordance with GAAP, subject to the absence of footnote disclosures and changes resulting from normal year-end audit adjustments;

(iii) promptly upon receipt thereof, any other reports, management letters or other detailed information concerning significant aspects of the Company's operations or financial affairs given to the Company by the Accountants; and

(iv) with reasonable promptness, such other information and financial data concerning the Company and its Subsidiaries as any Member may reasonably request.

(c) If it is determined by a Member that the Company shall be consolidated with any Affiliate of such Member, in order to comply with GAAP, the Company shall prepare and provide any financial statements and supplemental data as reasonably requested by such Member in respect of such consolidation.

(d) The Company shall keep and maintain its books and records of account at its principal office or such other place as the Board shall designate. Each Member and its authorized Representatives (including legal, Tax and accounting advisors) shall, at the sole cost and expense of such Member, have the right to (i) meet with the Board and the Officers to discuss the business and affairs of the Company, (ii) meet with the Company's Accountants and other Representatives and (iii) receive other information reasonably requested by such Member in order to evaluate the Company's internal financial and other controls, procedures and compliance, in the case of clauses (i) through (iii), upon reasonable advance notice and during regular business hours; provided that, (A) the Company shall not be obligated to provide such information or access to the extent prohibited under applicable Law (including any Laws in respect of national security to which any Member may be subject) and (B) such information or access shall be subject to Section 13.13.

(e) Without limiting the foregoing, the Company shall (i) retain all books and records with respect to Tax matters until the expiration of any applicable statute of limitations for the Company and the Members of their respective Tax periods (and, to the extent notified by a Member any extensions thereof), and (ii) give the Members reasonable written notice prior to transferring, destroying or discarding any such books and records and, if a Member so requests, the Company shall allow such Member to take possession of such books and records to the extent they would otherwise be destroyed or discarded.

Section 7.5 Certain Tax Matters.

(a) Partnership Solely for U.S. Tax Purposes. The Members intend and agree that the Company shall be characterized as a "partnership" for United States federal, state and local income Tax purposes and that the Company be operated in a manner consistent with its treatment as a partnership for such purposes. The Members shall not take any position on any Tax return or any action or make any election that is inconsistent with such characterization. Consistent with the foregoing, notwithstanding Section 5.3(a)(iv)(Q), the Partnership Representative shall take all appropriate actions to ensure that the Company shall be treated as a partnership for federal, state and local income Tax purposes, including the making of available Tax elections. Neither the Company nor any Member shall take any action inconsistent with the express intent of the parties as set forth in this Section 7.5(a). Pursuant to the foregoing, the provisions of Exhibit E shall be applicable solely for purposes of U.S. federal, state and local Taxes and shall not affect, or in any way be taken into account in computing, any Member's Company Interest or share of Distributions pursuant to any provision of this Agreement or the manner in which the Members report their share of the Company's results for financial accounting or any other non-U.S. Tax purposes. In the event the Partnership Representative desires to make an election to characterize the Company for U.S. federal, state or local income Tax purposes as other than a partnership or change the Tax classification of a Subsidiary, the Partnership Representative, prior to causing the Company to make such election, shall obtain the approval of the Board.

(b) Taxable Year. The Taxable year of the Company (the "Taxable Year") shall be the Fiscal Year. Each Member shall provide such information as may be needed in order to determine the Taxable Year of the Company.

(c) Tax Returns; Tax Compliance. The Company shall prepare, or cause to be prepared, in accordance with applicable Law, all income and other Tax returns and other similar Tax reports and filings of the Company and shall cause the same to be filed in a timely manner (including extensions) with the appropriate Tax Authorities. In addition, the Company shall take, or cause to be taken, any other action required for it to be in compliance with applicable Law in relation to Tax and accounting matters, including withholding Tax and paying that Tax to the appropriate Tax Authority as required by applicable Law. The Company shall provide the Members with copies of the draft material income Tax returns to be filed by the Company for review and comment at least thirty (30) days prior to the scheduled filing thereof, and the Company shall cooperate in good faith with any Member to ensure that such Member's comments are reasonably taken into account in any such Tax returns. Within fourteen (14) days after the filing of each such return, the Company shall provide the Members with a copy of all the material income Tax returns filed. The Company shall also provide the Members promptly after receipt thereof, any Tax receipts or related evidence of payments related to such Tax returns. The Partnership Representative may cause the Company to retain a "Big Four" or other nationally recognized accounting firm to prepare any required United States Tax returns, information returns or other filings, which shall be signed by the Partnership Representative. Each Member is responsible for the preparation and filing of its own income and other Tax returns. The Partnership Representative shall timely prepare and furnish all books and records of the Company reasonably necessary for any Member to prepare and file its Tax returns in compliance with applicable Tax Law and shall timely furnish copies of Tax elections and Tax workpapers.

(d) Tax Cooperation. Upon request, the Company shall provide commercially reasonable assistance with respect to (i) any claim for benefits by a Member under an applicable Tax treaty or any exemption from or reduction in Taxes with respect to such Member's Investment and/or interest in the Company (including (A) filing any forms or applications necessary to obtain any exemptions from or reductions in Taxes to the extent the Company is required to make such filings under applicable Law, and (B) providing the Members with such other information or documentation as is available to the Company and is relevant to the Members' application for a Tax refund); and (ii) any Tax returns that are required to be filed by a Member as a result of, or that are required to take into account, such Member's Investment and/or Company Interests, and for such Member to otherwise comply with applicable Tax Laws. For the avoidance of doubt, the Company shall use reasonable efforts to distribute all necessary Tax information to each Member as soon as practicable after the end of each Taxable Year but not later than six months after the end of each Taxable Year.

(e) Partnership Representative. A Manager or other individual designated by the Board shall be the Partnership Representative. The Partnership Representative is authorized and required to represent the Company in connection with all examinations, audits and Claims in respect of the Company's affairs by U.S. federal, state or local Tax Authorities, including any resulting administrative and judicial proceedings (each such examination or Claim, a "Tax Proceeding"), and to expend funds for professional services and other expenses reasonably incurred in connection therewith. The Partnership Representative shall keep the Members fully apprised of any action required to be taken or which may be taken by the Partnership Representative for the Company with respect to any such Tax Proceeding. The Partnership Representative shall keep the Board and the Members reasonably informed of the progress of any Tax Proceeding with respect to Taxes of the Company or any Subsidiary of the Company and shall not settle or compromise any such Tax Proceeding without obtaining each of the Members' prior written consent thereto, which shall not be unreasonably withheld. The Partnership Representative shall use commercially reasonable efforts to (a) provide the Members an opportunity to participate in all material developments involved in such Tax Proceeding, (b) give the Members prompt notice of, and provide the Members an opportunity to provide comments to, any material submission to a Tax Authority, or to any court in connection with any such Tax Proceedings, (c) give prompt notice to the Members of its intention to meet with any representative of a Tax Authority prior to such meeting, and (d) provide the Members or their agents, legal counsel, employees or accountants with an opportunity to participate in such meeting. Except as otherwise provided in this Agreement, all elections by the Company for income and franchise Tax purposes, all determinations for Tax purposes and any other Tax decisions and actions with respect to the Company, including in connection with any Tax Proceeding, and all other matters relating to all Tax returns (including amended returns) filed by the Company, shall be made by the Partnership Representative in its reasonable discretion. Each Member shall upon request supply promptly any information necessary to give proper effect to any election made by the Company.

(f) Company Level Tax Adjustments.

(i) Subject to the provisions of this Section 7.5(f), the Partnership Representative is authorized to make any available election related to Code Sections 6221 through 6241 and take any action it reasonably deems necessary to comply with the requirements of the Code and conduct the Company's affairs under Code Sections 6221 through 6241. The Partnership Representative shall direct the defense and administration of any claims made by the U.S. Internal Revenue Service (the "IRS") to the extent that such claims relate to the adjustment of Company items at the Company level and, in connection therewith, shall cause the Company to retain and to pay the fees and expenses of counsel and other advisors, such counsel or advisors chosen by the Partnership Representative. At all times, the Partnership Representative shall promptly deliver to the Board a copy of all notices, communications, reports and writings received from the IRS relating to or potentially resulting in an adjustment of Company items. The Partnership Representative shall provide to the Board a copy of any correspondence or filing to be submitted by the Company in connection with any administrative or judicial proceedings relating to the determination of Company items at the Company level.

(ii) The Partnership Representative shall, with respect to any "imputed underpayment" of the Company as determined under Code Section 6225 ("Imputed Underpayment"), notify each Member of its share of such Imputed Underpayment, and each Member agrees to contribute cash to the Company for its portion of the Imputed Underpayment at such time as the Partnership Representative shall reasonably determine. Each Member shall only bear the portion of such Imputed Underpayment that is attributable to a net increase in the amount of Company Taxable income that would have been allocated to the Member under this Agreement for the Taxable Year to which such Imputed Underpayment relates and each Member agrees to contribute cash to the Company for its portion of any payment described in this Section 7.5(f)(ii), whether or not such Member is a member of the Company at the time of any such payment by the Company, and each Member agrees and acknowledges that its obligations in this Section 7.5(f)(ii) shall survive the date when the Member no longer holds a Company Interest or the Company's liquidation or dissolution. Amounts owed by the Member to the Company pursuant to this Section 7.5(f)(ii) and not paid to the Company within ten (10) days of the Partnership Representative's request for such amount shall be treated as a withholding amount subject to the provisions of Section 4.2. The Partnership Representative shall use its reasonable best efforts to obtain a reduction pursuant to Section 6225(c) of the Code for any Imputed Underpayment that is allocable to a Member, and such Member shall be entitled to all of the economic benefit associated with any such reduction.

(iii) Each Member shall provide the Company with any information reasonably requested by the Company and necessary for the Partnership Representative to comply with this Section 7.5(f). If any Member withdraws or disposes of its Company Interests, it shall keep the Company advised of its contact information until released in writing by the Company from its obligations under this Section 7.5(f).

(iv) Notwithstanding the foregoing, the Partnership Representative shall not take any of the following actions without the consent of the Members who are not the Partnership Representative, such consent not to be unreasonably withheld, conditioned or delayed:

(A) extend the statute of limitations for assessing or computing any Tax Liability against the Company (or the amount or character of any Company Tax item);

(B) settle any audit with the IRS (or similar Governmental Authority) concerning the adjustment or readjustment of any Company Tax item;

(C) initiate or settle any judicial review or action concerning the amount or character of any Company Tax item;

(D) fail to elect out of the application of the U.S. federal income Tax partnership audit procedures under Code Sections 6221 through 6241 (and any similar procedures established by a state, local, or non-U.S. Tax Authority that assess and collects Tax at the Company level) for any year in which the Company is eligible to elect out;

(E) make any election related to Code Sections 6221 through 6241; or

(F) take any action in any audit with the IRS (or similar Governmental Authority) that might reasonably be expected to affect the material Tax Liability (including all Taxes imposed by U.S. federal, state, local or foreign jurisdictions) of the Company, any of its Affiliates, or any of the Members.

(g) Costs of Tax Reporting and Tax Controversies.

(i) All Liabilities, losses, damages, reasonable out-of-pocket costs and expenses incurred by the Company or the Partnership Representative, including any reasonable fees and expenses of any Tax advisor retained by any such Person, relating to the preparation and provision of any Tax return or Tax report (including, for the avoidance of doubt, the Company's preparation and maintenance of computations and records and any other actions necessary to implement the particular provisions of Exhibit E required solely for U.S. federal income Tax purposes), any Tax Proceeding, including any communications with foreign, federal, local or state Tax Authorities regarding such Tax Proceedings (collectively, "Tax-Related Costs"), shall be borne by the Company. The Company shall reimburse the Partnership Representative for all such Tax-Related Costs incurred in serving as the Partnership Representative for the Company.

(ii) Nothing herein shall be construed to restrict the Company from engaging an accounting firm or a law firm to assist the Partnership Representative in discharging its duties hereunder.

(h) Election to Adjust the Tax Basis of the Company's Assets. A Member who acquires an Equity Interest in the Company in a transaction that gives rise to a basis adjustment pursuant to Code Section 743(b) shall furnish to the Company and the Partnership Representative such information reasonably requested to enable the computation of the adjustments required by Code Section 755 and the Treasury Regulations thereunder.

ARTICLE VIII
DISSOLUTION AND LIQUIDATION

Section 8.1 Dissolution.

(a) The Company shall be dissolved, and its affairs shall be wound up and terminated, upon:

(i) the election of the Board; or

(ii) an administrative dissolution or the entry of a decree of judicial dissolution of the Company under the Delaware Act.

(b) Upon an election to dissolve the Company by the Board pursuant to Section 8.1(a), the Members agree to use reasonable efforts to obtain any Governmental Authorizations required by each of them to effectuate the dissolution and liquidation of the Company pursuant to this Article VIII.

Section 8.2 Liquidation.

(a) Upon dissolution, the Company shall be liquidated in an orderly manner in accordance with the Delaware Act and the provisions of this Section 8.2. The Board shall act (or it may appoint any of the Members, Managers, officers, or other Persons to act) as the liquidators to wind up the affairs of the Company pursuant to this Agreement and terminate the Company. The costs of liquidation shall be borne by the Company. Prior to final Distribution and termination, the liquidators shall continue to operate the Company and its assets with all of the power and authority of the Board subject to the terms, conditions and limitations set forth in this Agreement. The steps to be accomplished by the liquidators shall include the following:

(i) the liquidators shall cause the Company to pay, satisfy and discharge all Liabilities and expenses of the Company incurred by it in connection with the liquidation;

(ii) after payment or provision for payment of all of the Company's Liabilities has been made in accordance with clause (i), the liquidators shall cause the Company to pay, satisfy and discharge all other Liabilities of the Company or otherwise make adequate provision for payment and discharge thereof (including establishing cash reserves to be held in escrow for contingent or unforeseen Liabilities of the Company, in such amounts and for such holding periods as the liquidators may reasonably determine), including any amounts owed to any Member;

(iii) after payment or provision for payment of all of the Company's Liabilities has been made in accordance with clauses (i) and (ii), (A) the liquidators shall make, or cause to be made, a final allocation of all items of income, gain, loss, and expense for U.S. Tax purposes in accordance with Exhibit E, and (B) following the determination of the final allocation set forth in the immediately preceding clause (A), the remaining assets of the Company shall be sold by the Company to any Person (including to any Member) that provides the highest bid for such asset. The Company shall distribute the value of its remaining assets to the Members in accordance with their Ownership Percentages. If the Company is unable to sell any such remaining assets within a reasonable time and following reasonable effort to do so, then the liquidators may distribute to one or more Members each such remaining asset in as equitable a manner as the liquidators may reasonably determine. Any non-cash assets distributed to the Members shall first be written up or down to their fair market value (as determined by the liquidators). Following the sale of assets of the Company in accordance with this Section 8.2(a)(iii), the liquidators shall deliver to each Member a statement (a "Liquidation Statement") setting forth the amounts, type and recipients of the Distributions to be made to the Members pursuant to this Section 8.2(a)(iii) and a determination of the fair market value (as determined by the liquidators) of the assets, if any, that are distributed to the Members pursuant to the immediately preceding three sentences. Such Liquidation Statement shall be final and binding on all of the Members. The Company and the Members shall consider any proposals to structure any transfer of assets to the Members under this Section 8.2 to minimize Taxes to the maximum extent reasonably practicable, including taking advantage of Tax-free distributions under Section 731 of the Code.

(b) The Distribution of cash and/or property to a Member in accordance with the provisions of this Section 8.2 constitutes a complete return to such Member of its Capital Contributions and a complete Distribution to the Member of its interest in the Company and the Company's property.

(c) Upon completion of the Distribution of the Company's assets as provided herein, the Company shall be terminated (and the Company shall not be terminated prior to such time), and the Board shall file (or cause to be filed) with the Delaware Secretary of State and any other applicable Governmental Authorities such applications or other documents as may be required to terminate the commercial registration of the Company and shall cancel any other filings made pursuant to this Agreement that are or should be canceled and take all such other actions as may be necessary to terminate the Company. The Company shall be deemed to continue in existence for all purposes of this Agreement until it is terminated pursuant to this Section 8.2(c).

(d) A reasonable time shall be allowed for the orderly winding up of the business and affairs of the Company and the liquidation of its assets and discharge of its Liabilities pursuant to this Section 8.2 in order to minimize any losses otherwise attendant upon such winding up.

(e) The liquidators shall not be personally liable for the return of Capital Contributions or any portion thereof to any Member (it being understood that any such return shall be made solely from Company assets).

ARTICLE IX
TRANSFERS OF COMPANY INTERESTS; VALUATION

Section 9.1 Transfer In General. No Member shall sell, assign, pledge or otherwise dispose of or transfer, or permit any Lien on, any Company Interest, directly or indirectly (including through a direct or indirect Change in Control of or transfer of an interest in a Member), owned by such Member or any right or interest therein, whether with or without consideration and whether voluntarily or involuntarily or by operation of Law (each, a "Transfer") for a period of three (3) years from and after the date hereof (the "Transfer Restriction Period"), except for (i) a Permitted Transfer in accordance with Section 9.3 and (ii) Liens granted pursuant to the FX Financing Agreement. Following the Transfer Restriction Period, after compliance with the other provisions of this Article IX, a Member may Transfer any or all of its Company Interests, provided that notwithstanding anything to the contrary in this Agreement, a Member may not Transfer any of its Company Interests to a Prohibited Person without the consent of the Board.

Section 9.2 Void Transfers. Any direct or indirect Transfer by any holder of any Company Interests to (i) a transferee other than a Permitted Transferee before the end of the Transfer Restriction Period, or (ii) a Prohibited Person shall be null, void and ineffective *ab initio* and shall not bind or be recognized by the Company or any Member. No purported transferee that obtains any Equity Interest in violation of the first sentence of this Section 9.2 shall have any rights under this Agreement (including any right to vote on any matter, nominate or appoint any Manager or officer of the Company, receive any Distributions, receive reports or other information or inspect the books or records of the Company) or in respect of the Company.

Section 9.3 Permitted Transfers of Company Interests.

(a) Each Member may, in its discretion, Transfer all or any portion of its Company Interests in a Permitted Transfer (such Member, a "Transferring Member"). For purposes of this Agreement, a "Permitted Transfer" shall mean any Transfer from a Transferring Member to FX Parent or LMC Parent, to any Affiliate of such Transferring Member that is a Subsidiary of FX Parent or LMC Parent, or to any other Affiliate of such Transferring Member of which FX Parent or LMC Parent holds, directly or indirectly, more than fifty percent (50%) of the economic interests and which is not a Prohibited Person (each such Person, a "Permitted Transferee"). In connection with a Permitted Transfer, all the restrictions, conditions, and obligations applicable with respect to such Company Interests under this Agreement shall continue to apply after the Permitted Transfer, and the Transferring Member shall remain fully responsible for, and hereby irrevocably guarantees, the Liabilities of its Permitted Transferee under this Agreement and, following such Permitted Transfer, remain subject to the same restrictions, conditions and obligations hereunder as those restrictions, conditions and obligations to which it was subject immediately prior to such Permitted Transfer. Not less than thirty (30) days prior to a Permitted Transfer, the Transferring Member shall deliver a written notice thereof to the Company, which notice shall be binding on the Transferring Member and its Permitted Transferee and shall (i) include the identity of the proposed Permitted Transferee, (ii) state the basis on which it qualifies as a Permitted Transferee, (iii) identify the Company Interests being Transferred, (iv) designate a single Person as the representative of all holders of such Transferring Member's Company Interests after the Permitted Transfer is completed (whether held by the Transferring Member or any Permitted Transferee thereof), and (v) specifically state that all references herein to the Transferring Member or the Company Interests held by the Transferring Member shall be deemed to collectively reference the Transferring Member (so long as such Transferring Member continues to hold any Company Interests) and all Permitted Transferees of such Transferring Member's Company Interests or their respective Company Interests in the aggregate, respectively, and the Permitted Transferee shall certify in writing to the Company its agreement to the matters set forth in the preceding clauses (i) through (v) prior to the effectiveness of such Permitted Transfer. If a Transferring Member desires to Transfer the Equity Interests of a Permitted Transferee holding a Company Interest, the Transferring Member shall cause all Company Interests held by a Permitted Transferee to be Transferred back to such Member, free and clear of all Liens, prior to such Permitted Transferee ceasing to be a Permitted Transferee of such Member. In furtherance of the preceding, the Members agree that for so long as FX and LMC are Members, FX and LMC shall act on behalf of all of their respective Permitted Transferees and the other Members shall be entitled to rely on such actions of FX and LMC as if the actions were directly taken by all of their respective applicable Permitted Transferees, including with respect to appointing Managers and matters requiring Member approval under Section 6.3 or otherwise.

(b) The Members agree that the Transfer restrictions in this Agreement shall not be capable of being avoided by the holding of Company Interests indirectly through a Permitted Transferee and then either (i) Transferring Control (directly or indirectly and whether by operation of law or otherwise) of such Permitted Transferee to any Person that is not a Permitted Transferee, or (ii) permitting such Permitted Transferee to Transfer Company Interests to any Person that is not a Permitted Transferee. Notwithstanding anything to the contrary in the foregoing, no Transfers of any Equity Interests in FX Parent or LMC Parent shall constitute a Transfer of Company Interests hereunder.

Section 9.4 Covenants in Respect of Permitted Transfers. In connection with any Permitted Transfer, the Members hereby covenant and agree to take any and all actions required or reasonably requested in order to give effect to such Permitted Transfer in accordance with the terms hereof, including to cause its duly authorized Representatives to sign such instruments and documents as may be necessary to give effect to such Transfer. The Members shall not take any action or omit to take any action that could reasonably be expected to frustrate or delay any Permitted Transfer.

Section 9.6 Right of First Refusal.

(a) Following the expiration of the Transfer Restriction Period, if a Member proposes to Transfer any portion of such Member's Company Interests (a "Selling Member") to a Third Party Purchaser, then the Selling Member shall promptly give each other Member written notice of the Selling Member's intention to make the Transfer (the "Transfer Notice"). The Transfer Notice shall include (i) a description of the Company Interests to be transferred ("Offered Units"), (ii) the name(s) and address(es) of the prospective transferee(s), (iii) the consideration, and (iv) the material terms and conditions upon which the proposed Transfer is to be made. The Transfer Notice shall certify that the Selling Member has received a bona fide offer from the prospective transferee(s) and in good faith believes a binding agreement for the Transfer is obtainable on the terms set forth in the Transfer Notice. The Transfer Notice shall also include a copy of any written proposal, term sheet or letter of intent or other agreement relating to the proposed Transfer unless the Selling Member is prohibited from providing a copy.

(b) Each Member (who is not a Selling Member) shall have an option for a period of fifteen (15) Business Days from the delivery of the Transfer Notice from the Selling Member to elect to purchase its respective pro rata share of the Offered Units at the same price and subject to the same material terms and conditions as described in the Transfer Notice. Each such Member may exercise such purchase option and purchase all or any portion of such Member's pro rata share of the Offered Units (a "ROFR Purchasing Member"), by notifying the Selling Member in writing, before expiration of the fifteen (15) Business Day period as to the number of such Offered Units that such Member wishes to purchase. Each such Member's pro rata share of the Offered Units shall be a fraction of the Offered Units rounded to the nearest Unit, the numerator of which shall be the number of Units held by such Member on the date of the Transfer Notice and denominator of which shall be the total number of Units held by all Members (excluding for the purposes of such calculation the Units held by Selling Member) on the date of the Transfer Notice.

(c) In the event any Member does not elect to purchase its full pro rata share of the Offered Units within the time period set forth therein, then the Selling Member shall promptly give written notice (the "Overallotment Notice") to each ROFR Purchasing Member that has elected to purchase its full pro rata share of the Offered Units (each a "Fully-Participating ROFR Purchasing Member"), which notice shall set forth the number of Offered Units not purchased by the other Members, and shall offer the Fully-Participating ROFR Purchasing Members the right to acquire the unsubscribed Offered Units. Each Fully-Participating ROFR Purchasing Member shall have five (5) Business Days after delivery of the Overallotment Notice to deliver a written notice to the Selling Member (of its election to purchase its pro rata share of the unsubscribed Offered Units on the same terms and conditions as set forth in the Transfer Notice and indicating the maximum number of the unsubscribed Offered Units that it will purchase in the event that any other Fully-Participating ROFR Purchasing Member elects not to purchase its pro rata share of such Units. For purposes of this Section 9.6(c), each Fully-Participating ROFR Purchasing Member's pro rata share shall be determined by applying a fraction, the numerator of which shall the total number of Units held by such Member on the date of the Transfer Notice and the denominator of which shall be the total number of Units held by all Fully-Participating ROFR Purchasing Members on the date of the Transfer Notice. Each Fully-Participating ROFR Purchasing Member shall be entitled to apportion the Offered Units to be purchased among its partners and Affiliates (including in the case of a private equity fund other private equity funds affiliated with such fund).

(d) The ROFR Purchasing Members shall effect the purchase of the Offered Units with payment by check or wire transfer, against delivery of the Offered Units to be purchased at a place agreed upon between the parties and at the time of the scheduled closing therefor, which shall be no later than forty-five (45) days after delivery to the Members of the Transfer Notice, unless the Transfer Notice contemplated a later closing with the prospective third party transferee(s). Should the purchase price specified in the Transfer Notice be payable in property other than cash or evidences of indebtedness, the ROFR Purchasing Members shall have the right to pay the purchase price in the form of cash equal in amount to the fair market value of such property.

Section 9.7 Tag-Along Right.

(a) Following the expiration of the Transfer Restriction Period, if a Member (the "Tag-Along Seller") proposes to Transfer all or any portion of its Company Interests that is greater than ten percent (10%) of the Company's then issued and outstanding Company Interests (the "Tag-Along Offered Company Interests") to a Third Party Purchaser (the "Tag-Along Sale"), and ROFR Purchasing Members have not exercised their rights under Section 9.6 to purchase all of the Tag-Along Offered Company Interests, the Tag-Along Seller shall deliver written notice to each other Member of such proposed Transfer (the "Tag Notice"), which Tag Notice shall make reference to each other Member's tag-along right under this Section 9.6 and include the material terms and conditions on which the Tag-Along Seller would Transfer the Tag-Along Offered Company Interests, including the identity of the Third Party Purchaser, the purchase price to be paid for the Tag-Along Offered Company Interests in such Transfer, the terms for payment, conditions precedent for consummation of such Transfer, the expected timing for consummation of such Transfer and a copy of any agreement executed, or form of agreement proposed to be executed, in connection with such Transfer. Upon receipt of a Tag Notice, each other Member shall have the right to participate with the Tag-Along Seller in such sale to the Third Party Purchaser (a "Tag-Along Right") and to Transfer its Ownership Percentage of the Tag-Along Offered Company Interests (the "Tag-Along Company Interests") to the Third Party Purchaser in accordance with this Section 9.6, which Tag-Along Right may be exercised only if the other Member delivers written notice thereof (the "Tag Exercise Notice") to the Tag-Along Seller within twenty (20) Business Days after the delivery of the Tag Notice ("Tag-Along Acceptance Period") (each such exercising other Member, a "Tagging Person"). The failure by any other Member to deliver a Tag Exercise Notice within the Tag-Along Acceptance Period shall be deemed an irrevocable waiver by such other Member of its Tag-Along Right to participate in such Transfer and the Tag-Along Seller shall be free to sell to a Third Party Purchaser the Tag-Along Offered Company Interests and any additional Company Interests owned by the Tag-Along Seller.

(b) If the Tagging Person timely delivers a Tag Exercise Notice to the Tag-Along Seller in accordance with this Section 9.6, then:

(i) such Tag Exercise Notice shall include wire transfer or other instructions for payment of any consideration for the Tag-Along Company Interests and shall constitute such Tagging Person's binding agreement to Transfer to such Third Party Purchaser the Tag-Along Company Interests free and clear of any and all encumbrances and on the same terms and conditions with respect to the Transfer of Company Interests as applicable to the Tag-Along Seller (including for the same purchase price per Company Interest); provided that the Tag-Along Seller shall have no liability to any Tagging Person or any other Person if the purchase of the Tag-Along Offered Company Interests from the Tag-Along Seller and the purchase of the Tag-Along Company Interests from a Tagging Person are not consummated for any reason;

(ii) any Transfer by the Tag-Along Seller of the Tag-Along Offered Company Interests to the Third Party Purchaser shall be conditioned on the concurrent purchase by the Third Party Purchaser of the Tag-Along Company Interests from the Tagging Person on the same terms and conditions as the purchase of the Tag-Along Offered Company Interests from the Tag-Along Seller and the Company shall not give effect to or record in the corporate books any Transfer by the Tag-Along Seller of the Tag-Along Offered Company Interests to the Third Party Purchaser unless the Transfer by the Tagging Person of the Tag-Along Company Interests to the Third Party Purchaser is consummated at the same time; provided that if the Tag-Along Seller is ready, willing and able to consummate its Transfer of the Tag-Along Offered Company Interests and notifies the Tagging Person of its intention to consummate such Transfer, the Tagging Person shall use reasonable best efforts to consummate the Transfer of the Tag-Along Company Interests as soon as reasonably practicable; provided, further, that the Tag-Along Seller shall be entitled to consummate the Transfer of the Tag-Along Offered Company Interests as if the Tagging Person had failed to deliver a Tag Notice within the Tag-Along Acceptance Period if the Tagging Person does not consummate the Transfer of the Tag-Along Company Interests within five (5) days of such notice, including the right to Transfer additional Company Interests as provided in Section 9.7(a);

(iii) The Tagging Person shall (A) make such representations, warranties and covenants, provide such indemnities and enter into such definitive agreements on the same terms as the Tag-Along Seller (taking into account each Member's proportionate share of the Company Interests); provided that if the Tagging Person is required to provide any representations or indemnities in connection with such Transfer, liability for misrepresentation or indemnity shall (as to the Tagging Person) be expressly stated to be several but not joint and the Tagging Person shall not (other than with respect to representations and indemnities concerning the Tagging Person's title to its Company Interests and authority, power and right to enter into and consummate the Transfer without contravention of any Law or agreement) be liable for more than its pro rata share (based on the proportion of its Tag-Along Company Interests to the aggregate Company Interests to be Transferred by all Members) of any liability for misrepresentation or indemnity or be liable for any representations or warranties made by the Tag-Along Seller or any other Tagging Person with respect to such Person's title to its Company Interests and authority, power and right to enter into and consummate the Transfer without contravention of any Law or agreement (or any other individual seller representations); (B) contribute to and participate in any escrow or holdback arrangements, adjustments in purchase price and transaction expenses proportionally on the basis of the proportion of its Tag-Along Company Interests to the aggregate Company Interests to be Transferred by all Members and (C) not be required to enter into or agree to any non-compete or similar restrictive covenant; and

(iv) Promptly after the consummation of the Tag-Along Sale, the Tag-Along Seller shall (A) notify the Tagging Person thereof; (B) if not remitted directly to the Tagging Person, remit to the Tagging Person the total consideration for the Company Interests of the Tagging Person Transferred pursuant thereto less the Tagging Persons' pro rata share of any escrows, holdbacks or adjustments in purchase price and any transaction expenses as determined in accordance with this Section 9.6, with the cash portion of the purchase price paid by wire transfer of immediately available funds in accordance with the wire transfer instructions in the applicable Tag Exercise Notices; and (C) furnish such other evidence of the completion and the date of completion of such transfer and the terms thereof as may be reasonably requested by the Tagging Person. The Tag-Along Seller shall promptly remit to the Tagging Person, if not remitted directly to the Tagging Person, any additional consideration payable upon the release of any escrows, holdbacks or adjustments in purchase price.

(c) If any other Member fails to, or declines to, exercise its Tag-Along Right, the Tag-Along Seller shall have 12 months from the expiration of the Tag-Along Acceptance Period to Transfer the Tag-Along Offered Company Interests to the Third Party Purchaser described in the Tag Notice, on substantially the same terms and conditions set forth in the Tag Notice. If at the end of such period, the Tag-Along Seller has not completed such Transfer, Tag-Along Seller may not effect a Transfer of the Tag-Along Offered Company Interests without complying with the provisions of this Section 9.6.

(d) For purposes of this Section 9.6, all references to "Tag-Along Seller," "Tagging Person" and "other Member" shall include their respective Permitted Transferees; provided that for so long as LMC and FX are Members, LMC and FX shall each have the sole right to exercise the Tag-Along Right and deliver the Tag Exercise Notice on behalf of itself and all of its Permitted Transferees and otherwise act on their behalf under this Section 9.6. The Tag-Along Seller and each Tagging Person shall each be responsible for (and shall ensure) their respective Permitted Transferees' compliance with this Section 9.6.

Section 9.8 Regulatory Approvals. If any Transfer of Company Interests contemplated in this Agreement is subject to prior receipt of any Governmental Authorization, the terms under this Agreement for completion of such Transfer shall be automatically extended for thirty (30) days following the end of the maximum period provided by Law for the obtaining of any such Governmental Authorization.

ARTICLE X
ADMISSION OF MEMBERS

Section 10.1 Admission of Members.

(a) The Company shall not recognize for any purpose any purported Transfer of any Company Interests or other Equity Interests of the Company unless and until (i) the provisions of Article IX have been satisfied, if applicable, and (ii) the Company has received (A) a signed written joinder to this Agreement from the transferee that is satisfactory in form and substance to the Board, and such admission shall be shown on the books and records of the Company and (B) such other documents or instruments as may be necessary or appropriate in the Board's sole discretion to effect such transferee's admission as a Member. Each Transfer and, if applicable, admission, complying with the provisions of this Section 10.1 and the applicable provisions of Article IX is effective against the Company as of the effective date of the Transfer, which effective date shall not be earlier than the date of compliance with or waiver of the conditions to such Transfer, including receipt of the documents set forth in clause (ii) above.

(b) Additional Persons, including transferees, may be admitted to the Company as additional Members or substituted Members as provided under the terms of this Section 10.1. Any transferee of any Company Interest pursuant to a Transfer made in accordance with Article IX or a non-Member recipient of newly issued Equity Interests in the Company that are issued after compliance with Section 3.3 shall be admitted automatically as an additional Member or substituted Member, as applicable, upon compliance with the applicable provisions of Section 10.1(a) with respect to such Transfer, but without the consent or approval of any other Person. Any transferee that is not already a Member at the time of the Transfer and acquires a Company Interest by foreclosure shall not be admitted as a Member without the approval of the Board.

(c) Unless and until a transferee is admitted as a Member, such transferee shall have no rights under this Agreement, whether as a Member or otherwise, except as required under the Delaware Act.

ARTICLE XI
MEMBER COVENANTS; LIMITATION OF LIABILITY

Section 11.1 Fiduciary Duty Waiver; Limitation of Liability.

(a) Except as otherwise expressly provided herein (including as set forth in the last sentence of Section 11.2) and to the maximum extent permitted by the Delaware Act, no present or former Manager or Member shall (i) have any duty (including fiduciary duty), or any Liability for breach of duty (including fiduciary duty) to the Company, any Member, any other Manager or any other Person (including any creditor of the Company), and no implied duties, covenants or obligations shall be read into this Agreement against any Manager or Member in his, her or its capacity as such or (ii) be liable to the Company or to any Member for any act or omission performed or omitted by such Person in his, her or its capacity as Manager or Member; provided that, except as otherwise expressly provided herein, such limitation of Liability shall not apply to the extent the act or omission was attributable to such Person's breach of the terms of this Agreement or of the implied covenant of good faith and fair dealing (in each case, as determined by a final judgment, order or decree of an arbitrator or a court of competent jurisdiction (which is not appealable or with respect to which the time for appeal therefrom has expired and no appeal has been perfected)). Each Manager shall be entitled to rely upon the advice of legal counsel, independent public accountants and other experts, including financial advisors, and any act of or failure to act by such Manager's good faith reliance on such advice shall in no event subject such Manager or the Member that appointed such Manager to Liability to the Company or the other Members.

(b) In furtherance, and not by way of limitation, of Section 11.1(a), whenever in this Agreement or any other agreement contemplated herein or to which the Company is a party, the Board (or any committee thereof) is permitted or required to take any action or to make a decision or determination, (i) the Board (or any committee thereof) shall take such action or make such decision or determination in its sole discretion, unless another standard is expressly set forth herein or therein, or (ii) in its "sole discretion" or "discretion," with "complete discretion" or under a grant of similar authority or latitude, each Manager shall be entitled to consider such interests and factors as such Manager desires (including, the interests of the Member that appointed such Manager or such Manager's employer and their Affiliates).

(c) Each Manager (in such Person's capacity as a Manager) may rely, and shall incur no Liability in acting or refraining from acting, upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, debenture, paper, document, signature or writing reasonably believed by it to be genuine, and may rely on a certificate signed by a Representative of any Person in order to ascertain any fact with respect to such Person or within such Person's knowledge, in each case unless there has been a final and non-appealable judgment entered by a court of competent jurisdiction determining that, in respect of such reliance, action or inaction, such Manager engaged in bad faith, fraud or willful or intentional misconduct or criminal wrongdoing.

(d) In furtherance, and not by way of limitation, of Section 11.1(a), to the maximum extent permitted by applicable Law, the Company and each Member hereby waives any Claim against each Manager and each Member and their respective Representatives and Affiliates for any breach of any duty (including any fiduciary duty) to the Company or its Members or any of its Subsidiaries by any such Person, including any Claim as may result from any conflict of interest, including any conflict of interest between such Person and the Company or its Members or any of its Subsidiaries or otherwise; provided that with respect to actions or omissions by a Manager, such waiver shall not apply to the extent the act or omission was attributable to such Manager's breach of the implied covenant of good faith and fair dealing, in each case as determined by a final nonappealable Order; provided that the exercise by a Member of any of its rights as a Member (including under this Agreement) shall not be deemed to constitute a lack of good faith, a breach of fiduciary duties or unfair dealing.

(e) Notwithstanding anything in this Article XI to the contrary, the Officers of the Company shall have such fiduciary duties that such officers of the Company would have if the Company were a corporation organized under the laws of the State of Delaware; provided that such fiduciary duties in all cases shall be owed to the Company and not the Members.

(f) The Liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the Liabilities of the Company, and subject to the obligation of Members to return certain Distributions under Section 4.1(c), none of the Members or Managers shall be obligated personally for any such Liability of the Company solely by reason of being a Member or Manager. Notwithstanding anything contained herein to the contrary, the failure of the Company to observe any formalities or legal requirements relating to the exercise of its powers or management of its business and affairs under this Agreement or the Delaware Act shall not be grounds for imposing personal Liability on any Member or Manager for the Liabilities of the Company.

Section 11.2 Investment Opportunities and Conflicts of Interest. In furtherance, and not by way of limitation, of Section 11.1(a), each Member expressly acknowledges and agrees that (a) (x) such Member and its Affiliates and (y) its and their respective Representatives (collectively, the Persons described in clauses (x) and (y) and, with respect to those Persons described in clause (y) in their respective capacities as such, the "Specified Persons") are permitted (i) to have and develop, and may presently or in the future have and develop, investments, transactions, business ventures, contractual, strategic or other business relationships, prospective economic advantages or other opportunities (the "Business Opportunities") in businesses that are and may be competitive or complementary with the In-Scope Business, for their own account or for the account of any Person other than the Company or any of its Subsidiaries or the other Member, and (ii) to direct any such Business Opportunities to any other Person, in each case, regardless of whether such Business Opportunities are presented to a Specified Person in his, her or its capacity as a Member, Manager or manager on the board of directors or managers of any Subsidiary of the Company or officer of the Company or any of its Subsidiaries or otherwise, (b) none of the Specified Persons shall be prohibited by virtue of their investments in the Company or any of its Subsidiaries or his or her service as a Manager or service on the board of directors or managers of any Subsidiary of the Company or as an officer of the Company or any of its Subsidiaries or otherwise from pursuing and engaging in any such activities, (c) none of the Specified Persons shall be obligated to inform or present the Company or any of its Subsidiaries or the Board (or any committee established by the Board) or the board of directors or managers of any of the Subsidiaries or the other Member of or with any such Business Opportunity, (d) neither the Company nor any of its Subsidiaries or the other Members shall have or acquire or be entitled to any interest or expectancy or participation (such right to any interest, expectancy or participation, if any, being hereby renounced and waived) in any Business Opportunity as a result of the involvement therein of any of the Specified Persons, and (e) the involvement of any of the Specified Persons in any Business Opportunity shall not constitute a conflict of interest, breach of fiduciary duty, or breach of this Agreement by such Persons with respect to the Company or any of its Subsidiaries or the other Members. This Section 11.2 shall not in any way affect, limit or modify any Liabilities, duties (including fiduciary duties) or responsibilities of any Person in its role as an officer of the Company or any of its Subsidiaries or under any employment agreement, consulting agreement, confidentiality agreement, noncompete agreement, nonsolicit agreement or any similar agreement with the Company or any of its Subsidiaries. Notwithstanding the preceding provisions of this Section 11.2, neither any Member nor any Permitted Transferee of such Member shall engage in any Competing Business Opportunity unless (i) such Member has presented such Competing Business Opportunity to the Board and the Board does not approve pursuing such Competing Business Opportunity, or (ii) if the Board approves pursuing such Competing Business Opportunity, the Company is unable to reach definitive agreement with respect to such Competing Business Opportunity within ninety (90) days after such Board approval; provided, that with respect to Permitted Transferees (other than the FX Parent or the LMC Parent) that are publicly listed entities, the obligations of each Member under this Section 11.2 shall be to vote, or caused to be voted, shares (to the extent such Member or any of its Permitted Transferee has the authority to direct the vote of such shares) and use its commercially reasonable efforts to cause the representatives on the board of directors or similar governing body of such Permitted Transferee appointed by such Member or its Permitted Transferees (in each case subject to applicable fiduciary or corporate law considerations), to act in accordance with such Member's obligations hereunder.

Section 11.3 Use of Member Names and Marks. The Company and the Members acknowledge and agree that, as between the parties hereto, all right, title and interest in and to the Member Names and Marks are and shall be owned exclusively by the applicable Member or its respective Affiliates. Each of the Members and its respective Affiliates shall not be permitted to, and each Member shall use its respective reasonable efforts to cause the Company and its Subsidiaries not to, reference, use or incorporate any Member Names and Marks of the other Member or its respective Affiliates into any Third Party communication or marketing material (including websites) either in connection with the In-Scope Business or for any other purpose without the express prior written consent of such other Member, except as required by Law (and in such case upon the reasonable prior written notice to such other Member) or otherwise approved under a trademark license agreement between the Company and a Member. This Section 11.3 shall not affect any Person's rights or obligations under any other Contracts.

Section 11.4 Certain Independent Compliance Obligations of the Members.

(a) Export Control.

(i) No Member shall (or permit any of its respective Controlled Affiliates to) transfer any controlled items for the In-Scope Business of the Company directly or indirectly to any Third Party outside the United States without specific authorization from the submitting party and in compliance with applicable Laws.

(ii) Notwithstanding anything else herein to the contrary, (A) no Member or Affiliate of a Member shall be obligated to provide or make available to any Person (including non-U.S. companies and U.S. Persons employed by non-U.S. companies) any technology, commodities or other items controlled by the Export Control Laws unless the appropriate license or other Governmental Authorization from the applicable Governmental Authorities has been obtained, (B) no Member or Affiliate of a Member shall be required to, in connection with the In-Scope Business of the Company or the transactions contemplated hereby, take or refrain from taking any actions to the extent such actions or omissions would violate (1) the terms or conditions of any Governmental Authority-approved export license or other Contract, including any limitations or provisos that may be attached thereto or (2) any Export Control Laws to which such Member or any of its Affiliates are subject, and (C) no Member or Affiliate of a Member shall be required to make any transfers of any commodities, software, or technology upon any change in policy announced by any Governmental Authority restricting the export of such commodities, software or technology regardless of effective date.

(b) Anti-Bribery and Anti-Corruption.

(i) No Member shall (or permit any of their respective Controlled Affiliates to), in connection with the In-Scope Business of the Company, (x) violate any Anti-Bribery Laws or any applicable anti-money laundering Law or (y) without limiting the generality of the foregoing clause (x), directly or indirectly, as contemplated by the FCPA:

(A) offer, promise or give a financial or other advantage to another person intending the advantage to induce or reward improper performance of a relevant function or activity in violation of the FCPA, or where acceptance of the advantage itself constitutes such impropriety;

(B) request, agree to or accept a financial or other advantage intended to induce improper performance of a relevant function or activity in violation of the FCPA, or where a request, agreement, or acceptance of an advantage itself amounts to such improper performance, or where the advantage is paid as a reward for, or in anticipation of, or as a consequence of, the improper performance;

(C) offer, promise or give a financial or other advantage to a foreign government or international public official (an "Official") or a Third Party, with intent to influence the Official in his or her official capacity and to obtain or retain business, or a business advantage, including making or receiving any bribe, rebate, pay-off, influence payment, kick-back or other contribution, or gifts, or thing of value in violation of the FCPA; or

(D) fail to implement adequate procedures to prevent bribery by a Representative, or its employees or agents, in order to obtain or retain business or secure an improper business advantage.

(ii) Each of the Members agrees that it shall not retain (and shall not permit their respective Controlled Affiliates to retain) any Representatives or other intermediaries for the promotion or advancement of the In-Scope Business of the Company without the express, prior written approval of the other Member. For the avoidance of doubt, this Section 11.4(b)(ii) shall not prohibit a Member from retaining any Representatives or other intermediaries in the ordinary course of business, but only to the extent that such Representatives or other intermediaries are not retained for the purposes promoting or advancing the In-Scope Business of the Company.

ARTICLE XII
INDEMNIFICATION

Section 12.1 Right to Indemnification. Except as otherwise required by Law or by this Agreement, the Company shall indemnify and hold harmless each Person (each, a "Covered Person") to the fullest extent permitted under the Delaware Act, as the same now exists or may hereafter be amended, substituted, or replaced (but, in the case of any such amendment, substitution, or replacement only to the extent that such amendment, substitution, or replacement permits the Company to provide broader indemnification rights than the Company is providing immediately prior to such amendment), against any losses, liabilities, damages, and expenses (including amounts paid for attorneys' fees, judgments, settlements, fines, excise taxes, or penalties in connection with any threatened, pending, or completed action, suit, or proceeding) (collectively, "Damages") incurred or suffered by such Person (or one or more of such Person's Affiliates) by reason of the fact that such Person (i) is or was serving as a Manager of the Company or any of its Subsidiaries or, while serving as a Manager of the Company or any of its Subsidiaries, is an employee of the Company or any of its Subsidiaries (and any Person that is or was serving at the request of the Company or its Subsidiaries as a representative, officer, director, principal, member, employee, or agent of another partnership, corporation, joint venture, limited liability company, trust, or other enterprise), or (ii) is or was a Member, but only to the extent not prohibited by applicable law; provided, however, no such Person shall be indemnified for any such Damages suffered that are attributable to such Person's (x) fraud, willful misconduct or gross negligence, (y) breach of this Agreement or any other agreement between such Covered Person or any of its Affiliates, on the one hand, and the Company or any of its Subsidiaries, on the other hand or (z) violation of the implied contractual covenant of good faith and fair dealing. The Company shall pay the expenses incurred by any such Covered Person indemnifiable hereunder, as such expenses are incurred, in connection with any proceeding in advance of the final disposition, so long as the Company receives an undertaking by such Covered Person to repay the full amount advanced if there is a final determination that such Covered Person failed the applicable standards set forth above or that such Covered Person is not entitled to indemnification as provided herein for other reasons.

Section 12.2 Non-Exclusive Right. The right to indemnification and the advancement of expenses conferred in Section 12.1 shall not be exclusive of any other right which any Covered Person may have or hereafter acquire under any statute, agreement, by Law, vote of the Board, or otherwise.

Section 12.3 Insurance. The Company shall maintain insurance, at its or any of its Subsidiaries' expense, to protect any Covered Person against any loss, liability, damage, or expense described in Section 12.1, whether or not the Company would have the power to indemnify such Covered Person against such loss, liability, damage, or expense under the provisions of Section 12.1.

Section 12.4 No Personal Liability. Notwithstanding anything contained herein to the contrary, any indemnity by the Company relating to the matters covered in Section 12.1 shall be provided out of and to the extent of Company assets only, and none of the Members (unless such Member otherwise agrees in writing or is found in a final decision by a court of competent jurisdiction to have personal liability on account thereof) shall have personal liability on account thereof or shall be required to make additional Capital Contributions to help satisfy such indemnity of the Company.

Section 12.5 Severability. If Section 12.1 or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Company shall nevertheless indemnify and hold harmless each Covered Person pursuant to Section 12.1 to the fullest extent permitted by any applicable portion of Section 12.1 that shall not have been invalidated and to the fullest extent permitted by applicable Law.

ARTICLE XIII
MISCELLANEOUS

Section 13.1 Further Assurances. The Members shall execute and deliver all documents, instruments, and certificates (including any additional notarized and legalized powers of attorney or other authorizations that may be necessary or appropriate), and take or refrain from taking all such further actions as may be reasonably necessary to effect the provisions hereof, in each case as may be reasonably determined in good faith from time to time by the Board.

Section 13.2 Title to Company Assets. The Company's assets shall be deemed to be owned by the Company as an entity, and no Member, individually or collectively, shall have any ownership interest in any Company asset or any portion thereof, except by virtue of its ownership of Company Interests upon liquidation of the Company in accordance with this Agreement or except as otherwise set forth in this Agreement.

Section 13.3 Creditors. None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditors of the Company or any of its Affiliates (unless such creditor is a Member, in its capacity as such, or FX Parent in its capacity as indirect equityholder and beneficiary of the indemnity under Article XII hereof), and no creditor who makes a loan to the Company or any of its Affiliates may have or acquire at any time as a result of making the loan any direct or indirect interest in Distributions, capital or property other than as a creditor.

Section 13.4 Amendment.

(a) Each Member agrees that the Board may, in accordance with and subject to the limitations contained in Articles V and VI, amend this Agreement to reflect:

(i) a change in the name of the Company; and

(ii) admission or substitution of Members whose admission or substitution has already received the requisite approval in accordance with this Agreement.

The Board is further authorized to update the Schedule of Members and effectuate such technical and other amendments, supplements and modifications to this Agreement as may be required to, inter alia, implement the admission of new or substituted Members and/or effect the issuance of additional Equity Interests in the Company pursuant to Section 3.1 or other similar matters so long as the applicable underlying change or action giving rise to the amendment was consummated in accordance with the terms of this Agreement and received the requisite approvals.

(b) Except as provided in Section 13.4(a), no amendment, supplement or modification of this Agreement or the Certificate of Formation shall be effective unless previously approved by the Board. If Section 5.3(a)(iv)(J) is not applicable and a proposed amendment, supplement or modification of this Agreement or the Certificate of Formation could reasonably be expected to have a disproportionate adverse effect on any right of LMC as compared to FX, then such amendment by shall require the consent of LMC in addition to the Board. Any purported amendment, supplement or modification that fails to comply with the foregoing shall be null and void *ab initio*.

Section 13.5 Assignment. Except as permitted herein, neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned or delegated by the Company or any of the Members (whether by merger, operation of Law or otherwise) without the prior written consent of the Company and any purported assignment or delegation in violation of this Section 13.5 shall be void.

Section 13.6 No Third Party Beneficiaries. Except as otherwise expressly provided in Article XII with respect to the Persons entitled to be indemnified as described therein (who shall be express Third Party beneficiaries with respect to Article XII), this Agreement is solely for the benefit of the Company and the Members and their successors and permitted assigns, and no provision of this Agreement shall be deemed to confer upon any other Person, including any equityholders of any Member, any remedy, Claim, Liability, reimbursement, cause of action or other right.

Section 13.7 Governing Law. This Agreement and all disputes arising out of or relating hereto shall be governed by and construed in accordance with the Laws of the State of Delaware applicable to contracts made and performed entirely with the State of Delaware, without giving effect to any Laws or principles of conflicts of laws that would cause the Laws of any other jurisdiction to apply.

Section 13.8 Dispute Resolution.

(a) General Provisions. The Members shall use commercially reasonable efforts to settle amicably any and all disputes, controversies or Claims (whether sounding in contract, tort, common law, statutory law, equity or otherwise), other than a Board Deadlock, arising out of or relating to this Agreement, including any question regarding its existence or scope, the meaning of its provisions, or the proper performance of any of its terms by either Member, or its breach, termination or invalidity (each such dispute, controversy or Claim, a "Dispute"). Except as otherwise expressly provided herein, any Dispute shall be resolved in accordance with the procedures set forth in this Section 13.8. For the avoidance of doubt, a Board Deadlock shall not be deemed to be a Dispute governed by this Section 13.8, and shall, instead, be governed by Section 5.3(a)(v).

(b) Resolution by Senior Executives. If a Dispute cannot be resolved at an operational level, the disputing party may give written notice to the other party or parties, requesting that senior management or senior representatives of each applicable party attempt to resolve the Dispute and setting forth such party's position and a summary of reasons supporting that position. Within fifteen (15) Business Days after the request, the other party shall provide a written response. The notice and the response shall designate such party's senior executive and provide a statement of the party's position and a summary of reasons supporting that position. The designated senior executives or representatives shall meet in person at a mutually acceptable place, or by telephone, within ten (10) Business Days after receiving the response to seek a resolution. If no resolution is reached by the expiration of thirty (30) calendar days from the date of the notice of Dispute, any disputing party may submit the Dispute to resolution as further provided herein.

(c) Mediation. If the applicable parties' senior executives or representatives are unable to resolve the Dispute in the time period provided above, the disputing parties may submit the Dispute for resolution to non-binding mediation by providing written notice to each other party. The mediation shall take place in New York, New York. Within twenty (20) calendar days of receiving the written notice of a request for mediation, the applicable parties shall mutually select a mediator. The mediation shall take place within 45 calendar days after the initial request for mediation. Within ten (10) Business Days of the conclusion of mediation, the mediator shall provide an evaluation of the Dispute and the parties' hereto relative positions.

(d) Arbitration.

(i) If the parties hereto are unable to reach a resolution pursuant to Section 13.8(c), any disputing party may submit the Dispute for resolution by binding arbitration under the administration of the International Chamber of Commerce ("ICC") in accordance with its Rules for Arbitration (the "ICC Rules") in effect at the time of the arbitration, subject to such modifications set forth in this Agreement.

(ii) In any Dispute in which the aggregate value of the Claims and any counterclaims is less than $5,000,000.00, the arbitral tribunal shall consist of a single arbitrator whom the International Court of Arbitration of the ICC shall appoint pursuant to its applicable rules pertaining to the selection of a single arbitrator. In any Dispute in which the aggregate value of the Claims and any counterclaims is $5,000,000.00 or more, the arbitral tribunal shall be composed of three arbitrators. In the case of a tribunal of three arbitrators: (A) each party shall designate one arbitrator within twenty (20) calendar days after the request for arbitration is filed; (B) if there are more than two disputing parties, FX shall designate one (1) arbitrator and LMC shall designate one (1) arbitrator; (C) the first two arbitrators shall select the third arbitrator within thirty (30) calendar days after the last of the first two arbitrators has been nominated, and shall not be affiliated with any disputing party; and (D) in the event that the initial two arbitrators fail to agree to a third arbitrator, the third arbitrator shall be chosen by the International Court of Arbitration of the ICC. The arbitration proceedings shall be conducted in the English language, and all documents not in English submitted by any party shall be accompanied by an English translation. The arbitration shall be conducted in New York, New York, which shall be the seat of the arbitration. Each party shall be permitted to present its case, witnesses and evidence, if any, in the presence of the other party. Either party can request a written transcript of the proceedings at that party's cost. The arbitral tribunal shall determine the Dispute consistent with the substantive law described in Section 13.7, and shall apply this Agreement according to its terms.

(iii) The parties agree that any Disputes resolved pursuant to this Section 13.8 are commercial in nature. The parties agree to be bound by any award or order resulting from arbitration conducted hereunder notwithstanding any country's laws or treaties with the United States to the contrary. The parties agree that in the context of an attempt by any disputing party to enforce an arbitral award or order, any defenses relating to any other parties' capacity or the validity of this Agreement or any related agreement under any Law are waived. Any judgment on an award or order resulting from an arbitration conducted under this Section 13.8 may be entered and enforced in any court, in any country, having jurisdiction over any of the disputing parties or their assets. For the purposes of enforcement of an award or order as described in the preceding sentence, the Parties submit to the non-exclusive jurisdiction of the state and federal courts of New York and Delaware.

(iv) Each party shall bear its own fees and expenses, including fees and expenses of financial and legal advisors and other outside consultants, in connection with any arbitration conducted under this Section 13.8.

(e) Admissibility into Evidence. All offers of compromise or settlement among the parties hereto or their Representatives in connection with the attempted resolution of any Dispute (i) shall be deemed to have been delivered in furtherance of a Dispute settlement, (ii) shall be exempt from discovery and production and (iii) shall not be admissible into evidence (whether as an admission or otherwise) in any proceeding for the resolution of the Dispute.

(f) Proceedings Confidential. Except to the extent necessary to enforce any arbitral award, to enforce other rights of the parties, or as required by applicable Law or the applicable rules of any stock exchange, each party shall ensure that it and its Representatives and expert witnesses, shall maintain as confidential the existence of the arbitration proceedings, the arbitral award, all filings and submissions exchanged or produced during the arbitration proceedings and briefs, memorials, witness statements or other documents prepared in connection with such arbitration; provided, however, that a party may disclose such information to its Representatives and expert witnesses; it being understood that such Representatives will be informed of the confidential nature of the existence of any such arbitration proceedings, arbitral award, filings and submissions, briefs, memorials, witness statements and other documents and will be directed to treat the foregoing as confidential in accordance with the terms of this Agreement and each party will be responsible for the compliance by its Representatives and expert witnesses with this Section 13.8(f). This Section 13.8 shall survive the termination of the arbitral proceedings.

(g) Privilege. Legal professional privilege, including privileges protecting attorney-client communications and attorney work product of each party from disclosure or use in evidence, as recognized by applicable Laws governing each party's relationship with its counsel, including in-house counsel, shall apply to and be binding in any arbitration proceeding under this Section 13.8(g).

(h) Provisional Remedies. Nothing in this Agreement shall limit the right of a party hereto to seek, and each such party shall have the right to seek, interim, injunctive or other temporary equitable relief, in support of and before any final arbitral award is delivered in any court having jurisdiction. In any such action, each party irrevocably and unconditionally (i) consents and agrees to the exclusive jurisdiction of any state or federal court located in the County of New Castle in the State of Delaware; (ii) waives, to the fullest extent it may effectively do so, any objection, including any objection to the laying of venue or based on the grounds of forum non conveniens or any right of objection to jurisdiction on account of its place of incorporation or domicile, which it may now or hereafter have to the bringing of any such action or proceeding in any such court; (iii) consents to service of process in the manner provided for notices in Section 13.11, or in any other manner permitted by applicable law; and (iv) WAIVES ANY RIGHT TO TRIAL BY JURY. Without prejudice to such provisional remedies as may be available under the jurisdiction of a court, the arbitral tribunal, or the emergency arbitrator (as provided in the ICC Rules), shall have full authority to grant provisional remedies and to direct the parties to request that any court modify or vacate any temporary or preliminary relief issued by such court, and the arbitral tribunal shall have the power to award damages for the failure of any party to respect its or the emergency arbitrator's orders to that effect.

Section 13.9 Severability; Equitable Relief. If any provision of this Agreement or the application of any provision hereof to any circumstances is held invalid, unenforceable, or otherwise illegal, the remainder of this Agreement and the application of such provision to other circumstances shall not be affected. Upon any such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Company and the Members shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Company and the Members, as expressed in the terms hereof, as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible. The parties hereto recognize, acknowledge and agree that the breach or violation of this Agreement by a party hereto would cause irreparable damage to the other parties hereto and that none of the parties hereto has an adequate remedy at Law. Subject to the following sentence, the parties hereto acknowledge and agree that each party hereto shall be entitled, in addition to any other remedies that may be available, to obtain injunctive relief, specific performance of the terms of this Agreement or other equitable relief, to redress breaches or threatened breaches of this Agreement and to enforce specifically the terms and provisions hereof without proof of damages or otherwise and the right of specific performance is an integral part of the transactions contemplated by this Agreement and without that right, none of the parties hereto would have entered into this Agreement. A party hereto seeking an Order or injunction to prevent breaches of this Agreement or to enforce specifically the terms and provisions hereof shall not be required to provide, furnish or post any bond or other security in connection with or as a condition to obtaining any such Order or injunction, and each party hereto hereby irrevocably waives any right it may have to require the provision, furnishing or posting of any such bond or other security. If any Legal Proceeding is brought by any party hereto to enforce this Agreement, the other parties hereto shall waive the defense that there is an adequate remedy at Law.

Section 13.10 Counterparts; Electronic Delivery. This Agreement may be executed and delivered in two or more separate counterparts, each of which when executed and delivered shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. This Agreement, the agreements referred to herein, and each other agreement, consent or instrument entered into in connection herewith or therewith or contemplated hereby or thereby, and any amendments hereto or thereto, to the extent signed and delivered by means of a photographic, portable document format (.pdf), facsimile or similar reproduction of such signed writing using a facsimile machine or electronic mail shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. At the request of either Member with respect to this Agreement or any such agreement, consent or instrument, the other Member with respect to this Agreement or any such agreement, consent or instrument shall re-execute originals thereof and deliver them to the Member that made such request.

Section 13.11 Notices. All notices and other communications given or made pursuant hereto shall be in writing and shall be deemed to have been duly given or made (a) as of the date delivered if delivered personally, (b) one (1) Business Day after deposit with a reputable overnight courier service (providing proof of delivery), (c) four (4) Business Days after deposit in the United States Mail, registered or certified mail (postage prepaid, return receipt requested) or (d) as of the date transmitted if sent by electronic transmission with receipt confirmed, in each case to the addresses and attention parties indicated below (or at such other address or electronic mail address for a party as shall be specified by like notice):

To FX:

Foxconn EV Technology, Inc.
4568 Mayfield Rd
Ste 204
Cleveland, OH 44121
Attention: Jerry Hsiao and Steven Yu
E-mail: jerry.hsiao@foxconn.com; stevenyu@foxconn.com

with a copy (which shall not constitute notice) to:

Paul Hastings LLP
200 Park Avenue
New York, New York 10166
Attention: Mike Huang
E-mail: mikehuang@paulhastings.com

To LMC:

Lordstown Motors Corp.
38555 Hills Tech Dr.
Farmington Hills, Michigan 48331
Attention: CEO
Email: dan.ninivaggi@lordstownmotors.com

with a copy (which shall not constitute notice) to:

Baker & Hostetler LLP
127 Public Square, Suite 2000
Cleveland, Ohio 44114
Attention: Ronald Stepanovic
E-mail: RStepanovic@bakerlaw.com

To the Company:

MIH EV Design LLC
c/o Foxconn EV Technology, Inc.
4568 Mayfield Rd
Ste 204
Cleveland, OH 44121
Attention: Jerry Hsiao and Steven Yu
E-mail: jerry.hsiao@foxconn.com; stevenyu@foxconn.com

with a copy (which shall not constitute notice) to:

Lordstown Motors Corp.
38555 Hills Tech Dr.
Farmington Hills, Michigan 48331
Attention: Edward Hightower
Email: edward.hightower@lordstownmotors.com

and

Paul Hastings LLP
200 Park Avenue
New York, New York 10166
Attention: Mike Huang
E-mail: mikehuang@paulhastings.com

or to such other address or to the attention of such other Person as the recipient party has specified by prior written notice to the sending party.

Section 13.12 Entire Agreement. This Agreement (including all Exhibits and Schedules) constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, by and among the Company and the Members with respect to the matters set forth in this Agreement. The Company and each Member agrees and acknowledges that: (a) it is entering into this Agreement in reliance solely on the statements made or incorporated in this Agreement and the documents expressly referred to herein and therein; and (b) it is not relying on any other statement, representation, warranty, assurance or undertaking made or given by any person, in writing or otherwise, at any time prior to the date of this Agreement. Notwithstanding the foregoing, nothing in this Section 13.12 limits or excludes any Liability for fraud and fraudulent misrepresentation. There are no conditions precedent to the effectiveness of this Agreement other than those expressly stated in this Agreement.

Section 13.13 Confidentiality. Each Member agrees that all Confidential Information shall be kept confidential by such Member and shall not be disclosed by such Member in any manner whatsoever; provided, however, that (a) any of such Confidential Information may be disclosed to such Member's Affiliates and to their respective Representatives, each of which Representatives shall be bound by the provisions of this Section 13.13 or substantially similar terms, (b) any disclosure of Confidential Information may be made to the extent to which the Company consents in writing, (c) any disclosure may be made of the terms of a Member's investment in the Company pursuant to this Agreement and the performance of that investment to the extent in compliance with applicable Law (whether in the Member's fundraising materials or otherwise), (d) Confidential Information may be disclosed by a Member, its Affiliates or their respective Representatives to the extent reasonably necessary in connection with such Member's enforcement of its rights under this Agreement and (e) Confidential Information may be disclosed by any Member, its Affiliates or their respective Representatives to the extent that the Member, its Affiliates or their respective Representatives have received advice from its counsel that it is legally compelled to do so, provided, that, prior to making such disclosure, such Member, Affiliate or Representative, as the case may be, uses reasonable efforts to preserve the confidentiality of the Confidential Information, including consulting with the Company regarding such disclosure and, if reasonably requested by the Company, assisting the Company, at the Company's expense, in seeking a protective order to prevent the requested disclosure, and provided, further, that the Member, its Affiliate or their respective Representatives, as the case may be, discloses only that portion of the Confidential Information as is, based on the advice of its counsel, legally required. The provisions of this Section 13.13 shall survive any expiration or termination of this Agreement and each Member shall continue to be bound by its terms after such Member ceases to be a Member, in each case for a period of eighteen (18) months from the date of such expiration or termination of this Agreement or such Person ceasing to be a Member, as applicable.

Section 13.14 Survival. The provisions of Article XII and Section 13.3 through Section 13.16 and all definitions used in those provisions shall survive and continue in full force in accordance with their terms notwithstanding any termination of this Agreement or the termination of the Company.

Section 13.15 No Partnership or Affiliation. The Members intend that the Company not be a partnership (including a limited partnership), association, joint venture or other co-operative entity, and that no Member be a partner or joint venturer of any other Member by virtue of this Agreement (provided that, solely for U.S. federal income Tax purposes, the Company shall be classified as a partnership), and neither this Agreement nor any other document entered into by the Company or any Member relating to the subject matter hereof shall be construed to suggest otherwise. The Members understand, acknowledge and agree that LMC is not an Affiliate of FX, and FX is not an Affiliate of LMC.

Section 13.16 Certain Relationships. Notwithstanding anything to the contrary contained herein, each of the Company and the Members acknowledges and agrees that nothing in this Agreement (including any terminology used herein) and no action taken by the Company and/or the Members under this Agreement is intended to, or shall be deemed to, establish any partnership, association or agency relationship or other co-operative entity between any of the Members or constitute any Member the agent of another Member for any purpose.

Section 13.17 Waivers. Any failure by the Company or either Member to comply with any obligation, covenant, agreement or condition herein may be waived by the Company and/or the other Member, as applicable, entitled to the benefits thereof only by a written instrument signed by the party granting such waiver, and such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure to comply.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

The undersigned have entered into this Limited Liability Company Agreement effective as of the date first written above.

MIH EV DESIGN LLC

By: _____
Name:
Title:

FOXCONN EV TECHNOLOGY, INC.

By: _____
Name:
Title:

LORDSTOWN EV CORPORATION

By: _____
Name:
Title:

[Signature Page to the Limited Liability Company Agreement]

Exhibit 10.3

NOTE, GUARANTY AND SECURITY AGREEMENT

US$[•] [•][•], 2022

FOR VALUE RECEIVED, each of LORDSTOWN EV CORPORATION, a Delaware corporation (the "**Issuer**"), LORDSTOWN EV SALES LLC, a Delaware limited liability company ("**Sales**"), and LORDSTOWN MOTORS CORP., a Delaware corporation (the "**Parent**" and together with Sales, the "**Guarantors**"; the Guarantors and the Issuer, together collectively, the "**Note Parties**"), hereby unconditionally promises to pay to [FOXCONN EV TECHNOLOGY, INC., an Ohio corporation], or its successors and assigns (the "**Payee**"), the principal amount set forth in Section 3 hereto, together with interest thereon as provided in Section 2 hereof, on the Maturity Date (as defined below), on the terms and subject to the conditions provided herein. The Issuer and the Payee intend that this Note, Guaranty and Security Agreement (this "**Note**") constitute indebtedness for all federal, state and local income tax purposes and agree not to take any positions contrary to the foregoing characterization of the Note.

1. **Definitions.**

(a) Generally. In this Note, capitalized terms used but not defined herein shall have the meanings ascribed thereto on Appendix A.

(b) Accounting Terms. Except as otherwise expressly provided herein, all accounting terms not otherwise defined herein shall have the meanings assigned to them in conformity with GAAP. Financial statements and other information required to be delivered by the Note Parties to the Payee pursuant to the terms hereof and the other Note Documents shall be prepared in accordance with GAAP as in effect at the time of such preparation. Any lease that is characterized as an operating lease in accordance with GAAP after the Note Parties' adoption of ASC 842 (regardless of the date on which such lease has been entered into) shall not be a Capital Lease, and any such lease shall be, for all purposes of this Agreement, treated as though it were reflected on the Note Parties' consolidated financial statements in the same manner as an operating lease would have been reflected prior to the Note Parties' adoption of ASC 842.

2. **Interest.**

(a) From the date hereof until the date this Note is paid in full, interest shall accrue on the outstanding principal amount of this Note at the rate of 7.0% *per annum* (the "**Rate**").

(b) Interest payable pursuant hereto shall be calculated on the basis of a 360-day year for the actual days elapsed and shall be added to the principal amount hereunder, following which such accrued interest shall bear interest and otherwise be treated as principal hereunder.

(c) Following the Maturity Date (or the acceleration of the Advance following the occurrence of an Event of Default), the unpaid principal amount of this Note, together with any interest payments or any fees or other amounts owing hereunder, shall thereafter bear interest (including post-petition interest in any proceeding under any applicable Debtor Relief Laws, whether or not allowed in such a proceeding) payable on demand at the Rate plus 2.0% *per annum* (the "**Default Rate**").

3. **The Advance.**

(a) On the terms and subject to the conditions contained in this Note, upon the Issuer's written request, the Payee shall make available to the Issuer a single advance in the principal amount of $[•] (the "**Advance**").

(b) By executing and delivering this Note, the Issuer hereby certifies that all conditions precedent set forth in Section 4 hereof have been satisfied and requests that the Payee make the Advance under this Note on the date hereof.

(c) Subject to the prior satisfaction of all other applicable conditions to the making of the Advance set forth in Section 4 of this Agreement (which must be satisfied no later than [12:00 p.m. Eastern time] on the funding date), to obtain the Advance, the Issuer shall notify the Payee (which notice shall be irrevocable) by [12:00 p.m. Eastern time] at least [•] Business Days prior to the proposed funding date of the Advance. Such notice shall be made by electronic mail in the form of a completed Advance Form executed by a Responsible Officer.

(d) The proceeds of the Advance shall be deposited in an account of the Joint Venture Entity specified in the relevant Advance Form and shall be used solely to fund the Issuer's capital contribution obligations under Section 3.1(a) of the LLC Agreement.

4. **Conditions to Advance.** The obligation of the Payee to make the Advance hereunder on the Closing Date is subject to the satisfaction or waiver by the Payee of the following conditions precedent:[1]

(a) Note and Note Documents. The Payee shall have received this Note and each of the other Note Documents duly executed and delivered by each party thereto.

(b) Organizational Documents; Incumbency. The Payee shall have received: (i) a copy of each Organizational Document of each Note Party and certified as of a recent date by the appropriate governmental official (in the case of certificates of incorporation or formation) or by its secretary or an assistant secretary as being in full force and effect, each dated the Closing Date or a recent date prior thereto; (ii) signature and incumbency certificates of the officers of each Note Party executing the Note Documents to which it is a party; (iii) resolutions of the board of directors or similar governing body of each Note Party approving and authorizing the execution, delivery and performance of this Note and the other Note Documents to which it is a party or by which it or its assets may be bound as of the Closing Date, certified as of the Closing Date by its secretary or an assistant secretary as being in full force and effect without modification or amendment; (iv) a good standing certificate from the applicable Governmental Authority of each Note Party's jurisdiction of incorporation, organization or formation, each dated a recent date prior to the Closing Date; and (v) such other documents relating to the foregoing as the Payee may reasonably request.

(c) Liquidity. As of the Effective Date and after giving pro forma effect to the Advance, the Note Parties have unencumbered cash and Cash Equivalents on hand in an aggregate amount not less than $40,000,000.

(d) Legal Opinion. The Payee shall have received satisfactory legal opinions from counsel to the Note Parties.

(e) Collateral. The Payee shall have received:

[1] Notes issued to refinance maturing notes shall be subject only to satisfaction of the CPs in Section 4(a), 4(m) and 4(n). Notes issued to make subsequent capital contributions will be subject only to satisfaction of the CPs in Section 4(a), 4(e), 4(l) and 4(m).

(i) *UCC Financing Statements*. UCC financing statements for the Issuer, in form and substance reasonably satisfactory to the Payee.

(ii) *Pledged LLC Interests*. The Security Certificates, if any, evidencing the Pledged LLC Interests duly indorsed by an effective endorsement (within the meaning of Section 8-107 of the UCC), or accompanied by share transfer powers or other instruments of transfer duly endorsed by such an effective endorsement, in each case, to the Payee or in blank.

(f) Insurance. The Payee shall have received a copy of, or a certificate as to coverage under, or other evidence of the effectiveness of, the insurance policies required by Section 8(g), demonstrating compliance with such section, in form and substance satisfactory to the Payee.

(g) No Material Adverse Change. As of the Effective Date, since December 31, 2021, no event, circumstance or change has occurred that has had or would reasonably be expected to have, either in any case or in the aggregate, a Material Adverse Effect.

(h) Governmental Authorizations and Consents. As of the Closing Date, each Note Party shall have obtained all Governmental Authorizations and all consents of other Persons, in each case that are necessary in connection with the transactions contemplated by this Note and the other Note Documents and each of the foregoing shall be in full force and effect and in form and substance reasonably satisfactory to the Payee.

(i) Acquisition Closing. The "Closing" under and as defined in the Asset Purchase Agreement, dated as of November 10, 2021 (as the same may be amended, supplemented or otherwise modified from time to time, the "**Asset Purchase Agreement**"), among the Issuer, the Payee, the Parent and Foxconn (Far East) Limited, shall have occurred in accordance with the provisions of the Asset Purchase Agreement.

(j) Joint Venture Closing. The LLC Agreement shall have been duly executed and delivered by each of the parties thereto.

(k) Representations and Warranties—Effective Date. The representations and warranties contained herein and in the other Note Documents shall be true and correct in all material respects (except such representations and warranties that by their terms are qualified by materiality, which representations and warranties shall be true and correct in all respects) on and as of the Effective Date, except to the extent such representations and warranties specifically relate to an earlier date, in which case such representations and warranties will have been true and correct in all material respects (except for those representations and warranties that are conditioned by materiality, which will have been true and correct in all respects) on and as of such earlier date.

(l) Representations and Warranties—Closing Date. The representations and warranties contained in Section 5(a), 5(b), 5(c), 5(d), 5(f) and 5(t) shall be true and correct in all material respects (except such representations and warranties that by their terms are qualified by materiality, which representations and warranties shall be true and correct in all respects) on and as of the Closing Date, except to the extent such representations and warranties specifically relate to an earlier date, in which case such representations and warranties will have been true and correct in all material respects (except for those representations and warranties that are conditioned by materiality, which will have been true and correct in all respects) on and as of such earlier date.

(m) No Default or Event of Default. As of the [Closing Date][Effective Date][2], no event shall have occurred and be continuing or would result from the making of the Advance that would constitute a Default or an Event of Default. [As of the Closing Date, no event shall have occurred and be continuing or would result from the making of the Advance that would constitute a Default or an Event of Default under Section 13(a)(v) or 13(a)(vi).][3]

(n) [Representations and Warranties – Existence and Authority. The representations and warranties contained in Section 5(a)(i) and 5(b) shall be true and correct in all material respects (except such representations and warranties that by their terms are qualified by materiality, which representations and warranties shall be true and correct in all respects) on and as of the Closing Date.][4]

5. **Representations and Warranties.** To induce the Payee to make the Advance in accordance with the terms of this Note, each Note Party hereby represents and warrants to the Payee that:

(a) Legal Existence, Qualification and Power. Such Note Party (i) is duly organized, validly existing and in good standing (to the extent such concept is applicable in the applicable jurisdiction) under the laws of its jurisdiction of organization, (ii) has all requisite power and authority to own and operate its properties, to carry on its business as now conducted and as proposed to be conducted, to enter into the Note Documents to which it is a party and to carry out the transactions contemplated thereby and, in the case of the Issuer, to make the borrowings hereunder, and (iii) is qualified to do business and in good standing (to the extent such concept is applicable in the applicable jurisdiction) in every jurisdiction where the ownership of its assets or the conduct of its business and operations requires such qualification, except in jurisdictions where the failure to be so qualified or in good standing has not had, and could not be reasonably expected to have, a Material Adverse Effect.

(b) Due Authorization. The execution, delivery and performance by such Note Party of the Note Documents to which it is a party have been duly authorized by all necessary corporate or other organizational action on the part of such Note Party.

(c) No Contravention of Laws, Contracts or Organizational Documents. The execution, delivery and performance by such Note Party of the Note Documents to which it is a party and the consummation of the transactions contemplated by the Note Documents do not and will not (a) violate in any material respect any material law, governmental rule or regulation applicable to such Note Party or any order, judgment or decree of any court or other agency of government binding such Note Party; (b) violate the terms of such Note Party's Organizational Documents; (c) violate, result in a breach of or constitute (with due notice or lapse of time or both) a default, in any material respect, or under any material contractual obligation or lease of such Note Party; or (d) result in or require the creation or imposition of any Lien upon any of the properties or assets of such Note Party, other than Permitted Liens.

(d) Governmental and Third-Party Approvals and Consents. Except as could not reasonably be expected to have a Material Adverse Effect or result in the failure of any security interest granted in favor of the Payee hereunder to be perfected, the execution, delivery and performance by such Note Party of the Note Documents to which it is a party and the legality, validity, binding effect and enforceability against such Note Party of the Note Documents to which it is a party do not and will not require any registration with, consent or approval of, or notice to, or other action to, with or by, any Governmental Authority except (a) for filings and recordings with respect to the Collateral to be made, or otherwise delivered to the Payee for filing and/or recordation, as of the Closing Date, and (b) the registrations, consents, approvals, notices and actions which have been duly made, obtained, given or taken and are in full force and effect.

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[2] To be inserted in lieu of "Closing Date" only in the first Note issued.

[3] To be included only in the first Note issued.

[4] To be included only in Notes issued to refinance maturing notes.

(e) Enforceability. Such Note Party has duly executed and delivered each Note Document to which it is a party. Each Note Document to which such Note Party is a party is the legally valid and binding obligation of such Note Party, enforceable against such Note Party in accordance with its respective terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally or by general principles of equity, regardless of whether considered in a proceeding at equity or law.

(f) Accuracy and Completeness of Financial Statements.

(i) The Audited Financial Statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; (ii) fairly present the financial condition of the Parent and its Subsidiaries as of the date thereof and their results of operations, cash flows and changes in shareholder's equity for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; and (iii) show all material Indebtedness and other liabilities, direct or contingent, of the Parent and its Subsidiaries required to be disclosed in accordance with GAAP as of the date thereof, including liabilities for taxes, material commitments and Indebtedness.

(ii) The unaudited consolidated balance sheet of the Parent and its Subsidiaries dated March 31, 2022, and the related consolidated statements of income or operations, shareholders' equity and cash flows for the fiscal quarter ended on that date (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, and (ii) fairly present the financial condition of the Parent and its Subsidiaries as of the date thereof and their results of operations, cash flows and changes in shareholder's equity for the period covered thereby, subject, in the case of clauses (i) and (ii), to the absence of footnotes and to normal year-end audit adjustments. Except as set forth in such financial statements or the SEC Filings, as of the Closing Date the Parent and its Subsidiaries have no material Indebtedness.

(g) No Material Litigation. There are no actions, suits, proceedings (whether administrative, judicial or otherwise), investigations (governmental or otherwise) or arbitrations at law or in equity, or before or by any Governmental Authority, domestic or foreign or other regulatory body or any arbitrator whether pending or, to the knowledge of such Note Party, threatened in writing by or against such Note Party or any of its Subsidiaries or any property of such Note Party or any of its Subsidiaries, individually or in the aggregate, that (a) relate to any Note Document or Indebtedness provided hereunder or (b) except as specifically disclosed in the SEC Filings, either individually or in the aggregate would reasonably be expected to have a Material Adverse Effect. Neither such Note Party nor any of its Subsidiaries is subject to or in default with respect to any final judgments, writs, injunctions, decrees, rules or regulations of any court or any Governmental Authority.

(h) No Default. No Default or Event of Default has occurred and is continuing.

(i) Ownership of Property. Such Note Party and each of its Subsidiaries has good and marketable fee simple title to all owned real property and valid leasehold interests in all material leased real property, and owns all personal property, in each case that is purported to be owned or leased by it, and none of such property is subject to any Lien except Permitted Liens.

(j) Insurance. Such Note Party has insurance in such amounts and covering such risks and liabilities as are customary for companies of a similar size engaged in similar businesses in similar locations or as are otherwise deemed prudent by such Note Party, in the exercise of its reasonable business judgment. All material insurance maintained by such Note Party is in full force and effect, all premiums have been duly paid, such Note Party has not received notice of violation, invalidity or cancellation thereof and such Note Party is in compliance in all material respects with all requirements thereof.

(k) Environmental Matters. Except as would not reasonably be expected to have a Material Adverse Effect, (i) such Note Party and each of its Subsidiaries is in compliance with all Environmental Laws; (ii) no Hazardous Substances are or have been (including the period prior to the direct or indirect acquisition of any property by such Note Party or any of its Subsidiaries), discharged, generated, treated, disposed of or stored on, incorporated in, or removed or transported from any property owned or leased by such Note Party or any of its Subsidiaries other than in compliance with all Environmental Laws; (iii) to the best of such Note Party's knowledge, after due inquiry, no Hazardous Substances are present in, on or under any nearby real property which could migrate to or otherwise affect any property owned or leased by such Note Party or any of its Subsidiaries, other than as permitted by the terms of this Note and the other Note Documents; and (iv) no underground storage tanks exist on any property owned or leased by such Note Party or any of its Subsidiaries and no property owned or leased by such Note Party or any of its Subsidiaries has ever been used as a landfill.

(l) Tax Matters. All federal and state income and other material tax returns and reports of such Note Party and its Subsidiaries required to be filed by any of them have been timely filed, and all material amounts of taxes shown on such tax returns to be due and payable and all assessments, fees and other governmental charges upon such Note Party and its Subsidiaries and upon their respective properties, assets, income, businesses and franchises which are due and payable have been paid when due and payable, except for taxes, assessments, fees or charges which are being contested by such Note Party or such Subsidiary in good faith and by appropriate proceedings for which reserves, if any, to the extent required in conformity with GAAP shall have been made.

(m) ERISA Compliance. Except to the extent the failure to comply could not reasonably be expected to result in a Material Adverse Effect, such Note Party and each of its ERISA Affiliates is in compliance with all applicable Legal Requirements, including all applicable provisions of ERISA and the Code and the regulations and published interpretations thereunder, with respect to all Employee Benefit Plans.

(n) Identification of Subsidiaries, Equity Interests and Note Parties. Such Note Party's jurisdiction of organization or formation, legal name and organizational identification number, if any, and the location of such Note Party's chief executive office or sole place of business is specified on **Schedule 5(n)**. The Capital Stock of such Note Party has been duly authorized and validly issued and is fully paid and non-assessable. **Schedule 5(n)** indicates for such Note Party (other than the Issuer) the ownership of its Capital Stock (by holder and percentage interest), its type of entity and the number and class of authorized and issued units of its Capital Stock. Except as set forth on **Schedule 5(n)**, no Note Party has any direct or indirect equity investments in any other corporation or entity.

(o) Use of Proceeds; Margin Stock. The proceeds from the Advance will be used by the Note Parties solely to fund capital contribution obligations of the Issuer under Section 3.2(a) of the LLC Agreement. No portion of the proceeds of the Advance shall be used in any manner that causes the Advance or the application of such proceeds to violate Regulation T, Regulation U or Regulation X of the Board of Governors of the Federal Reserve System or any other regulation thereof.

(p) Status under Investment Company Act. Such Note Party is not (a) an "investment company" or a company "controlled" by an "investment company," as defined in, or subject to regulation under, or required to be registered pursuant to, the Investment Company Act of 1940, as amended, or (b) subject to regulation under any Legal Requirement (other than Regulation X of the Board of Governors of the Federal Reserve System) that limits its ability to incur, create, assume, guarantee or permit to exist Indebtedness.

(q) Reserved.

(r) Compliance with Laws. Such Note Party and each of its Subsidiaries is in compliance with all Legal Requirements in respect of the conduct of its business and the ownership of its property, except, in each case, as would not reasonably be expected to have a Material Adverse Effect. Such Note Party and each of its Subsidiaries is in compliance with all Terrorism Laws and Anti-Money Laundering Laws. No part of the proceeds of the Advance will be used by such Note Parties or any of its Subsidiaries for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended.

(s) Intellectual Property. Such Note Party and each of its Subsidiaries owns, or has a valid and continuing license to use, all material Intellectual Property necessary for the operation of its business as currently conducted. All material Intellectual Property of such Note Party and each of its Subsidiaries is subsisting, valid and enforceable. The use of material Intellectual Property by such Note Party and its Subsidiaries does not, to the best of such Note Party's knowledge, infringe upon the rights of any other Person in any material respect. No claim has been asserted or is pending by any Person challenging or questioning the ownership or use by such Note Party or any of its Subsidiaries of any Intellectual Property or the validity of any Intellectual Property, or alleging infringement, misappropriation or violation by such Note Party or any of its Subsidiaries of any Intellectual Property of any Person, except, in each case, as would not reasonably be expected to have a Material Adverse Effect.

(t) Collateral Documents. (a) This Agreement is effective to create in favor of the Payee, legal, valid and enforceable Liens on, and security interests in, the Collateral of such Note Party and, when (i) financing statements and other filings in appropriate form are filed in the Office of the Secretary of State of the jurisdiction of incorporation or organization of such Note Party (or in such other applicable central filing office as shall be specified under the Uniform Commercial Code as in effect in the jurisdiction of incorporation or organization of such Note Party) and (ii) upon the taking of possession or control by the Payee of such Collateral with respect to which a security interest may be perfected only by possession or control (which possession or control shall be given to the Payee to the extent possession or control by the Payee is required hereby), the Liens created by this Agreement shall constitute fully perfected Liens on, and security interests in, all right, title and interest of such Note Party in such Collateral (other than such Collateral in which a security interest cannot be perfected under the UCC as in effect at the relevant time in the relevant jurisdiction), in each case subject to no Liens other than Permitted Liens.

(u) Labor Matters. None of such Note Party nor any of its Subsidiaries is engaged in any unfair labor practice that could reasonably be expected to have a Material Adverse Effect.

(v) [Liquidity. As of the Effective Date, after the incurrence of the Indebtedness and obligations being incurred in connection with this Note on the Closing Date, the Note Parties and their Subsidiaries, taken as a whole, have cash and Cash Equivalents in an amount not less than $40,000,000.][5]

(w) Material Contracts. Except as could not reasonably be expected to have a Material Adverse Effect, (i) each contract or other agreement to which such Note Party and each of its Subsidiaries is a party is in full force and effect, (ii) such Note Party and each of its Subsidiaries is in compliance with each such contract or agreement, (iii) no termination event has occurred under any such contract or agreement, (iv) neither such Note Party nor any of its Subsidiaries has received any written notice of a material default, expiration, breach or termination pursuant to any such contract or agreement and (v) to the knowledge of such Note Party, no counterparty under any such contract or agreement is in default of any of its obligations under such contract or agreement.

6. **Payments.**

(a) Maturity. The principal amounts of the Advance shall be repaid on the Maturity Date, in an aggregate amount equal to the entire unpaid principal amount of the Advance then outstanding.

(b) General. All monies due hereunder shall be made in Dollars in same day funds, without, recoupment, setoff, counterclaim or other defense free of any restriction or condition, and delivered to the Payee not later than 1:00 p.m. (New York City time) on the date due; funds received by the Payee after that time on such due date shall be deemed to have been paid by the Issuer on the next Business Day. If any payment on this Note shall be due on a Saturday, Sunday or public holiday, it shall be payable on the next succeeding Business Day. All payments in respect of the principal amount of the Advance shall be accompanied by payment of accrued and unpaid interest on the principal amount being repaid or prepaid. Upon final payment of the full outstanding principal amount of this Note, together with all accrued and unpaid interest hereunder, this Note shall be surrendered to the Issuer for cancellation. Amounts borrowed and repaid hereunder may not be reborrowed. All payments hereunder shall be applied to accrued and unpaid interest and to outstanding principal in such order as determined by the Payee in its sole discretion.

(c) Payments After an Event of Default. Notwithstanding anything in this Note to the contrary, if an Event of Default shall have occurred and be continuing, all payments or proceeds received by the Payee hereunder in respect of any of the Obligations shall be applied, first, to pay any costs, expenses, and fees then due and payable to the Payee under the Note Documents, including in connection with the foreclosure or realization upon, the disposal, storage, maintenance or otherwise dealing with any of, the Collateral or otherwise in connection with the Note Documents, and indemnities and other amounts then due and payable to the Payee under the Note Documents until paid in full, second, to pay interest then due and payable in respect of the Advance calculated at the Default Rate until paid in full, third, to pay interest then due and payable in respect of the Advance (other than interest calculated at the Default Rate and paid pursuant to clause "second" above) until paid in full, fourth, to pay the principal amount of the Advance then outstanding until paid in full, and, fifth, to pay ratably any other Obligations then due and payable.

7. **Prepayments.**

(a) Optional. The Issuer may, at its option, prepay this Note, in whole or in part, at any time or from time to time, in a minimum principal amount for each such prepayment of at least $1,000,000, and such prepayment shall be accompanied by payment of accrued and unpaid interest through the date of prepayment on the amount prepaid.

[5] To be included only in the first Note issued.

(b) Mandatory. Not later than one Business Day after the occurrence of any of (i) receipt by any Note Party or any Subsidiary thereof of any distribution in accordance with Section 4.1 of the LLC Agreement or (ii) receipt by any Note Party or any Subsidiary thereof of any Net Cash Proceeds of any disposition of any Collateral (including in respect of any Casualty Event) by any Note Party or any Subsidiary thereof, the Issuer shall make a prepayment of the Advance in an amount equal to the amount received; provided, that prepayment shall not be required to the extent that the Net Cash Proceeds received in respect of all such dispositions do not exceed $7,500,000 in the aggregate on or after the Closing Date or the Note Parties provide or cause to be provided additional collateral securing the Obligations reasonably acceptable to Payee; and provided, further, that such Note Party or Subsidiary may, at its option by notice in writing to the Payee no later than thirty (30) days following the occurrence of the Casualty Event resulting in such Net Cash Proceeds, apply such Net Cash Proceeds to pay or reimburse the costs of the rebuilding or replacement of such damaged, destroyed or condemned assets or property, or if such assets are no longer material to the business of any Note Party or a Subsidiary thereof, to the acquisition, maintenance, development, construction, improvement, upgrading or repair of productive assets of a kind then usable in the business of the Note Parties that are pledged as collateral securing the Obligations, so long as (i) such Net Cash Proceeds are in fact used to pay or reimburse the costs of rebuilding or replacing the damaged, destroyed or condemned assets or property within one hundred eighty (180) days following the receipt of such Net Cash Proceeds.

8. **Affirmative Covenants.** Each Note Party covenants and agrees that until the indefeasible payment in full in cash of all Obligations that are due and payable hereunder, such Note Party shall perform, shall cause each of its Subsidiaries to perform, and shall ensure that, to the extent applicable, each other Note Party performs, all covenants in this Section 8.

(a) Delivery of Budgets and Forecasts. No later than the deadline for delivery of monthly financial statements pursuant to Section 8(b)(iii), if as of the last day of the calendar month for which such monthly statements are required to be delivered the amount of cash and Cash Equivalents of the Note Parties and their Subsidiaries is less than $75,000,000, a budget of weekly cash receipts, disbursements, and net cash flow for the thirteen (13) calendar week period commencing on the first day of the calendar week immediately following the last day of such calendar month in form and substance consistent with the cash forecasts provided under the Asset Purchase Agreement or otherwise reasonably acceptable to the Payee (the "**Initial Cash Budget**"). Until the Note Parties deliver monthly financial statements pursuant to Section 8(b)(iii) that reflect an amount of cash and Cash Equivalents of the Note Parties and their Subsidiaries greater than or equal to $75,000,000, by no later than 11:59 p.m. Eastern Time on Thursday of the fifth week of the Initial Cash Budget and the fifth week of each Updated Cash Budget, an updated cash forecast for the immediately following thirteen (13) calendar weeks (an "**Updated Cash Budget**").

(b) Delivery of Certificates and other Information. The Issuer will deliver to the Payee:

(i) Annual Reports. As soon as available, and in any event within 90 days after the end of each Fiscal Year ending after the Closing Date, (i) the consolidated balance sheet of the Parent as at the end of such Fiscal Year and the related consolidated statements of income or operations and cash flows of the Parent for such Fiscal Year and setting forth, in reasonable detail, in comparative form the corresponding figures for the previous Fiscal Year and (ii) with respect to such consolidated financial statements, a report thereon of an independent certified public accountant of recognized national standing, which report shall not be subject to a qualification as to the scope of the audit, other than a qualification related to exclusion of the Joint Venture Entity from the scope of the audit for the first Fiscal Year during which the financial statements of the Joint Venture Entity are required to be consolidated with the financial statements of Parent in accordance with GAAP, and shall state that such consolidated financial statements fairly present, in all material respects, the consolidated financial position of the Parent as at the dates indicated and its income and cash flows for the periods indicated in conformity with GAAP;

(ii) Quarterly Reports. As soon as available and in any event within forty-five (45) days after the end of each Fiscal Quarter, the consolidated balance sheet of the Parent as of the end of such Fiscal Quarter and related consolidated statements of income and cash flows for such Fiscal Quarter and for the then elapsed portion of the fiscal year, in comparative form with the consolidated statements of income and cash flows for the comparable periods in the previous fiscal year (if any), all prepared in accordance with GAAP, subject to normal year-end audit adjustments and the absence of footnotes;

(iii) Monthly Reports. As soon as available and in any event within forty-five (45) days after the end of each calendar month, the consolidated balance sheet of the Parent as of the end of such calendar month and related consolidated statements of income and cash flows for such calendar month and for the then elapsed portion of the fiscal year, in comparative form with the consolidated statements of income and cash flows for the comparable periods in the previous fiscal year (if any), all prepared in accordance with GAAP, subject to normal year-end audit adjustments and the absence of footnotes;

(iv) Compliance Certificate. Together with each delivery of financial statements pursuant to Section 8(b)(i) and 8(b)(ii), a duly executed certificate certifying that no Default or Event of Default has occurred and is continuing (or if a Default or Event of Default is continuing, describing in reasonable detail such Default or Event of Default and the steps being taken to cure, remedy or waive the same).

(v) SEC Filings. Within a reasonable period after the same are available, copies of each annual report, proxy or financial statement or other report or communication sent to the stockholders of the Parent, and copies of all annual, regular, periodic and special reports and registration statements which the Parent may file or be required to file with the SEC under Section 13 or 15(d) of the Securities Exchange Act of 1934 (collectively, the "**SEC Filings**"), and not otherwise required to be delivered to the Payee pursuant hereto.

As to any information contained in materials furnished pursuant to Section 8(b)(v), the Issuer shall not be separately required to furnish such information under subsection (i), (ii) or (iii) above, but the foregoing shall not be in derogation of the obligation of the Issuer to furnish the information and materials described in subsections (i), (ii) or (iii) above at the times specified therein.

Documents required to be delivered pursuant to Section 8(b)(i), (ii), (iii) or (v) (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Parent posts such documents, or provides a link thereto on the Parent's website on the Internet at the following website address: https://investor.lordstownmotors.com/; or (ii) on which such documents are posted on the Parent's behalf on an Internet or intranet website, if any, to which each Payee has access.

(c) Delivery of Notices. The Issuer will deliver to the Payee:

(i) Notices of Defaults. Prompt written notice (but, in any event, within ten (10) Business Days) of the occurrence of a Default or an Event of Default that is continuing, which notice shall be accompanied by a certificate of an authorized officer of the Issuer specifying the nature and period of existence of such Default or Event of Default, and what action the Issuer has taken, is taking and proposes to take with respect thereto.

(ii) Notice of Material Adverse Condition. Prompt written notice (but, in any event, within five (5) Business Days after the Issuer has knowledge thereof) of the occurrence of any event that would reasonably be expected to have a Material Adverse Effect.

(iii) Notice of Litigation. Prompt written notice (but, in any event, within ten (10) Business Days) after any Note Party knows of (A) the institution of, or receipt of a threat in writing with respect to, any action, suit, proceeding, or investigation with respect to any Note Party, any Subsidiary thereof or any property or asset of any of the foregoing that could reasonably be expected to have a Material Adverse Effect, (B) any material development in any such action, suit, proceeding, or investigation that could reasonably be expected to have a Material Adverse Effect or (C) to the extent such notice is permitted to be provided under applicable laws, the allegation in writing by any Governmental Authority of any criminal misconduct by any Note Party or Subsidiary thereof that could reasonably be expected to have a Material Adverse Effect, together in each case with such other information as may be reasonably available to the Issuer as the Payee may reasonably request to enable the Payee and its counsel to evaluate such matters.

(iv) Notice of ERISA Events. Prompt written notice (but, in any event, within ten (10) Business Days) after the Issuer has knowledge thereof, of the occurrence of any ERISA Event that could reasonably be expected to result in a Material Adverse Effect.

(v) Other Information. Such financial information with respect to the Note Parties or any of their Subsidiaries as from time to time may be reasonably requested by the Payee.

(d) Payment of Obligations. Each Note Party shall (and shall cause each of its Subsidiaries to) (i) pay its obligations promptly and in accordance with their terms (except to the extent that the failure to do so would not reasonably be expected to result in a Material Adverse Effect) and (ii) pay and discharge promptly when due all material Taxes, assessments and governmental charges or levies imposed upon it or upon its income or profits or in respect of its property, before the same shall become delinquent or in default, as well as all lawful material claims for labor, services, materials and supplies or otherwise that, if unpaid, might give rise to a Lien on the Collateral other than a Permitted Lien upon such properties or any part thereof; provided that such payment and discharge shall not be required with respect to any such Tax, assessment, charge, levy or claim so long as (x) the validity or amount thereof shall be contested in good faith by appropriate proceedings timely instituted and diligently conducted and the applicable Note Party or Subsidiary shall have set aside on its books adequate reserves or other appropriate provisions with respect thereto in accordance with GAAP, and (y) such contest operates to suspend collection of the contested obligation, Tax, assessment or charge and enforcement of a Lien on the Collateral other than a Permitted Lien.

(e) Preservation of Existence. Each Note Party shall (and shall cause each of its Subsidiaries to) (i) preserve, renew and maintain in full force and effect its corporate existence and (ii) take all reasonable action to maintain all material rights, privileges and franchises necessary in the normal conduct of its business.

(f) Maintenance of Properties. Each Note Party shall (and shall cause each of its Subsidiaries to) do or cause to be done all things necessary to maintain or cause to be maintained in good repair, working order and condition, ordinary wear and tear and casualty and condemnation excepted, all properties material to the conduct of its business and the business of its Subsidiaries and from time to time will make or cause to be made all appropriate repairs, renewals and replacements thereof necessary in order that the business carried on in connection therewith may be properly conducted at all times, except, in any case, to the extent that failure to do so resulted from a failure by Foxconn EV System LLC or its successors or assigns to perform their obligations under the Manufacturing Supply Agreement.

(g) Maintenance of Insurance. Except to the extent that insurance is maintained in accordance with the Manufacturing Supply Agreement, each Note Party shall (and shall cause each of its Subsidiaries to) maintain insurance in such amounts and covering such risks and liabilities as are customary for companies of a similar size engaged in similar businesses in similar locations or as are otherwise deemed prudent by such Note Party, in the exercise of its reasonable business judgment. Except to the extent provided by the Manufacturing Supply Agreement, each such policy of insurance maintained by or on behalf of the Note Parties shall (A) in the case of liability insurance policies, name the Payee as an additional insured thereunder and (B) in the case of business interruption and casualty insurance policies, contain a lender's loss payable clause or endorsement, reasonably satisfactory in form and substance to the Payee, that names the Payee as the lender's loss payee thereunder, and shall provide that it shall not be canceled or not renewed (i) by reason of nonpayment of premium upon not less than ten (10) days' prior written notice thereof by the insurer to the Payee (giving the Payee the right to cure defaults in the payment of premiums) or (ii) for any other reason upon not less than thirty (30) days' (or such shorter number of days as may be agreed to by the Payee or as may be the maximum number of days permitted by applicable law) prior written notice thereof by the insurer to the Payee.

(h) Compliance with Laws. Each Note Party shall (and shall cause each of its Subsidiaries to) comply with all Legal Requirements, except, in each case, as would not reasonably be expected to have a Material Adverse Effect.

(i) Maintenance of Books and Records. Each Note Party shall (and shall cause each of its Subsidiaries to) keep proper books of record and account in which full, true and correct entries in conformity with GAAP and all Legal Requirements are made of all dealings and transactions in relation to its business and activities.

(j) Inspection Rights. Upon reasonable notice (not less than five (5) Business Days) and subject to the reasonable restrictions and requirements of the Note Parties, their Subsidiaries and any professional advisors providing information (unless a Default or Event of Default shall have occurred and be continuing, in which case no such notice shall be required), each Note Party shall (and shall cause each of its Subsidiaries to) permit any representatives designated by the Payee (including employees thereof or any consultants, accountants, lawyers and appraisers retained thereby) to visit and inspect any of the Collateral of any Note Party or any of their Subsidiaries, to inspect, copy and take extracts from its and their financial and accounting records, and to discuss its and their affairs, finances and accounts with its and their officers and independent accountants and any other advisors. By this provision the each Note Party authorizes its independent accountants and other advisors to discuss with the Payee and such representatives the affairs, finances and accounts of such Note Party or such Subsidiary.

(k) Use of Proceeds. The Note Parties shall use the proceeds of the Advance solely for purposes permitted by Section 5(o).

(l) Compliance with Environmental Laws. Except as could not reasonably be expected to result in a Material Adverse Effect, each Note Party shall (and shall cause each of its Subsidiaries to) comply, and use commercially reasonable efforts to cause all lessees and other Persons occupying its properties to comply, in all material respects with all Environmental Laws applicable to its operations and properties; obtain and renew all material environmental permits necessary for its operations and properties; and conduct any remedial action in accordance with Environmental Laws; provided, however, that no Note Party or Subsidiary thereof shall be required to undertake any remedial action required by Environmental Laws to the extent that its obligation to do so is being contested in good faith and by proper proceedings and appropriate reserves are being maintained with respect to such circumstances in accordance with GAAP.

(m) Further Assurances.

(i) Promptly upon the request of the Payee, execute and deliver such further instruments and do or cause to be done such further acts as may be necessary or advisable to carry out the intent and purposes of this Note and other Note Documents, including, without limitation, in order to (x) create, preserve, more fully evidence or perfect first priority Liens in the Collateral, (y) cause the Payee to have "control" of the Collateral within the meanings set forth in Article 8 and Article 9 of the UCC, as applicable, or (z) enable the Payee to exercise and enforce any of its rights, powers and remedies with respect to the Collateral or otherwise under any of the Note Documents.

(ii) Upon the formation or acquisition after the Closing Date of any Subsidiary of a Note Party, on or before the date that is 30 days after the relevant formation, acquisition, designation or cessation occurred (or such longer period as the Payee may reasonably agree), the Issuer shall cause such Subsidiary to deliver to the Payee (A) a joinder to this Note in a form reasonably satisfactory to the Payee pursuant to which such Subsidiary shall become a Guarantor hereto and (B) a Uniform Commercial Code financing statement in appropriate form for filing in such jurisdictions as the Payee may reasonably request.

(n) Compliance with Material Contracts. Other than as consented to by the Payee (such consent not to be unreasonably withheld, conditioned or delayed) or as could not reasonably be expected to have a Material Adverse Effect, each Note Party shall (and shall cause each of its Subsidiaries to) (i) duly and punctually perform and observe all of its covenants and obligations contained in each contract or agreement to which it is a party and (ii) enforce against the relevant counterparty each covenant or obligation of such contract or agreement, as applicable, in accordance with its terms. The Issuer shall in all material respects duly and punctually perform and observe all of its covenants and obligations contained in the LLC Agreement.

(o) Compliance with Pension Plan Requirements. Each Note Party shall (and shall cause each of its Subsidiaries to) comply in all material respects with all applicable Legal Requirements, including the applicable provisions of ERISA and the Code with respect to all Employee Benefit Plans .

9. **Negative Covenants.** Each Note Party warrants, covenants and agrees with the Payee that, so long as this Note shall remain in effect and until the obligation to fund hereunder has been terminated and the principal of and interest on the Advance, and all other expenses or amounts payable under any Note Document have been paid in full, no Note Party will, nor will they cause or permit any of their Subsidiaries to:

(a) Liens. Create, incur, assume or permit to exist, directly or indirectly, any Lien on any Collateral, except the following (collectively, the "**Permitted Liens**"):

(i) inchoate Liens for taxes, assessments or governmental charges or levies not yet due and payable or delinquent and Liens for taxes, assessments or governmental charges or levies, which are being contested in good faith by appropriate proceedings promptly initiated and diligently conducted for which adequate reserves have been established in accordance with GAAP, which proceedings have the effect of preventing the forfeiture or sale of the property subject to any such Lien, and (A) which do not in the aggregate materially detract from the value of the Collateral, taken as a whole, and do not materially impair the use thereof in the operation of the business of the Note Parties and their Subsidiaries, taken as a whole, and (B) which, if they secure obligations that are then due and unpaid, are being contested in good faith by appropriate proceedings promptly initiated and diligently conducted for which adequate reserves have been established in accordance with GAAP, which proceedings have the effect of preventing the forfeiture or sale of the property subject to any such Lien;

(ii) Liens in respect of any Collateral imposed by law, which were incurred in the ordinary course of business and do not secure Indebtedness for borrowed money, such as carriers', warehousemen's, materialmen's, landlords', workmen's, suppliers', repairmen's and mechanics' Liens and other similar Liens arising in the ordinary course of business;

(iii) any Lien in existence on the Closing Date and set forth on **Schedule 9(a)(iii)** (any such Lien, an "**Existing Lien**") and any renewals or extensions thereof not expanding the scope of such Existing Lien or the obligations secured thereby;

(iv) easements, rights-of-way, restrictions (including zoning restrictions), covenants, licenses, encroachments, protrusions, servitudes and other similar charges or encumbrances, and minor title deficiencies, in each case, on or with respect to any real property, whether now or hereafter in existence, not (A) securing Indebtedness, (B) in the aggregate materially impairing the value of such real property or (C) in the aggregate materially interfering with the ordinary conduct of the business of the Note Parties and their Subsidiaries, taken as a whole, at or otherwise with respect to such real property;

(v) Liens securing judgments for the payment of money not constituting an Event of Default or securing appeal or other surety bonds relating to such judgments;

(vi) Liens arising in the ordinary course of business by virtue of any contractual, statutory or common law provision relating to bankers' Liens, rights of set-off or similar rights and remedies covering deposit or securities accounts or other funds maintained with a depository institution or securities intermediary;

(vii) other Liens not (A) securing Indebtedness, (B) in the aggregate materially impairing the value of the Collateral or (C) in the aggregate materially interfering with the ordinary conduct of the business of the Note Parties and their Subsidiaries, taken as a whole, at or otherwise with respect to such real property; and

(viii) Liens securing the Obligations.

(b) Indebtedness. Incur, create, assume or permit to exist, directly or indirectly, any Indebtedness, except:

(i) Indebtedness incurred under this Note and the other Note Documents;

(ii) Indebtedness outstanding on the Closing Date and listed on **Schedule 9(b)(ii)**;

(iii) Indebtedness permitted by Section 9(c);

(iv) Indebtedness in respect of workers' compensation claims, letters of credit, performance or surety bonds issued for the account of any Note Party or Subsidiary thereof in the ordinary course of business (in each case other than for an obligation for money borrowed);

(v) Contingent Obligations of any Note Party or any Subsidiary thereof in respect of Indebtedness of any Note Party otherwise permitted under this Section 9(b); provided, that in the event that such Indebtedness in respect of which such Contingent Obligation relates is Subordinated Indebtedness, then the related Contingent Obligation shall be subordinated to the Obligations on the same terms;

(vi) Indebtedness in respect of netting services, overdraft protections and related liabilities arising from depositary and cash management obligations (including credit cards or p-cards issued in the ordinary course of business) in each case in the ordinary course of business;

(vii) Indebtedness arising in connection with endorsement of instruments for deposit in the ordinary course of business;

(viii) Indebtedness pursuant to hedging agreements entered into for non-speculative purposes;

(ix) Indebtedness consisting of (A) the deferred purchase price of newly acquired property or incurred to finance the acquisition of equipment (pursuant to purchase money mortgages or otherwise, whether owed to the seller or a third party) used in the ordinary course of business, or (ii) Capital Lease obligations, in an aggregate amount under clauses (A) and (B) at any time not to exceed $5,000,000;

(x) Indebtedness consisting of indemnification obligations, earn-outs, seller notes or obligations in respect of purchase price adjustments in connection with the disposition of assets or acquisitions of assets permitted hereunder;

(xi) Indebtedness incurred to finance the payment of insurance premiums in the ordinary course of business; and

(xii) Indebtedness of any Note Party or any Subsidiary thereof in an aggregate principal amount not to exceed (A) $250,000,000 plus (B) 50% of the net cash proceeds actually received by the Note Parties from any sale or issuance by the Parent of Qualified Capital Stock consummated following the Closing Date.

(c) Investments, Loans and Advances. Directly or indirectly, lend money or credit (by way of guarantee, assumption of debt or otherwise) or make advances to any Person, or purchase or acquire any stock, bonds, notes, debentures or other obligations or securities of, or any other interest in, or make any capital contribution to, any other Person, or purchase or own a futures contract or otherwise become liable for the purchase or sale of currency or other commodities at a future date in the nature of a futures contract (all of the foregoing, collectively, "**Investments**"), except that the following shall be permitted:

(i) Investments outstanding on the Closing Date and identified on **Schedule 9(c)(i)**;

(ii) the Note Parties and their Subsidiaries may (i) acquire and hold accounts receivables or trade credit owing to any of them if created or acquired in the ordinary course of business and payable or dischargeable in accordance with customary terms, (ii) invest in, acquire and hold cash and Cash Equivalents, (iii) endorse negotiable instruments held for collection in the ordinary course of business or (iv) make lease, utility, vendor and other similar deposits or advances in the ordinary course of business;

(iii) Investments by any Note Party in any other Note Party;

(iv) Investments by any Subsidiary of any Note Party that is not a Note Party in any Note Party or any Subsidiary of any Note Party;

(v) Investments in securities of trade creditors or customers in the ordinary course of business and consistent with such Note Party's (or Subsidiary's) past practices that are received in settlement of bona fide disputes or pursuant to any plan of reorganization or liquidation or similar arrangement upon the bankruptcy or insolvency of such trade creditors or customers;

(vi) Investments pursuant to hedging agreements entered into for non-speculative purposes;

(vii) loans and advances to officers, directors, managers and employees of any Note Party or Subsidiary (i) for reasonable and customary business related travel expenses, entertainment expenses, moving expenses and similar expenses, in each case incurred in the ordinary course of business, or (ii) consisting of non-cash loans used to purchase of equity interests in a Note Party;

(viii) Investments in the Joint Venture Entity made in accordance with the LLC Agreement; and

(ix) other Investments in an aggregate unreturned amount at any time not to exceed $2,000,000.

(d) Mergers and other Fundamental Changes. Enter into any transaction of merger, consolidation or amalgamation, or liquidate, wind up or dissolve themselves (or suffer any liquidation or dissolution), other than:

(i) any Note Party may be merged, consolidated or amalgamated with or into any other Note Party, and any Note Party other than the Issuer may be wound up, dissolved and liquidated if the assets of such Note Party are distributed to a Note Party; provided that in the case of any such merger, consolidation or amalgamation with or into the Issuer, the Issuer shall be the continuing or surviving Person; and

(ii) any Subsidiary of any Note Party may be merged, consolidated or amalgamated with or into any Note Party or any Subsidiary of any Note Party, and any Subsidiary of any Note Party may be wound up, dissolved and liquidated if the assets of such Subsidiary are distributed to a Note Party or a Subsidiary of a Note Party; provided that in the case of any such merger, consolidation or amalgamation with or into a Note Party, such Note Party shall be the continuing or surviving Person.

(e) Sales and other Dispositions of Collateral. Effect any sale or disposition of any property or asset constituting Collateral, or agree to effect any sale or disposition of any property or asset constituting Collateral, except that the following shall be permitted:

(i) sales of Collateral (other than any equity interests in the Joint Venture Entity) to a third party for consideration not to exceed $7,500,000 in the aggregate on or after the Closing Date (provided, that, prior to the consummation of any such sale, the Issuer shall present the terms of such sale to the Payee, which shall have 7 days to consider such terms and to elect to purchase the applicable assets on such terms in its sole discretion);

(ii) dispositions of obsolete or worn out property, or property no longer used or useful in the business of such Note Party or Subsidiary, in the ordinary course of business;

(iii) dispositions of cash and Cash Equivalents in the ordinary course of business or in transactions not otherwise prohibited by this Agreement;

(iv) any disposition of property that constitutes a Casualty Event;

(v) dispositions of tangible property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property, or (ii) the proceeds of such disposition are reasonably promptly applied to the purchase price of such replacement property; and

(vi) leases (as lessor) of tangible property in the ordinary course of business that does not materially interfere with the conduct of the business of the Note Parties or their Subsidiaries.

(f) Dividends and Other Distributions. . Authorize, declare or pay, directly or indirectly, any Dividends with respect to any Note Party or Subsidiary thereof (other than any Dividend paid by any Note Party (other than Parent) or any Subsidiary of a Note Party to its immediate parent company) or incur any obligation (contingent or otherwise) to do so.

(g) Changes in the Nature of the Business. From and after the Closing Date, engage in any material line of business other than the businesses engaged in by the Note Parties and their Subsidiaries on the Closing Date and similar, complementary, ancillary or related businesses.

(h) Transactions with Affiliates. Enter into, directly or indirectly, any transaction or series of related transactions with an Affiliate, whether or not in the ordinary course of business, except that the following shall be permitted:

(i) transactions between or among the Note Parties not involving any other Affiliate;

(ii) transactions between or among Subsidiaries of the Note Parties (that are not themselves Note Parties) and not involving any other Affiliate;

(iii) the payment of compensation, fees and reimbursement of expenses to, and customary indemnities (including under customary insurance policies), employment arrangements, and employee benefit and pension expenses provided on behalf of, directors, officers or employees of Parent or the Issuer, in each case to the extent reasonable and customary; and

(iv) any transaction on terms that are fair and reasonable and not substantially less favorable to the Note Party or the applicable Subsidiary than would be obtained at the time in a comparable arm's length transaction from a Person who is not an Affiliate.

(i) Burdensome Agreements.

(i) Directly or indirectly, create or otherwise cause or suffer to exist or become effective any encumbrance, restriction or condition on the ability of any Note Party or Subsidiary thereof to (A) pay any Indebtedness owed to any Note Party or any Subsidiary thereof, (B) make loans or advances to any Note Party or any Subsidiary thereof, (C) transfer any of its properties to any Note Party or any Subsidiary thereof or (D) create, incur, assume, or suffer to exist Liens on Collateral to secure the Obligations except for such encumbrances, restrictions or conditions existing under or by reason of:

(ii) applicable Legal Requirements;

(iii) this Note and the other Note Documents;

(iv) customary provisions restricting subletting or assignment of any lease governing a leasehold interest of any Note Party or any Subsidiary thereof;

(v) customary provisions restricting assignment of any agreement entered into by any Note Party or any Subsidiary thereof in the ordinary course of business;

(vi) customary restrictions and conditions contained in any agreement relating to the sale or other disposition of any property pending the consummation of such sale; provided that (i) such restrictions and conditions apply only to the property to be sold, and (ii) such sale or other disposition is permitted hereunder;

(vii) any agreement or instrument governing any Indebtedness permitted by Section 9(b)(ix) as to the transfer of or creation of Liens on assets financed with the proceeds of such Indebtedness;

(viii) customary limitations in any agreement or instrument governing any Indebtedness permitted by Section 9(b)(xii) and Section 9(b)(v) not more restrictive than those set forth in this Note; or

(ix) customary provisions contained in joint venture agreements and other similar agreements applicable to joint ventures) or operating or other similar agreements, which limitation is applicable only to the assets that are the subject of those agreements.

(j) Use of Proceeds. Use or allow the use of any proceeds of the Advance in violation of any Sanctions, Terrorism Laws or Anti-Money Laundering Laws.

(k) Amendments of Organizational Documents. Amend, restate, supplement or otherwise modify, or permit any amendments, restatements, supplements or other modifications, to its Organizational Documents in any manner that could be adverse to the Payee without the consent of the Payee.

(l) Changes in Fiscal Year. Change its fiscal year which currently ends on December 31.

10. **Security.**

(a) Grant of Security Interest. In order to secure the full and punctual observance and performance when due of the obligations of each Note Party under the Note Documents, including, but not limited to, payments of principal and interest and all other obligations of any kind with respect to this Note (collectively, the "**Obligations**"), each Note Party hereby grants to the Payee a security interest in and continuing lien on all of such Note Party's right, title and interest in, to and under the Collateral.

(b) Continuing Security Interest. This Note (a) creates a continuing security interest in the Collateral and shall remain in full force and effect until the payment in full of all Obligations, (b) is binding upon each Note Party, its successors and assigns, and (c) inures, together with the rights and remedies of the Payee hereunder, to the benefit of the Payee and each of its permitted successors, transferees and assigns.

(c) Note Parties Remain Liable. Notwithstanding anything herein to the contrary:

(i) each Note Party shall remain liable for all its obligations under the Collateral and nothing contained herein is intended or shall be a delegation of duties to the Payee;

(ii) each Note Party shall remain liable under each of the agreements included in the Collateral, including any agreements relating to Pledged LLC Interests, to perform all of the obligations undertaken by it thereunder all in accordance with and pursuant to the terms and provisions thereof and the Payee shall have no obligation or liability under any of such agreements by reason of or arising out of this Note or any other document related thereto nor shall the Payee have any obligation to make any inquiry as to the nature or sufficiency of any payment received by it or have any obligation to take any action to collect or enforce any rights under any agreement included in the Collateral, including any agreements relating to Pledged LLC Interests; and

(iii) the exercise by the Payee of any of its rights hereunder shall not release any Note Party from any of its duties or obligations under any contract or agreement that is included in the Collateral.

(d) Authorization to file UCC Statements. Each Note Party hereby authorizes the Payee to file a financing statement naming such Note Party as "debtor" and the Payee as "secured party" and describing the Collateral in the appropriate filing offices, which financing statements may describe the Collateral in the same manner as described herein or may contain an indication or description of collateral that describes such property in any other manner as the Payee may determine, in its sole discretion, is necessary, advisable or prudent to ensure the perfection of the security interest in the Collateral granted to the Payee herein, including describing such property as "all assets" or "all personal property, whether now owned or hereafter acquired."

(e) Certificated Securities, Etc. Each Note Party shall deliver to the Payee the Security Certificates evidencing the Pledged LLC Interests, if any, duly indorsed by an effective endorsement (within the meaning of Section 8-107 of the UCC), or accompanied by share transfer powers or other instruments of transfer duly endorsed by such an effective endorsement, in each case, to the Payee or in blank.

(f) Consents of each Note Party Regarding Pledged LLC Interests. Each Note Party consents to the grant by the Issuer of a Lien in the Pledged LLC Interests to the Payee and, without limiting the generality of the foregoing, consents to the transfer of any Pledged LLC Interest to the Payee or its designee following an Event of Default and to the substitution of the Payee or its designee as a partner in any partnership or as a member in any limited liability company with all the rights and powers related thereto.

(g) Goods Covered by a Certificate of Title. With respect to any Goods that are covered by a certificate of title under a statute of any jurisdiction under the law of which indication of a security interest on such certificate is required as a condition of perfection thereof, upon the reasonable request of the Payee, the applicable Note Party shall (i) provide information with respect to any such Goods, (ii) execute and file with the registrar of motor vehicles or other appropriate authority in such jurisdiction an application or other document requesting the notation or other indication of the security interest created hereunder on such certificate of title, and (iii) deliver to the Payee copies of all such applications or other documents filed during such calendar quarter and copies of all such certificates of title issued during such calendar quarter indicating the security interest created hereunder in the items of Goods covered thereby.

(h) Note Party Information and Status. Without limiting any prohibitions or restrictions on mergers or other transactions set forth in this Note, no Note Party shall change its name, identity, corporate structure (e.g. by merger, consolidation, change in corporate form or otherwise), sole place of business, chief executive office, type of organization or jurisdiction of organization or establish any trade names unless it has (a) notified the Payee in writing at least thirty (30) days prior to any such change or establishment, identifying such new proposed name, identity, corporate structure, sole place of business, chief executive office, jurisdiction of organization or trade name and providing such other information in connection therewith as the Payee may reasonably request, and (b) taken all actions necessary or advisable to maintain the continuous validity, perfection and the same priority of the Payee's security interest in the Collateral granted or intended to be granted and agreed to hereby, which in the case of any merger or other change in corporate structure shall include, without limitation, executing and delivering to the Payee a completed Pledge Supplement upon completion of such merger or other change in corporate structure confirming the grant of the security interest hereunder.

(i) Maintenance of Security Interest. Each Note Party shall maintain the security interest of the Payee hereunder in all Collateral as valid, perfected, first priority Liens, subject only to Permitted Liens.

(j) Power of Attorney. Each Note Party hereby irrevocably appoints the Payee (such appointment being coupled with an interest) as such Note Party's attorney-in-fact, with full authority in the place and stead of such Note Party and in the name of such Note Party, the Payee or otherwise, from time to time in the Payee's discretion to take any action and to execute any instrument that the Payee may deem reasonably necessary or advisable to accomplish the purposes of this Note, in each case, after the occurrence and during the continuance of an Event of Default, including the following:

(i) to take or cause to be taken all actions necessary to perform or comply or cause performance or compliance with the terms of this Note, including access to pay or discharge taxes or Liens (other than Permitted Liens) levied or placed upon or threatened against the Collateral, the legality or validity thereof and the amounts necessary to discharge the same to be determined by the Payee in its sole discretion, any such payments made by the Payee to become obligations of such Note Party to the Payee, due and payable immediately without demand; and

(ii) (i) to obtain and adjust insurance required to be maintained by such Note Party or paid to the Payee pursuant to the Note Documents; (ii) to ask for, demand, collect, sue for, recover, compound, receive and give acquittance and receipts for moneys due and to become due under or in respect of any of the Collateral, and to receive, endorse and collect any drafts or other instruments, documents and chattel paper in connection therewith; (iii) to file any claims or take any action or institute any proceedings that the Payee may deem necessary or desirable for the collection of any of the Collateral or otherwise to enforce the rights of the Payee with respect to any of the Collateral; and (iv) generally to sell, transfer, lease, license, pledge, make any agreement with respect to or otherwise deal with any of the Collateral as fully and completely as though the Payee were the absolute owner thereof for all purposes, and to do, at the Payee's option and at such Note Party's expense, at any time or from time to time, all acts and things that the Payee deems reasonably necessary to protect, preserve or realize upon the Collateral and the Payee's security interest therein in order to effect the intent of this Note, all as fully and effectively as such Note Party might do.

(k) No Duty. The powers conferred on the Payee pursuant to Section 10(t) are solely to protect the interests of the Payee in the Collateral and shall not impose any duty upon the Payee to exercise any such powers. The Payee shall be accountable only for amounts that it actually receives as a result of the exercise of such powers, and neither Payee nor any of its officers, directors, employees or agents shall be responsible to any Note Party for any act or failure to act hereunder, except for their own bad faith, gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final and non-appealable decision.

11. **Guaranty.**

(a) Guaranty. Each Guarantor hereby irrevocably and unconditionally guarantees to the Payee the due and punctual indefeasible payment in full in cash of all Obligations when the same shall become due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise (including amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. §362(a)) (collectively, the "**Guaranteed Obligations**").

(b) Payment by Guarantor. Each Guarantor hereby agrees, in furtherance of the foregoing and not in limitation of any other right which the Payee may have at law or in equity against such Guarantor by virtue hereof, that upon the failure of the Issuer to pay any of the Guaranteed Obligations when and as the same shall become due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise (including amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. §362(a)), such Guarantor will upon demand pay, or cause to be paid, in cash, to the Payee, an amount equal to the sum of the unpaid principal amount of all Guaranteed Obligations then due as aforesaid, accrued and unpaid interest on such Guaranteed Obligations (including interest which, but for the Issuer's becoming the subject of a case under the Bankruptcy Code, would have accrued on such Guaranteed Obligations, whether or not a claim is allowed against the Issuer for such interest in the related bankruptcy cases) and all other Guaranteed Obligations then owed to the Payee as aforesaid.

(c) Liability of Guarantor Absolute. To the fullest extent permitted by applicable law, each Guarantor agrees that its obligations hereunder are irrevocable, absolute, independent and unconditional and shall not be affected by any circumstance which constitutes a legal or equitable discharge of a guarantor or surety other than indefeasible payment in full or performance of the Guaranteed Obligations. In furtherance of the foregoing and without limiting the generality thereof, such Guarantor agrees as follows:

(i) this Guaranty is a guaranty of payment when due and not merely of collectability. This Guaranty is a primary obligation of such Guarantor and not merely a contract of surety;

(ii) the Payee may enforce this Guaranty upon the occurrence of an Event of Default notwithstanding the existence of any dispute between the Issuer and the Payee with respect to the existence of such Event of Default;

(iii) the obligations of such Guarantor hereunder is independent of the obligations of the Issuer and the obligations of any other guarantor (including any other Guarantor) of the obligations of the Issuer, and a separate action or actions may be brought and prosecuted against such Guarantor whether or not any action is brought against the Issuer or any of such other guarantors and whether or not the Issuer is joined in any such action or actions;

(iv) payment by such Guarantor of a portion, but not all, of the Guaranteed Obligations shall in no way limit, affect, modify or abridge such Guarantor's liability for any portion of the Guaranteed Obligations which has not been paid; and without limiting the generality of the foregoing, if the Payee is awarded a judgment in any suit brought to enforce such Guarantor's covenant to pay a portion of the Guaranteed Obligations, such judgment shall not be deemed to release such Guarantor from its covenant to pay the portion of the Guaranteed Obligations that is not the subject of such suit, and such judgment shall not, except to the extent satisfied by such Guarantor, limit, affect, modify or abridge any other Guarantor's liability hereunder in respect of the Guaranteed Obligations;

(v) to the fullest extent permitted by law, such Guarantor shall remain obligated hereunder, without notice or demand and without affecting the validity or enforceability hereof or giving rise to any reduction, limitation, impairment, discharge or termination of such Guarantor's liability hereunder, notwithstanding that from time to time (i) the Guaranteed Obligations may be renewed, extended, accelerated, the rate of interest thereon increased, or the time, place, manner or terms of payment thereof otherwise changed; (ii) the Guaranteed Obligations or any agreement relating thereto may be settled, compromised, released or discharged, or any offer of performance with respect thereto accepted or refused, or substitutions made for, and/or the payment of the same subordinated to the payment of any other obligations; (iii) other guaranties of the Guaranteed Obligations may be requested and accepted and security for the payment hereof or the Guaranteed Obligations may be taken and held; (iv) any security for payment of the Guaranteed Obligations, any other guaranties of the Guaranteed Obligations, or any other obligation of any Person (including any other Guarantor) with respect to the Guaranteed Obligations may be released, surrendered, exchanged, substituted, compromised, settled, rescinded, waived, altered, subordinated or modified, with or without consideration; (v) any security now or hereafter held by or for the benefit of the Payee in respect hereof or the Guaranteed Obligations may be enforced and applied and the order or manner of sale thereof directed, or any other right or remedy that the Payee may have against any such security may be exercised, in each case as the Payee in its discretion may determine consistent herewith and any applicable security agreement, including foreclosure on any such security pursuant to one or more judicial or nonjudicial sales, whether or not every aspect of any such sale is commercially reasonable, and even though such action operates to impair or extinguish any right of reimbursement or subrogation or other right or remedy of such Guarantor against the Issuer or any security for the Guaranteed Obligations; and (vi) any other rights available to the Payee under the Note Documents may be exercised; and

(vi) to the fullest extent permitted by applicable law, this Guaranty and the obligations of such Guarantor hereunder shall be valid and enforceable and shall not be subject to any reduction, limitation, impairment, discharge or termination for any reason (other than indefeasible payment in full or performance of the Guaranteed Obligations), including the occurrence of any of the following, whether or not such Guarantor shall have had notice or knowledge of any of them: (i) any failure or omission to assert or enforce or agreement or election not to assert or enforce, or the stay or enjoining, by order of court, by operation of law or otherwise, of the exercise or enforcement of, any claim or demand or any right, power or remedy (whether arising under the Note Documents, at law, in equity or otherwise) with respect to the Guaranteed Obligations or any agreement relating thereto, or with respect to any other guaranty of or security for the payment of the Guaranteed Obligations; (ii) any rescission, waiver, amendment or modification of, or any consent to departure from, any of the terms or provisions (including provisions relating to events of default) hereof, any of the other Note Documents or any agreement or instrument executed pursuant thereto, or of any other guaranty or security for the Guaranteed Obligations, in each case whether or not in accordance with the terms hereof or such Note Document or any agreement relating to such other guaranty or security; (iii) the Guaranteed Obligations, or any agreement relating thereto, at any time being found to be illegal, invalid or unenforceable in any respect; (iv) the application of payments received from any source (other than payments received pursuant to the other Note Documents or from the proceeds of any security for the Guaranteed Obligations, except to the extent such security also serves as collateral for Indebtedness other than the Guaranteed Obligations) to the payment of Indebtedness other than the Guaranteed Obligations, even though the Payee might have elected to apply such payment to any part or all of the Guaranteed Obligations; (v) the Payee's consent to the change, reorganization or termination of the corporate structure or existence of such Guarantor or any of its Subsidiaries and to any corresponding restructuring of the Guaranteed Obligations; (vi) any failure to perfect or continue perfection of a security interest in any collateral which secures any of the Guaranteed Obligations; (vii) any defenses, set offs or counterclaims which the Issuer may allege or assert against the Payee in respect of the Guaranteed Obligations, including failure of consideration, breach of warranty, payment, statute of frauds, statute of limitations, accord and satisfaction and usury; and (viii) any other act or thing or omission, or delay to do any other act or thing, which may or might in any manner or to any extent vary the risk of such Guarantor as an obligor in respect of the Guaranteed Obligations.

(d) Waivers by Guarantor. To the fullest extent permitted by applicable law, each Guarantor hereby waives, for the benefit of the Payee: (a) any right to require the Payee, as a condition of payment or performance by such Guarantor, to (i) proceed against the Issuer, any other guarantor (including any other Guarantor) of the Guaranteed Obligations or any other Person, (ii) proceed against or exhaust any security held from the Issuer, any such other guarantor or any other Person, (iii) proceed against or have resort to any balance of any Deposit Account or credit on the books of the Payee in favor of the Issuer or any other Person, or (iv) pursue any other remedy in the power of the Payee whatsoever; (b) any defense arising by reason of the incapacity, lack of authority or any disability or other defense of the Issuer or any other Guarantor including any defense based on or arising out of the lack of validity or the unenforceability of the Guaranteed Obligations or any agreement or instrument relating thereto or by reason of the cessation of the liability of the Issuer or any other Guarantor from any cause other than payment in full of the Guaranteed Obligations; (c) any defense based upon any statute or rule of law which provides that the obligation of a surety must be neither larger in amount nor in other respects more burdensome than that of the principal; (d) any defense based upon the Payee's errors or omissions in the administration of the Guaranteed Obligations, except behavior which amounts to bad faith, gross negligence or willful misconduct; (e) (i) any principles or provisions of law, statutory or otherwise, which are or might be in conflict with the terms hereof and any legal or equitable discharge of such Guarantor's obligations hereunder, (ii) the benefit of any statute of limitations affecting such Guarantor's liability hereunder or the enforcement hereof, (iii) any rights to set offs, recoupments and counterclaims (other than a defense of payment or performance of the Guaranteed Obligations) and (iv) promptness, diligence and any requirement that the Payee protect, secure, perfect or insure any security interest or lien or any property subject thereto; (f) notices, demands, presentments, protests, notices of protest, notices of dishonor and notices of any action or inaction, including acceptance hereof, notices of default hereunder or any agreement or instrument related thereto, notices of any renewal, extension or modification of the Guaranteed Obligations or any agreement related thereto, notices of any extension of credit to the Issuer and notices of any of the matters referred to in Section 11(c) and any right to consent to any thereof; and (g) any defenses or benefits that may be derived from or afforded by law which limit the liability of or exonerate guarantors or sureties, or which may conflict with the terms hereof.

(e) Guarantor's Rights of Subrogation, Contribution, etc. Until the Guaranteed Obligations shall have been indefeasibly paid in full, each Guarantor hereby agrees not to assert any claim, right or remedy, direct or indirect, that such Guarantor now has or may hereafter have against the Issuer or any other Guarantor or any of its assets in connection with this Guaranty or the performance by such Guarantor of its obligations hereunder, in each case whether such claim, right or remedy arises in equity, under contract, by statute, under common law or otherwise and including without limitation (a) any right of subrogation, reimbursement or indemnification that such Guarantor now has or may hereafter have against the Issuer with respect to the Guaranteed Obligations, (b) any right to enforce, or to participate in, any claim, right or remedy that the Payee now has or may hereafter have against the Issuer, and (c) any benefit of, and any right to participate in, any collateral or security now or hereafter held by the Payee. In addition, until the Guaranteed Obligations shall have been indefeasibly paid in full, such Guarantor shall withhold exercise of any right of contribution such Guarantor may have against any other guarantor (including any other Guarantor) of the Guaranteed Obligations, including any such right of contribution. Such Guarantor further agrees that, to the extent the agreement to withhold the exercise of its rights of subrogation, reimbursement, indemnification and contribution as set forth herein is found by a court of competent jurisdiction to be void or voidable for any reason, any rights of subrogation, reimbursement or indemnification such Guarantor may have against the Issuer or against any collateral or security, and any rights of contribution such Guarantor may have against any such other guarantor, shall be junior and subordinate to any rights the Payee may have against the Issuer, to all right, title and interest the Payee may have in any such collateral or security, and to any right the Payee may have against such other guarantor. If any amount shall be paid to such Guarantor on account of any such subrogation, reimbursement, indemnification or contribution rights at any time when all Guaranteed Obligations shall not have been indefeasibly paid in full and an Event of Default has occurred and is continuing, such amount shall be held in trust for the Payee and shall forthwith be paid over to the Payee to be credited and applied against the Guaranteed Obligations, whether matured or unmatured, in accordance with the terms hereof.

(f) Continuing Guaranty. This Guaranty is a continuing guaranty and shall remain in effect until all of the Guaranteed Obligations shall have been indefeasibly paid in full. Each Guarantor hereby irrevocably waives any right to revoke this Guaranty as to future transactions giving rise to any Guaranteed Obligations.

(g) Bankruptcy.

(i) The obligations of each Guarantor hereunder shall not be reduced, limited, impaired, discharged, deferred, suspended or terminated by any case or proceeding, voluntary or involuntary, involving the bankruptcy, insolvency, receivership, reorganization, liquidation or arrangement of the Issuer or any other Guarantor or by any defense which the Issuer or any other Guarantor may have by reason of the order, decree or decision of any court or administrative body resulting from any such proceeding.

(ii) Each Guarantor acknowledges and agrees that any interest on any portion of the Guaranteed Obligations which accrues after the commencement of any case or proceeding referred to in clause (a) above (or, if interest on any portion of the Guaranteed Obligations ceases to accrue by operation of law by reason of the commencement of such case or proceeding, such interest as would have accrued on such portion of the Guaranteed Obligations if such case or proceeding had not been commenced) shall be included in the Guaranteed Obligations because it is the intention of such Guarantor and the Payee that the Guaranteed Obligations which are guaranteed by such Guarantor pursuant hereto should be determined without regard to any rule of law or order which may relieve the Issuer of any portion of such Guaranteed Obligations. Each Guarantor will permit any trustee in bankruptcy, receiver, debtor in possession, assignee for the benefit of creditors or similar person to pay the Payee, or allow the claim of the Payee in respect of, any such interest accruing after the date on which such case or proceeding is commenced.

(iii) In the event that all or any portion of the Guaranteed Obligations are paid by the Issuer, the obligations of each Guarantor hereunder shall continue and remain in full force and effect or be reinstated, as the case may be, in the event that all or any part of such payment(s) are rescinded or recovered directly or indirectly from the Payee as a preference, fraudulent transfer or otherwise, and any such payments which are so rescinded or recovered shall constitute Guaranteed Obligations for all purposes hereunder.

12. **Taxes.**

(a) Free and Clear. The Issuer shall make all payments, whether on account of principal, interest, fees or otherwise, free of and without deduction or withholding for any present or future taxes, duties or other charges, including any penalties and interest ("**Taxes**"), except as required by applicable law. If the Issuer is compelled by law to deduct or withhold any Indemnified Taxes from any such payment, it shall promptly pay to the Payee such additional amount as is necessary to ensure that the net amount received by the Payee (taking into account any withholding or deduction on any additional amounts) is equal to the amount payable by the Issuer had there been no deduction or withholding[, it being agreed that any such payment in respect of Indemnified Taxes shall be limited to the extent necessary to cause the annual interest expense of the Issuer in respect of the Obligations not to exceed 110.0% of the interest amount otherwise due with respect to the Obligations][6].

(b) Tax Indemnification. The Issuer shall indemnify the Payee for the full amount of any Indemnified Taxes imposed on or with respect to any payment made under any Note Document paid or incurred by, asserted on or attributable to amounts payable or paid to, or required to be withheld or deducted from a payment to, the Payee, as the case may be, relating to, arising out of, or in connection with any Note Document or any payment or transaction contemplated hereby or thereby, whether or not such taxes were correctly or legally imposed or asserted by the relevant Governmental Authority and all reasonable costs and expenses incurred in enforcing the provisions of this Section 12(b) [, it being agreed that any such payment in respect of Indemnified Taxes shall be limited to the extent necessary to cause the annual interest expense of the Issuer in respect of the Obligations not to exceed 110.0% of the interest amount otherwise due with respect to the Obligations][7]. A certificate from the Payee, setting forth in reasonable detail the basis and calculation of such Taxes shall be conclusive, absent manifest error. The Issuer shall also timely pay, or timely reimburse the Payee for, any and all stamp, court, documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Note Document.

[6] To be included only in Notes issued after the first anniversary and before the third anniversary of the Closing under the Asset Purchase Agreement

[7] To be included only in Notes issued after the first anniversary and before the third anniversary of the Closing under the Asset Purchase Agreement

(c) The Payee or its designee, acting solely for this purpose as a non-fiduciary agent of the Issuer, shall maintain a register for the recordation of the name and address of each transferee of the Note or any interest therein and the outstanding principal and interest due such transferee, entries in which shall be conclusive absent manifest error. The parties intend for the Note to be in registered form for tax purposes, including for purposes of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code, and this provision shall be interpreted consistently therewith.

13. **Events of Default.**

(a) The occurrence of any one or more of the following events shall constitute an Event of Default (an "**Event of Default**") under this Note:

(i) Failure to Make Payments When Due. The failure to pay (A) principal or interest due under this Note when due or (B) any other amounts due under this Note within five (5) Business Days after becoming due;

(ii) Failure to Comply with Note Documents.

(1) The failure of any Note Party to perform (or cause the performance of, as applicable) the terms, provisions, conditions, covenants or obligations contained in Sections 8(c)(i), 8(e), 8(g), 8(j), 8(k), 9 or 10 of this Note, in each case, for which no additional grace period shall be provided; or

(2) The failure of any Note Party to perform (or cause the performance of, as applicable) the terms, provisions, conditions, covenants or obligations contained in Sections 8(a) or 8(b) of this Note, and such failure shall continue unremedied for a period of five (5) Business Days;

(3) The failure of any Note Party to perform (or cause the performance of, as applicable) any term, provision, condition, covenant or obligation contained herein or any other Note Document, other than any other provisions in this Section 13(a), and such failure shall continue unremedied for a period of thirty (30) days after the earlier of (x) the date any Note Party knew of the failure; or (y) the date written notice of such failure is given to any Note Party;

(iii) Breach of Representations, etc. Any representation or warranty made or deemed made by any Note Party in any Note Document or in any statement or certificate at any time given by any Note Party or any of their Subsidiaries in writing pursuant hereto or thereto or in connection herewith or therewith shall be false in any material respect (without duplication of any materiality qualifiers contained in any such representation or warranty) as of the date made or deemed made;

(iv) Default in Other Agreements. (x) Failure of the Issuer, any other Note Party or any of their Subsidiaries to pay when due any principal of or interest on or any other amount beyond the grace or cure period, if any, provided therefor, under any other Indebtedness of any Note Party in a principal amount in excess of $4,000,000, or (y) any default that permits or would permit, with the giving of notice or the lapse of time or both, the holder of any such Indebtedness to demand immediate payment of the obligations thereunder, occurs and is continuing;

(v) Involuntary Bankruptcy; Appointment of Receiver, etc. (x) A court of competent jurisdiction shall enter a decree or order for relief in respect of the Issuer or any other Note Party, in an involuntary case under any Debtor Relief Laws now or hereafter in effect, which decree or order is not stayed; or any other similar relief shall be granted under any applicable federal or state law; or (y) an involuntary case or other similar proceeding shall be commenced against the Issuer or any other Note Party under any Debtor Relief Laws now or hereafter in effect; or a decree or order of a court having jurisdiction in the premises for the appointment of a receiver, liquidator, sequestrator, trustee, custodian or other officer having similar powers over the Issuer or any other Note Party, or over all or a substantial part of its property, shall have been entered; or there shall have occurred the involuntary appointment of an interim receiver, trustee or other custodian of the Issuer or any other Note Party for all or a substantial part of its property; or a warrant of attachment, execution or similar process shall have been issued against any substantial part of the property of the Issuer or any other Note Party, and any such event described in this clause (y) shall continue for sixty (60) days without having been dismissed, bonded or discharged;

(vi) Voluntary Bankruptcy; Appointment of Receiver, etc. (x) the Issuer or any other Note Party shall have an order for relief entered with respect to it or shall commence a voluntary case or other similar proceeding under any Debtor Relief Laws now or hereafter in effect, or shall consent to the entry of an order for relief in an involuntary case, or to the conversion of an involuntary case to a voluntary case, under any such law, or shall consent to the appointment of or taking possession by a receiver, trustee or other custodian for all or a substantial part of its property; or the Issuer or any other Note Party shall make any assignment for the benefit of creditors; or (y) the Issuer or any other Note Party shall be unable, or shall fail generally, or shall admit in writing its inability, to pay its debts as such debts become due; or the board of directors (or similar governing body) of the Issuer or any other Note Party (or any committee thereof) shall adopt any resolution or otherwise authorize any action to approve any of the actions referred to herein or in Section 13(a)(v);

(vii) Claims, Judgments and Attachments. There is entered against any Note Party or any of its Subsidiaries a judgment or order for the payment of money in an aggregate amount for all such judgments and orders exceeding $4,000,000 (to the extent due and payable and not covered by a solvent and unaffiliated third-party insurer as to which such insurer has been notified of such judgment or order and has not disputed coverage) and such judgments or orders shall not have been paid, bonded, vacated, discharged or stayed within sixty (60) days from the date of entry thereof;

(viii) ERISA Matters. One or more ERISA Events shall have occurred that, when taken together with all other such ERISA Events could reasonably be expected to result in a Material Adverse Effect or the imposition of a Lien on any Collateral;

(ix) Guaranties, Collateral Documents and Other Note Documents. At any time after the execution and delivery thereof, (x) any Guaranty for any reason, other than the satisfaction in full of all Obligations, shall cease to be in full force and effect (other than in accordance with the terms of such Guaranty) or shall be declared to be null and void or any Guarantor shall repudiate in writing its obligations thereunder, (y) this Note or any of the other Note Documents ceases to be in full force and effect (other than by reason of a release of Collateral in accordance with the terms hereof or thereof or the satisfaction in full of the Obligations in accordance with the terms hereof) or shall be declared null and void, or (z) any Note Party shall contest in writing the validity or enforceability of any Note Document in writing or deny in writing that it has any further liability under any Note Document to which it is a party (other than as a result of payment in full in cash of the Obligations);

(x) Change of Control. A Change of Control shall occur;

(xi) Cessation of Business. Any Note Party or Subsidiary thereof shall be prohibited or otherwise restrained from conducting the business theretofore conducted by it in any manner that has, or could reasonably be expected to result in, a Material Adverse Effect by virtue of any determination, ruling, decision or order of any court or Governmental Authority of competent jurisdiction;

(xii) Loss of Material Collateral. Any Lien granted by any Note Party in any of the Collateral under any Note Document with any aggregate value of $4,000,000 or more shall have been damaged, destroyed or rendered unusable (unless such damage is covered by insurance) or has ceased to have the validity, perfection or priority set forth herein or in the other Note Documents;

(b) (1) Upon the occurrence of any Event of Default described in Section 13(a)(v) or 13(a)(vi), automatically, and (2) upon the occurrence and during the continuance of any other Event of Default, at the request of the Payee, upon notice to the Issuer by the Payee, (A) each of the following shall immediately become due and payable, in each case without presentment, demand, protest or other requirements of any kind, all of which are hereby expressly waived by each Note Party: (I) the unpaid principal amount of and accrued and unpaid interest and fees of the Advance, and (II) all other Obligations, (B) the Payee's obligation to fund additional Advance shall immediately cease and (C) without any further notice to the Issuer or any other Person (except as specifically stated therein) the Payee shall be entitled to take any other action described in this Section 13, in any other Note Document, or as otherwise permitted by applicable laws.

(c) Generally. The Payee may exercise in respect of the Collateral, in addition to all other rights and remedies provided for herein or otherwise available to it at law or in equity, all the rights and remedies of the Payee on default under the UCC (regardless of whether the UCC applies to the affected Collateral) to collect, enforce or satisfy any Obligations then owing, whether by acceleration or otherwise, and also may pursue any of the following separately, successively or simultaneously: (i) require the Issuer to, and the Issuer hereby agrees that it shall at its expense and promptly upon request of the Payee forthwith, assemble all or part of the moveable Collateral as directed by the Payee and make it available to the Payee at a place to be designated by the Payee that is reasonably convenient to both parties; (ii) enter onto the property where any Collateral is located and take possession thereof with or without judicial process; (iii) prior to the disposition of the Collateral, store, process, repair or recondition the Collateral or otherwise prepare the Collateral for disposition in any manner to the extent the Payee deems appropriate; and (iv) without notice except as specified below or under the UCC, sell, assign, lease, license (on an exclusive or nonexclusive basis) or otherwise dispose of the Collateral or any part thereof in one or more parcels at public or private sale, at any of the Payee's offices or elsewhere, for cash, on credit or for future delivery, at such time or times and at such price or prices and upon such other terms as the Payee may deem commercially reasonable.

(d) Public and Private Sales. The Payee may be the purchaser of any or all of the Collateral at any public or private (to the extent that the portion of the Collateral being privately sold is of a kind that is customarily sold on a recognized market or the subject of widely distributed standard price quotations) sale in accordance with the UCC and the Payee shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such sale made in accordance with the UCC, to use and apply any of the Obligations as a credit on account of the purchase price for any Collateral payable by the Payee at such sale. Each purchaser at any such sale shall hold the property sold absolutely free from any claim or right on the part of any Note Party, and each Note Party hereby waives (to the extent permitted by applicable law) all rights of redemption, stay and/or appraisal which it now has or may at any time in the future have under any rule of law or statute now existing or hereafter enacted. Each Note Party agrees that, to the extent notice of sale shall be required by law, at least ten (10) days' notice to such Note Party of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. The Payee shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. The Payee may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned. Each Note Party agrees that it would not be commercially unreasonable for the Payee to dispose of the Collateral or any portion thereof by using Internet sites that provide for the auction of assets of the types included in the Collateral or that have the reasonable capability of doing so, or that match buyers and sellers of assets. Each Note Party hereby waives any claims against the Payee arising by reason of the fact that the price at which any Collateral may have been sold at such a private sale was less than the price which might have been obtained at a public sale, even if the Payee accepts the first offer received and does not offer such Collateral to more than one offeree. If Payee sells any of the Collateral upon credit, each Note Party will be credited only with payments actually made by purchaser and received by Payee and applied to Indebtedness of the purchaser. In the event the purchaser fails to pay for the Collateral, the Payee may resell the Collateral and the relevant Note Party shall be credited with proceeds of the sale. The Payee may sell the Collateral without giving any warranties as to the Collateral. The Payee may specifically disclaim or modify any warranties of title or the like, and such disclaimer shall not be considered to adversely affect the commercial reasonableness of any sale of the Collateral. If the proceeds of any sale or other disposition of the Collateral are insufficient to pay all the Obligations, the Issuer shall be liable for the deficiency and the fees of any outside attorneys employed by the Payee to collect such deficiency.

(e) Cash Proceeds. If any Event of Default has occurred and is then continuing, (a) all proceeds of any Collateral received by any Note Party consisting of cash, checks and other near-cash items (collectively, "**Cash Proceeds**") shall be held by such Note Party in trust for the Payee, segregated from other funds of such Note Party, and shall, forthwith upon receipt by such Note Party, be turned over to the Payee in the exact form received by such Note Party (duly indorsed by such Note Party to the Payee, if required), and (b) any Cash Proceeds received by the Payee (whether from such Note Party or otherwise) may, in the sole discretion of the Payee, (i) be held by the Payee as collateral security for the Obligations (whether matured or unmatured) and/or (ii) then or at any time thereafter may be applied by the Payee against the Obligations then due and owing.

(f) Investment Related Property. Each Note Party shall be entitled to receive and retain any and all dividends, interest, principal and other distributions paid on or distributed in respect of the Pledged LLC Interests owned by it to the extent and only to the extent that such dividends, interest, principal and other distributions are not prohibited by the terms and conditions of the Note, the other Note Documents and applicable law; provided that, in the event such Note Party receives any dividends, interest or distributions on any Pledged LLC Interest, upon the merger, consolidation, liquidation or dissolution of any issuer of any Pledged LLC Interest, then (i) such dividends, interest or distributions and securities or other property shall be included in the definition of Collateral without further action, and (ii) such Note Party shall within ten (10) days thereof, take all steps, if any, necessary or advisable to ensure the validity, perfection, priority and, if applicable, Control of the Payee over such Pledged LLC Interests (including delivery thereof to the Payee) and pending any such action such Note Party shall be deemed to hold such dividends, interest, distributions, securities or other property in trust for the benefit of the Payee and shall segregate such dividends, interest, distributions, securities or other property from all other property of such Note Party; provided, so long as no Event of Default has occurred and is then continuing, the Payee authorizes such Note Party to retain all dividends and distributions.

(g) Marshalling. The Payee shall not be under any obligation to marshal any assets in favor of any Note Party or any other Person or against or in payment of any or all of the Obligations.

(h) Application of Proceeds. All payments and proceeds received by the Payee hereunder in respect of any of the Obligations shall be applied in reduction of the Obligations in the order and priority set forth in (or otherwise dictated by) this Note.

(i) Specific Performance. Each Note Party further agrees that a breach of any of the covenants contained in this Section 13 will cause irreparable injury to the Payee, that the Payee has no adequate remedy at law in respect of such breach and, as a consequence, that each and every covenant contained in this Section 13 shall be specifically enforceable against such Note Party, and such Note Party hereby waives and agrees not to assert any defenses against an action for specific performance of such covenants except for a defense that no default has occurred giving rise to the Obligations becoming due and payable prior to their stated maturities; provided, nothing in this Section 13 shall in any way limit the rights of the Payee under this Note or under any other Note Document.

14. **Expenses.** The Issuer agrees to pay promptly upon demand all reasonable out-of-pocket costs and expenses including reasonable attorneys' fees and costs of settlement, incurred by the Payee in connection with enforcing any Obligations of or in collecting any payments due from any Note Party hereunder or under the other Note Documents (including, without limitation, the fees, disbursements and other charges of outside counsel for the Payee including in connection with the sale of, collection from, or other realization upon any of the Collateral or the enforcement of any Guaranty) or in connection with any refinancing or restructuring of the credit arrangements provided hereunder in the nature of a "work out" or pursuant to any insolvency or bankruptcy cases or proceedings.

15. **Indemnity.**

(a) In addition to the payment of expenses pursuant to Section 14, whether or not the transactions contemplated hereby shall be consummated, each Note Party agrees, jointly and severally, to defend (subject to Indemnitees' selection of counsel), indemnify, pay and hold harmless, the Payee, its affiliates and each of their respective officers, directors, partners, shareholders, trustees, controlling persons, employees, agents, advisors, attorneys and representatives (each, an "**Indemnitee**"), from and against any and all Indemnified Liabilities, IN ALL CASES, WHETHER OR NOT CAUSED BY OR ARISING, IN WHOLE OR IN PART, OUT OF THE COMPARATIVE, CONTRIBUTORY, OR SOLE NEGLIGENCE OF SUCH INDEMNITEE; provided, that no Note Party shall have any obligation to any Indemnitee hereunder with respect to any Indemnified Liabilities to the extent that such Indemnified Liabilities arise from the gross negligence, bad faith or willful misconduct of such Indemnitee or any of its affiliates or any of its or its affiliates' officers, directors, partners, shareholders, trustees, controlling persons, employees, agents, advisors, attorneys and representatives, in each case, as determined by a court of competent jurisdiction in a final, nonappealable order. To the extent that the undertakings to defend, indemnify, pay and hold harmless set forth in this Section 15 may be unenforceable in whole or in part because they violate any law or public policy, the applicable Note Party shall contribute the maximum portion that it is permitted to pay and satisfy under applicable law to the payment and satisfaction of all Indemnified Liabilities incurred by Indemnitees or any of them.

(b) If any Indemnitee shall receive an indemnification payment in respect of any Indemnified Liability pursuant to Section 15(a) and such Indemnified Liability is determined by a court of competent jurisdiction in a final, nonappealable order to have resulted from the gross negligence, bad faith or willful misconduct of such Indemnitee or any of its affiliates or any of its or its affiliates' respective officers, directors, partners, shareholders, trustees, controlling persons, employees, agents, advisors, attorneys and representatives, then such Indemnitee shall refund the amount received by it in respect of such indemnification in excess of that amount to which it is entitled under the terms of Section 15(a).

(c) To the extent permitted by applicable law, no Note Party shall assert, and each Note Party hereby waives, any claim against the Payee and its affiliates, and its or its affiliates' officers, directors, partners, shareholders, trustees, controlling persons, employees, agents, advisors, attorneys and representatives, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) (whether or not the claim therefor is based on contract, tort or duty imposed by any applicable legal requirement) arising out of, in connection with, as a result of, or in any way related to, this Note or any other Note Document or any agreement or instrument contemplated hereby or thereby or referred to herein or therein, the transactions contemplated hereby or thereby, the Advance or the use of the proceeds thereof or any act or omission or event occurring in connection therewith, and each Note Party hereby waives, releases and agrees not to sue upon any such claim or any such damages, whether or not accrued and whether or not known or suspected to exist in its favor.

(d) Each Note Party also agrees that neither the Payee nor its affiliates, directors, employees, attorneys, agents or sub-agents will have any liability to any Note Party or any other Person asserting claims on behalf of or in right of any Note Party or any other Person in connection with or as a result of this Note or any other Note Document or any agreement or instrument contemplated hereby or thereby or referred to herein or therein, the transactions contemplated hereby or thereby, the Advance or the use of the proceeds thereof or any act or omission or event occurring in connection therewith, in each case, except in the case of any Note Party to the extent that any losses, claims, damages, liabilities or expenses incurred by such Note Party or its affiliates or their or their affiliates' shareholders, partners or other equity holders have been found by a final, non-appealable judgment of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of the Payee, its affiliates or its or its affiliates' directors, employees, attorneys, agents or sub-agents in performing its obligations under this Note or any other Note Document or any agreement or instrument contemplated hereby or thereby or referred to herein or therein; provided, however, that in no event will the Payee, its affiliates or its or its affiliates', directors, employees, attorneys, agents or sub-agents have any liability for any indirect, consequential, special or punitive damages in connection with or as a result of the Payee's, its affiliates' or its or its affiliates', directors', employees', attorneys', agents' or sub-agents' activities related to this Note or any other Note Document or any agreement or instrument contemplated hereby or thereby or referred to herein or therein.

16. **Reserved.**

17. **Successors and Assigns.**

(a) Generally. This Note shall be binding upon the parties hereto and their respective successors and permitted assigns and shall inure to the benefit of the parties hereto and the successors and permitted assigns of Payee. No Note Party's rights or obligations hereunder nor any interest therein may be assigned or delegated by any Note Party without the prior written consent of the Payee (and any attempted assignment or transfer by any Note Party without such consent shall be null and void). Nothing in this Note, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby and, to the extent expressly contemplated hereby, affiliates of the Payee) any legal or equitable right, remedy or claim under or by reason of this Note.

(b) Payee's Right to Assign. The Payee shall have the right at any time to sell, assign or transfer all or a portion of its rights and obligations under this Note, including all or a portion of the Advance owing to it or other Obligations to any Person; provided, that, unless an Event of Default has occurred and is continuing, no such sale, assignment or transfer shall be made (other than to an Affiliate of the Payee, which shall not require the consent of the Issuer) without the prior written consent of the Issuer; provided, further, that the Issuer shall be deemed to have consented to any such sale, assignment or transfer if it has not responded to a request for consent within ten (10) Business Days of receipt thereof from the Payee; provided, further, that the Payee may sell participations in the Advance at any time and from time to time, without notice to, or the consent of, the Issuer or any other Person.

(c) Notice of Assignment; Recordation. Upon its receipt and acceptance of a duly executed and completed assignment agreement, any forms, certificates or other evidence required by this Note in connection therewith, the Payee shall record the information contained in such assignment agreement in its register of Payees, shall give prompt notice thereof to the Issuer and shall maintain a copy of such assignment agreement.

18. **No Waiver by Payee.** No delay or omission by the Payee or any other holder hereof to exercise any power, right or remedy accruing to the Payee or any other holder hereof shall impair any such power, right or remedy or shall be construed to be a waiver of the right to exercise any such power, right or remedy. Payee's right to accelerate this Note for any late payment or the Issuer's or any other Note Party's failure to timely fulfill its other obligations hereunder shall not be waived or deemed waived by the Payee by Payee's having accepted a late payment or late payments in the past or the Payee otherwise not accelerating this Note or exercising other remedies for the Issuer's or any other Note Party's failure to timely perform its obligations hereunder. The Payee shall not be obligated or be deemed obligated to notify the Issuer or any other Note Party, as applicable, that it is requiring the Issuer or any other Note Party, as applicable, to strictly comply with the terms and provisions of this Note before accelerating this Note and exercising its other remedies hereunder because of the Issuer's or any other Note Party's, as applicable, failure to timely perform its obligations under this Note or any other Note Document.

19. **Payments Set Aside.** To the extent that any Note Party makes a payment or payments to the Payee, or the Payee enforces any security interests or exercises its right of setoff, and such payment or payments or the proceeds of such enforcement or setoff or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be repaid to a trustee, receiver or any other party under any bankruptcy law, any other state or federal law, common law or any equitable cause, then, to the extent of such recovery, the obligation or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor or related thereto, shall be revived and continued in full force and effect as if such payment or payments had not been made or such enforcement or setoff had not occurred.

20. **Issuer Waiver; Indemnity.** The Issuer hereby forever waives presentment, presentment for payment, demand, protest, notice of protest, notice of dishonor of this Note and all other demands and notices in connection with the delivery, acceptance, performance and enforcement of this Note. The Issuer further agrees to indemnify and hold harmless the Payee from any and all damages, losses, reasonable costs and expenses (including, without limitation, attorneys' fees and expenses) which the Payee may incur by reason of the Issuer's failure promptly to pay when due the Indebtedness evidenced by this Note.

21. **Section Headings.** Section headings appearing in this Note are for convenient reference only and shall not be used to interpret or limit the meaning of any provision of this Note.

22. **VENUE; CHOICE OF LAW.** THIS NOTE AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES THEREOF. ALL JUDICIAL PROCEEDINGS BROUGHT AGAINST THE ISSUER, ANY OTHER NOTE PARTY OR THE PAYEE ARISING OUT OF OR RELATING HERETO SHALL BE BROUGHT IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, BOROUGH OF MANHATTAN OR, IF THAT COURT DOES NOT HAVE SUBJECT MATTER JURISDICTION, IN ANY STATE COURT LOCATED IN THE CITY OF NEW YORK. BY EXECUTING AND DELIVERING THIS NOTE, EACH OF THE ISSUER AND THE OTHER NOTE PARTIES PARTY HERETO, FOR ITSELF AND IN CONNECTION WITH ITS PROPERTIES, IRREVOCABLY (A) ACCEPTS GENERALLY AND UNCONDITIONALLY THE JURISDICTION AND VENUE OF SUCH COURTS; (B) WAIVES ANY DEFENSE OF FORUM NON CONVENIENS; (C) AGREES THAT SERVICE OF ALL PROCESS IN ANY SUCH PROCEEDING IN ANY SUCH COURT MAY BE MADE BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE ADDRESS PROVIDED NEXT TO ITS NAME ON APPENDIX B; (D) AGREES THAT SERVICE AS PROVIDED IN CLAUSE (C) ABOVE IS SUFFICIENT TO CONFER PERSONAL JURISDICTION OVER EACH NOTE PARTY IN ANY SUCH PROCEEDING IN ANY SUCH COURT, AND OTHERWISE CONSTITUTES EFFECTIVE AND BINDING SERVICE IN EVERY RESPECT; AND (E) AGREES THAT THE PAYEE RETAINS THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO BRING PROCEEDINGS AGAINST THE ISSUER OR ANY OTHER NOTE PARTY IN THE COURTS OF ANY OTHER JURISDICTION TO THE EXTENT THAT THE COURTS SPECIFIED ABOVE DO NOT HAVE SUBJECT MATTER JURISDICTION.

23. **WAIVER OF JURY TRIAL.** EACH OF THE PARTIES HERETO HEREBY AGREES TO WAIVE ITS RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING HEREUNDER OR UNDER ANY OF THE OTHER NOTE DOCUMENTS OR ANY DEALINGS BETWEEN THEM RELATING TO THE SUBJECT MATTER OF THIS NOTE OR THE PAYEE/ISSUER RELATIONSHIP THAT IS BEING ESTABLISHED. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THIS NOTE, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. EACH PARTY HERETO ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO A BUSINESS RELATIONSHIP, THAT EACH HAS ALREADY RELIED ON THIS WAIVER IN ENTERING INTO THIS NOTE, AND THAT EACH WILL CONTINUE TO RELY ON THIS WAIVER IN ITS RELATED FUTURE DEALINGS. EACH PARTY HERETO FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING (OTHER THAN BY A MUTUAL WRITTEN WAIVER SPECIFICALLY REFERRING TO THIS SECTION 23 AND EXECUTED BY EACH OF THE PARTIES HERETO), AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS HERETO OR ANY OF THE OTHER NOTE DOCUMENTS OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THE ADVANCE MADE HEREUNDER. IN THE EVENT OF LITIGATION, THIS NOTE MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

24. **Records of Payments.** The records of the Payee shall be *prima facie* evidence of the amounts owing on this Note.

25. **Usury Savings Clause.** Notwithstanding anything to the contrary contained in any Note Document, if at any time the interest rate applicable to the Advance, together with all fees, charges and other amounts which are treated as interest on the Advance under applicable law (collectively, the "**Charges**"), shall exceed the maximum lawful rate (the "**Highest Lawful Rate**") which may be contracted for, charged, taken, received or reserved by the Payee in accordance with applicable law, the rate of interest payable in respect of the Advance hereunder, together with all Charges payable in respect thereof, shall be limited to the Highest Lawful Rate. Any amounts received by the Payee in excess of that permissible according to the foregoing shall be refunded to the Issuer or shall constitute a payment of, and be applied to, principal owing hereunder, at the discretion of the Payee.

26. **Amendments and Waivers.** No term of this Note may be waived, modified or amended except by an instrument in writing signed by all parties hereto. Any waiver of the terms hereof shall be effective only in the specific instance and for the specific purpose given.

27. **Severability.** In the event any one or more of the provisions contained in this Note or any other Note Document should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby (it being understood that the invalidity of a particular provision in a particular jurisdiction shall not in and of itself affect the validity of such provision in any other jurisdiction). The parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions. Each waiver in this Note and each other Note Document is subject to the overriding and controlling rule that it shall be effective only if and to the extent that (a) it is not prohibited by applicable law and (b) applicable law neither provides for nor allows any material sanctions to be imposed against the Payee for having bargained for and obtained it.

28. **Counterparts.** This Note may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument. Delivery of an executed signature page of this Note by telecopy or electronic mail transmission shall be effective as delivery of a manually executed counterpart hereof.

29. **Effectiveness.** This Note shall become effective upon the execution of a counterpart hereof by each of the parties hereto and receipt by the Issuer and the Payee of written notification of such execution and authorization of delivery thereof.

30. **Notices.** Any notice, request or other communication required or permitted to be given hereunder shall be given in writing by delivering it against receipt for it, by depositing it with an overnight delivery service or by depositing it in a receptacle maintained by the United States Postal Service, postage prepaid, registered or certified mail, return receipt requested, addressed to the respective parties as reflected on Appendix B. Any Note Party's address for notices may be changed at any time and from time to time, but only after five (5) calendar days advance written notice to the Payee and shall be the most recent such address furnished in writing by the Note Parties to the Payee. The Payee's address for notices may be changed at any time and from time to time, but only after five (5) calendar days advance written notice to the Issuer and shall be the most recent such address furnished in writing by the Payee to the Issuer. Actual notice, however and from whomever given or received, shall always be effective when received.

31. **ENTIRE AGREEMENT.** THIS NOTE AND ANY NOTE DOCUMENTS EMBODIES THE ENTIRE AGREEMENT AND UNDERSTANDING BETWEEN THE PAYEE, THE ISSUER, THE OTHER NOTE PARTIES AND ANY OTHER PARTIES WITH RESPECT TO THEIR SUBJECT MATTER AND SUPERSEDES ALL PRIOR CONFLICTING OR INCONSISTENT AGREEMENTS, CONSENTS AND UNDERSTANDINGS RELATING TO SUCH SUBJECT MATTER. EACH OF THE ISSUER AND THE OTHER NOTE PARTIES ACKNOWLEDGES AND AGREES THAT THERE IS NO ORAL AGREEMENT BETWEEN THE ISSUER, THE OTHER NOTE PARTIES AND THE PAYEE WHICH HAS NOT BEEN INCORPORATED IN THIS NOTE OR ANY OF THE OTHER NOTE DOCUMENTS.

[SIGNATURES FOLLOW]

IN WITNESS WHEREOF, the undersigned have executed this Note as of the date first written above.

LORDSTOWN EV CORPORATION,
a Delaware corporation,
as Issuer

By: _____
Name:
Title:

LORDSTOWN MOTORS CORP.,
a Delaware corporation,
as a Guarantor

By: _____
Name:
Title:

LORDSTOWN EV SALES LLC,
a Delaware limited liability company,
as a Guarantor

By: _____
Name:
Title:

PAYEE:

[FOXCONN EV TECHNOLOGY, INC.,
an Ohio corporation],
as Payee

By: _____
Name:
Title:

Signature Page to Note, Guaranty and Security Agreement

APPENDIX A

Defined Terms

Definitions. The following terms used in the Note, including in the preamble, recitals, exhibits and schedules thereto, shall have the following meanings:

(a) "**Advance Form**" means a request by the Issuer in accordance with the terms of Section 3(c) and substantially in the form of Exhibit B, or such other form as shall be approved by the Payee.

(b) "**Affiliate**" shall mean, when used with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified; provided, however, the term "Affiliate" shall also include (i) any Person that directly or indirectly owns more than 10% of any class of Capital Stock of the Person specified or (ii) any Person that is an officer or director of the Person specified.

(c) "**Anti-Money Laundering Laws**" means the Patriot Act and the regulations and rules promulgated thereunder, as amended from time to time; the US Money Laundering Control Act of 1986, as amended from time to time; the US Bank Secrecy Act and the regulations and rules promulgated thereunder, as amended from time to time, other anti-money laundering Legal Requirements of the United States and corresponding Legal Requirements of (a) the European Union designed to combat money laundering and terrorist financing or (b) jurisdictions in which any Note Party or any of its Subsidiaries, or Payee or any of its Affiliates, operates or in which the proceeds of the Advance will be used or from which repayments of the Obligations will be derived.

(d) "**Audited Financial Statements**" means the audited consolidated balance sheet of the Parent and its Subsidiaries for the fiscal year ended December 31, 2021, and the related consolidated statements of income or operations, shareholders' equity and cash flows for such fiscal year of the Parent and its Subsidiaries, including the notes thereto.

(e) "**Bankruptcy Code**" means Title 11 of the United States Code, 11 U.S.C. §§ 101 et seq., entitled "Bankruptcy," as now and hereafter in effect, or any successor statute.

(f) "**Business Day**" means any day other than a Saturday, Sunday or other day on which commercial banks in New York City (New York) are authorized or required by law to close.

(g) "**Capital Lease**" means, as applied to any Person, any lease of (or other arrangement conveying the right to use) any property (whether real, personal or mixed) by that Person as lessee (or the equivalent) that, in conformity with GAAP, is required to be accounted for as a capital lease on the balance sheet of that Person.

(h) "**Capital Stock**" means any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation), including partnership interests and membership interests, and any and all warrants, rights or options to purchase or acquire any of the foregoing.

(i) "**Cash Equivalents**" means (a) any readily-marketable securities (i) issued by, or directly, unconditionally and fully guaranteed or insured by the United States federal government or (ii) issued by any agency of the United States federal government the obligations of which are fully backed by the full faith and credit of the United States federal government, (b) any readily-marketable direct obligations issued by any other agency of the United States federal government, any state of the United States or any political subdivision of any such state or any public instrumentality thereof, in each case having a rating of at least "A-1" from S&P or at least "P-1" from Moody's, (c) any commercial paper rated at least "A-1" by S&P or "P-1" by Moody's and issued by any Person organized under the laws of any state of the United States, (d) any Dollar-denominated time deposit, insured certificate of deposit, overnight bank deposit or bankers' acceptance issued or accepted by (i) the Payee or (ii) any commercial bank that is (A) organized under the laws of the United States, any state thereof or the District of Columbia, (B) "adequately capitalized" (as defined in the regulations of its primary federal banking regulators) and (C) has Tier 1 capital (as defined in such regulations) in excess of $500,000,000 and (e) shares of any United States money market fund that (i) has substantially all of its assets invested continuously in the types of investments referred to in clause (a), (b), (c) or (d) above with maturities as set forth in the proviso below, (ii) has net assets in excess of $500,000,000 and (iii) has obtained from either S&P or Moody's the highest rating obtainable for money market funds in the United States; provided, however, that the maturities of all obligations specified in any of clauses (a), (b), (c) and (d) above shall not exceed 365 days.

(j) "**Casualty Event**" means any loss of title (other than through a consensual disposition of such property in accordance with this Agreement) or any loss of or damage to or any destruction of, or any condemnation or other taking (including by any Governmental Authority) of, any property of any Note Party or Subsidiary thereof, including any taking of all or any part of any real property of any Person or any part thereof, in or by condemnation or other eminent domain proceedings pursuant to any Legal Requirement, or by reason of the temporary requisition of the use or occupancy of all or any part of any real property of any Person or any part thereof by any Governmental Authority, or any settlement in lieu thereof.

(k) "**Change of Control**" means the occurrence of any of the following: (a) the Parent fails to own, directly or indirectly, one hundred percent (100%) of the outstanding Capital Stock and voting power of each other Note Party, (b) the acquisition by any Person or group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act), including any group acting for the purpose of acquiring, holding or disposing of Securities (within the meaning of Rule 13d-5(b)(1) under the Exchange Act, but excluding any employee benefit plan or Person acting as the trustee, agent or other fiduciary or administrator therefor), of Capital Stock representing more than 50.0% of the total voting power of all of the outstanding voting Capital Stock of the Parent; or (c) there occurs a sale, transfer, lease, conveyance or other disposition of all or substantially all of the property or assets of the Note Parties (taken as a whole).

(l) "**Closing Date**" means the date of this Note.

(m) "**Code**" means the Internal Revenue Code of 1986, as amended.

(n) "**Collateral**" means Issuer's right, title and interest in, to and under (i) the Pledged LLC Interests, (ii) all personal property, including Equipment and Fixtures, that constitute the hub motor assembly lines listed on **Schedule [__]** and (iii) all personal property, including Equipment and Fixtures, that constitute the battery module assembly lines listed on **Schedule [__]**, (iv) all personal property, including Equipment and Fixtures, that constitute the battery pack assembly lines listed on **Schedule [__]**, (v) all Collateral Records, Collateral Support and Supporting Obligations relating to any of the foregoing and (vi) to the extent not otherwise included above, all Proceeds, products, accessions, rents and profits of or in respect of any of the foregoing.

(o) "**Collateral Records**" means books, records, ledger cards, files, correspondence, customer lists, supplier lists, blueprints, technical specifications, manuals, computer software and related documentation, computer printouts, tapes, disks and other electronic storage media and related data processing software and similar items (but excluding any personal information of individuals) that at any time evidence or contain information relating to any of the Collateral or are otherwise necessary or helpful in the collection thereof or realization thereupon.

(p) "**Collateral Support**" means all property (real or personal) assigned, hypothecated or otherwise securing any Collateral and shall include any security agreement or other agreement granting a lien or security interest in such real or personal property.

(q) "**Contingent Obligation**" means, as to any Person, any obligation, agreement, understanding or arrangement of such Person guaranteeing or intended to guarantee any Indebtedness, leases, dividends or other obligations ("primary obligations") of any other Person (the "primary obligor") in any manner, whether directly or indirectly, including any obligation, agreement, understanding or arrangement of such Person, whether or not contingent, (a) to purchase any such primary obligation or any property constituting direct or indirect security therefor, (b) to advance or supply funds (i) for the purchase or payment of any such primary obligation or (ii) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth, net equity, liquidity, level of income, cash flow or solvency of the primary obligor, (c) to purchase property, securities or services primarily for the purpose of assuring the primary obligor of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation, (d) with respect to bankers' acceptances, letters of credit and similar credit arrangements, until a reimbursement or equivalent obligation arises (which reimbursement obligation shall constitute a primary obligation), or (e) otherwise to assure or hold harmless the primary obligor of any such primary obligation against loss (in whole or in part) in respect thereof; provided, however, that the term "Contingent Obligation" shall not include endorsements of instruments for deposit or collection in the ordinary course of business or any product warranties given in the ordinary course of business. The amount of any Contingent Obligation shall be deemed to be an amount equal to the stated or determinable amount of the primary obligation, or portion thereof, in respect of which such Contingent Obligation is made (or, if less, the maximum amount of such primary obligation for which such Person may be liable, whether singly or jointly, pursuant to the terms of the instrument, agreements or other documents or, if applicable, unwritten agreement, evidencing such Contingent Obligation) or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming such Person is required to perform thereunder) as determined by such Person in good faith.

(r) "**Control**" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise, and the terms "**Controlling**" and "**Controlled**" shall have meanings correlative thereto.

(s) "**Debtor Relief Laws**" means the Bankruptcy Code and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or any other applicable jurisdiction from time to time in effect and affecting the rights of creditors generally.

(t) "**Dividend**" shall mean, with respect to any Person, that such Person has declared or paid a dividend or returned any equity capital to the holders of its Capital Stock or authorized or made any other distribution, payment or delivery of property (other than Qualified Capital Stock of such Person) or cash to the holders of its Capital Stock as such, or redeemed, retired, purchased or otherwise acquired, directly or indirectly, for consideration any of its Capital Stock outstanding (or any options or warrants issued by such Person with respect to its Capital Stock), or set aside or otherwise reserved, directly or indirectly, any funds for any of the foregoing purposes, or shall have permitted any of its Subsidiaries to purchase or otherwise acquire for consideration any of the outstanding Capital Stock of such Person (or any options or warrants issued by such Person with respect to its Capital Stock). Without limiting the foregoing, "**Dividends**" with respect to any Person shall also include all payments made or required to be made by such Person with respect to any stock appreciation rights, plans, equity incentive or achievement plans or any similar plans or setting aside of or otherwise reserving any funds for the foregoing purposes.

(u) "**Dollars**" and "**$**" means the lawful currency of the United States of America.

(v) "**Effective Date**" means May 11, 2022.

(w) "**Employee Benefit Plan**" means any "employee benefit plan" as defined in Section 3(3) of ERISA which is or was maintained, contributed to, or required to be maintained or contributed to by any Note Party or any of its ERISA Affiliates.

(x) "**Environmental Laws**" means any Legal Requirement pertaining to or imposing liability or standards of conduct concerning environmental protection, contamination or clean–up, or protection of human health and safety, including the Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act, the Emergency Planning and Community Right–to–Know Act of 1986, the Hazardous Substances Transportation Act, the Solid Waste Disposal Act, the Clean Water Act, the Clean Air Act, the Toxic Substance Control Act, the Safe Drinking Water Act, the Occupational Safety and Health Act, any laws relating to toxic mold, any state super–lien and environmental clean–up statutes, any local law requiring related permits and licenses, any common law relating to toxic mold or other Hazardous Substances, and all amendments to and regulations in respect of the foregoing Legal Requirements.

(y) "**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended from time to time, the regulations promulgated thereunder and any successor statute.

(z) "**ERISA Affiliate**" means, with respect to any Person, any trade or business (whether or not incorporated) that, together with such Person, is treated as a single employer under Section 414(b) or (c) of the Code, or solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code. Any former ERISA Affiliate of a Person or any of its Subsidiaries shall continue to be considered an ERISA Affiliate of such Person or such Subsidiary within the meaning of this definition with respect to the period such entity was an ERISA Affiliate of such Person or such Subsidiary and with respect to liabilities arising after such period for which such Person or such Subsidiary could reasonably be expected to be liable under the Code or ERISA, but in no event for more than six years after such period if no such liability has been asserted against such Person or such Subsidiary; provided, however, that such Person or such Subsidiary shall continue to be an ERISA Affiliate of such Person or such Subsidiary after the expiration of the six-year period solely with respect to any liability asserted against such Person or such Subsidiary prior to the expiration of such six-year period.

(aa) "**ERISA Event**" means (i) a "reportable event" within the meaning of Section 4043 of ERISA and the regulations issued thereunder with respect to any Pension Plan; (ii) the failure to meet the minimum funding standard of Section 412 of the Code with respect to any Pension Plan (whether or not waived) or the failure to make by its due date a required installment of a material amount under Section 430(j) of the Code with respect to any Pension Plan or the failure to make any required contribution of a material amount to a Multiemployer Plan; (iii) the provision by the administrator of any Pension Plan pursuant to Section 4041(a)(2) of ERISA of a notice of intent to terminate such plan in a distress termination described in Section 4041(c) of ERISA; (iv) the withdrawal by any Note Party or any of its ERISA Affiliates from any Pension Plan with two or more contributing sponsors or the termination of any such Pension Plan resulting in liability to any Note Party or any Subsidiary thereof pursuant to Section 4063 or 4064 of ERISA; (v) the institution by the Pension Benefit Guaranty Corporation of proceedings to terminate any Pension Plan, or the occurrence of any event or condition which could reasonably be expected to constitute grounds under ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan; (vi) the imposition of liability of a material amount on any Note Party or any of its ERISA Affiliates pursuant to Section 4062(e) or 4069 of ERISA or by reason of the application of Section 4212(c) of ERISA; (vii) the withdrawal of any Note Party or any of its ERISA Affiliates in a complete or partial withdrawal (within the meaning of Sections 4203 and 4205 of ERISA) from any Multiemployer Plan, or the receipt by any Note Party or any of its ERISA Affiliates of notice from any Multiemployer Plan that it is in reorganization or insolvency pursuant to Section 4241 or 4245 of ERISA, or that it intends to terminate or has terminated under Section 4041A or 4042 of ERISA, if, in any such case, there is potential liability of a material amount of any Note Party or Subsidiary thereof therefor; (viii) the assertion of a material claim (other than routine claims for benefits) against any Employee Benefit Plan, or the assets thereof, or against any Note Party or any of its ERISA Affiliates in connection with any Employee Benefit Plan; (ix) receipt from the Internal Revenue Service of notice of the failure of any Pension Plan (or any other Employee Benefit Plan intended to be qualified under Section 401(a) of the Code) to qualify under Section 401(a) of the Code, or the failure of any trust forming part of any Pension Plan to qualify for exemption from taxation under Section 501(a) of the Code; (x) the imposition of a Lien pursuant to Section 401(a)(29) or 430(k) of the Code or pursuant to ERISA with respect to any Pension Plan; or (xi) the occurrence of a non-exempt prohibited transaction (within the meaning of Section 4975 of the Code or Section 406 of ERISA) which could reasonably be expected to result in liability of a material amount to any Note Party or any of its ERISA Affiliates.

(bb) "**Excluded Taxes**" shall mean any of the following Taxes imposed on or with respect to, or required to be withheld or deducted from a payment to, Payee or any other recipient, (i) Taxes imposed on or measured by its overall net income or net profits (however denominated), capital, net worth, and franchise or gross revenue Taxes imposed on it (in lieu of, as an alternative to, or in addition to net income Taxes) or branch profit or branch interest Taxes by a jurisdiction (or any political subdivision thereof)[, (ii) any U.S. federal withholding Tax that is imposed on amounts payable to any Person pursuant to any law in effect at the time such Person becomes a party hereto (or designates a new lending office) and (iii) any U.S. federal withholding Tax imposed pursuant to Sections 1471 through 1474 of the Code, as in effect on the date hereof (and any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such sections of the Code][1].

(cc) "**Financial Officer**" of any Person shall mean the chief financial officer, principal accounting officer, treasurer or controller of such Person.

(dd) "**Fiscal Quarter**" means a fiscal quarter of any Fiscal Year.

(ee) "**Fiscal Year**" means the fiscal year of the Parent.

(ff) "**GAAP**" means, subject to the limitations on the application thereof set forth in Section 1(b), United States generally accepted accounting principles in effect as of the date of determination thereof.

(gg) "**Governmental Authority**" means any federal, state, municipal, national or other government, governmental department, commission, board, bureau, court, agency or instrumentality or political subdivision thereof or any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to any government or any court, in each case whether associated with a state of the United States, the United States, or a foreign state or government.

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[1] Not to be included in Notes issued after the first anniversary and before the third anniversary of the Closing under the Asset Purchase Agreement.

(hh) "**Governmental Authorization**" means any permit, license, authorization, plan, directive, consent order or consent decree of or from any Governmental Authority.

(ii) "**Guarantor**" means each Guarantor party to this Note on the Closing Date and each other Person that may become a Guarantor by guaranteeing the Obligations from time to time thereafter.

(jj) "**Guaranty**" means the guaranty of each Guarantor set forth in Section 11 and any guaranty agreement pursuant to which any other Guarantor guaranties the Obligations from time to time.

(kk) "**Hazardous Substances**" means toxic, hazardous or dangerous substances, wastes, contaminants, and pollutants, including, without limitation, petroleum, petroleum products, crude oil and fractions thereof, toxic mold, per- and polyfluoroalkyl substances or any other substances or materials which are included under or regulated by, or for which liability may arise pursuant to, Environmental Laws.

(ll) "**Indebtedness**" as applied to any Person, means, without duplication: (i) all indebtedness for borrowed money; (ii) the capitalized amount with respect to Capital Leases that would appear on a balance sheet of such Person in conformity with GAAP; (iii) all obligations of such Person evidenced by notes, bonds or similar instruments; (iv) any obligation of such Person owed for all or any part of the deferred purchase price of property or services, other than trade accounts payable and accrued expenses and liabilities payable in the ordinary course of business; (v) all obligations of such Person created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person; (vi) all Indebtedness of others secured by any Lien on any property or asset owned by that Person regardless of whether the Indebtedness secured thereby shall have been assumed by that Person or is nonrecourse to the credit of that Person; (vii) the maximum amount (after giving effect to any prior reductions or drawings which have been reimbursed), of any letter of credit or letter of guaranty issued, bankers' acceptances facilities, surety bond and similar credit transactions for the account of that Person or as to which that Person is otherwise liable for reimbursement of drawings or drafts; (viii) any guaranty or liability as a co-obligor or co-maker of Indebtedness of another Person; (ix) the net obligations of such Person in respect of any Rate Management Transaction, whether entered into for hedging or speculative purposes; and (x) all obligations of such Person, contingent or otherwise, to purchase, redeem, retire or otherwise acquire for value any Capital Stock of such Person. Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or joint venturer, unless such Indebtedness is expressly non-recourse to such Person, except to the extent such Person's liability for such Indebtedness is otherwise limited. For all purposes hereof, the Indebtedness of the Note Parties and their Subsidiaries shall exclude customer deposits and advances and interest payable thereon in the ordinary course of business in accordance with customary trade terms and other obligations incurred in the ordinary course of business through credit on an open account basis customarily extended to such Person. The amount of any net obligation under any Rate Management Transaction on any date shall be calculated based on the amount that would be payable by such Person if such Rate Management Transaction were terminated on the date of determination. The amount of Indebtedness of any Person for purposes of clause (vi) shall be deemed to be equal to the lesser of (x) the aggregate unpaid amount of such Indebtedness and (y) the fair market value of the property encumbered thereby as determined by such Person in good faith.

(mm) "**Indemnified Liabilities**" means, collectively, any and all liabilities, obligations, losses (including the reasonable out-of-pocket costs of any investigation, study, sampling, testing, abatement, cleanup, removal, remediation or other response action necessary to remove, remediate, clean up or abate any environmental issues), damages (including natural resource damages), fines, penalties, actions, claims, judgments, suits, litigations, inquiries, proceedings and related reasonable out-of-pocket costs, expenses and disbursements of any kind or nature whatsoever (including, without limitation, the reasonable fees and disbursements of counsel for Indemnitees in connection with any investigative, administrative or judicial proceeding, whether or not any such Indemnitee shall be designated as a party or a potential party thereto, and any reasonable out-of-pocket fees or expenses incurred by Indemnitees in enforcing this indemnity), whether direct, indirect or consequential and whether based on any federal, state or foreign laws, statutes, rules or regulations, on common law or equitable cause or on contract or otherwise, that may be imposed on, incurred by, or asserted against any such Indemnitee, in any manner relating to or arising out any enforcement of any of the Note Documents (including any sale of, collection from, or other realization upon any of the Collateral hereunder or the enforcement of any Guaranty)), but excluding in all cases liabilities, obligations, losses, damages, etc. relating to or arising out of Taxes, the Asset Purchase Agreement, the Manufacturing Supply Agreement or the LLC Agreement.

(nn) "**Indemnified Taxes**" means Taxes other than Excluded Taxes.

(oo) "**Insurance**" means all insurance policies covering any or all of the Collateral (regardless of whether the Payee is the loss payee thereof).

(pp) "**Intellectual Property**" means all intellectual and similar property of a person, including inventions, designs, patents, copyrights, trademarks, service marks, trade names, trade secrets, confidential or proprietary information, customer lists, know-how, software and databases; all embodiments or fixations thereof and all related documentation, applications and registrations.

(qq) "**Joint Venture Entity**" means MIH EV Design LLC, a Delaware limited liability company.

(rr) "**Legal Requirements**" means, as to any Person, the Organizational Documents of such Person, and any treaty, law (including the common law), statute, ordinance, code, rule, regulation, guidelines, license, permit requirement, order or determination of an arbitrator or a court or other Governmental Authority, and any interpretation thereof published by the applicable Governmental Authority or administrative procedures relating thereto established by the applicable Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject, in each case whether or not having the force of law.

(ss) "**Lien**" means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge or other security interest or any preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including, without limitation, any conditional sale or other title retention agreement and any Capital Lease having substantially the same economic effect as any of the foregoing).

(tt) "**LLC Agreement**" means the Limited Liability Company Agreement of the Joint Venture Entity dated as of May 11, 2022, as amended, supplemented, otherwise modified or replaced from time to time.

(uu) "**Manufacturing Supply Agreement**" means the Manufacturing Supply Agreement dated as of May 11, 2022, between the Issuer and Foxconn EV System LLC as amended, supplemented, otherwise modified or replaced from time to time.

(vv) "**Material Adverse Effect**" means any event or circumstance which has a materially adverse effect on (i) the assets, business or financial condition of the Note Parties, taken as a whole; (ii) the ability of the Note Parties (taken as a whole) to perform their respective obligations under the Note Documents; or (iii) the validity or enforceability of any of Payee's liens upon the Collateral or of any of the Note Documents or the rights or remedies of Payee hereunder or thereunder.

(ww) "**Maturity Date**" means the earlier of (i) the first anniversary of the Closing Date and (ii) December 31, 2025.

(xx) "**Multiemployer Plan**" means a multiemployer plan within the meaning of Section 4001(a)(3) or Section 3(37) of ERISA, (a) to which any Note Party or any of its ERISA Affiliates is then making or accruing an obligation to make contributions, (b) to which any Note Party or any of its ERISA Affiliates has within the preceding six plan years made or been obligated to make contributions, or (c) with respect to which any Note Party or Subsidiary thereof could incur liability.

(yy) "**Net Cash Proceeds**" means, (i) with respect to any disposition of any property or asset (other than any Casualty Event), the proceeds thereof in the form of cash, cash equivalents and marketable securities (including any such proceeds received by way of deferred payment of principal pursuant to a note or installment receivable or purchase price adjustment receivable, or by the sale, transfer or other disposition of any non-cash consideration received in connection therewith or otherwise, but only as and when received) received by any Note Party or Subsidiary thereof (including cash proceeds subsequently received (as and when received by any Note Party or Subsidiary thereof) in respect of non-cash consideration initially received) net of (A) reasonable and customary selling expenses (including reasonable brokers' fees or commissions, legal, accounting and other professional and transactional fees, transfer and similar taxes (but excluding any such amounts payable to any Affiliate of any Note Party) and the Issuer's good faith estimate of income taxes paid or payable in connection with such sale (after taking into account any available tax credits or deductions and any tax sharing arrangements)), (B) amounts provided as a reserve, in accordance with GAAP, against (x) any liabilities under any indemnification obligations associated with such disposition or (y) any other liabilities retained by any Note Party or Subsidiary thereof associated with the properties sold in such disposition (*provided* that, to the extent and at the time any such amounts are released from such reserve, such amounts shall constitute Net Cash Proceeds), and (C) the principal amount, premium or penalty, if any, interest and other amounts on any Indebtedness for borrowed money that is secured by a Lien on the properties sold in such disposition (so long as such Lien was permitted to encumber such properties under the Note Documents at the time of such sale) and which is repaid with such proceeds (other than any such Indebtedness assumed by the purchaser of such properties); and (ii) with respect to any Casualty Event, the cash insurance proceeds, condemnation awards and other compensation received by any Credit Party or Subsidiary thereof in respect thereof, net of all reasonable costs and expenses (including legal, accounting and other professional and transaction fees and brokers' fees) incurred in connection with the collection of such proceeds, awards or other compensation in respect of such Casualty Event (including legal, accounting and other professional and transaction fees and brokers' fees).

(zz) "**Note Documents**" means, collectively, this Note, each Guaranty, and each of the other documents executed in connection herewith from time to time.

(aaa) "**Organizational Documents**" means (i) with respect to any corporation, its certificate or articles of incorporation or organization, as amended, and its by-laws, as amended, (ii) with respect to any limited partnership, its certificate of limited partnership, as amended, and its partnership agreement, as amended, (iii) with respect to any general partnership, its partnership agreement, as amended, and (iv) with respect to any limited liability company, its articles of organization, as amended, and its operating agreement, as amended. In the event any term or condition of this Note or any other Note Document requires any Organizational Document to be certified by a secretary of state or similar governmental official, the reference to any such "Organizational Document" shall only be to a document of a type customarily certified by such governmental official.

(bbb) "**Patriot Act**" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act of 2001).

(ccc) "**Pension Plan**" means any Employee Benefit Plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA which is maintained, contributed to, or required to be maintained or contributed to by any Note Party or any of its ERISA Affiliates or with respect to which any Note Party or Subsidiary thereof could reasonably be expected to incur liability, contingent or otherwise, under ERISA (including under Section 4069 of ERISA).

(ddd) "**Person**" means and includes natural persons, corporations, limited partnerships, general partnerships, limited liability companies, limited liability partnerships, joint stock companies, joint ventures, associations, companies, trusts, banks, trust companies, land trusts, business trusts or other organizations, whether or not legal entities, and Governmental Authorities.

(eee) "**Pledge Supplement**" means a supplement to this Note in substantially the form of Exhibit A.

(fff) "**Pledged LLC Interests**" means all interests in the Joint Venture Entity, including without limitation all of the economic interest and the right to vote or otherwise control the limited liability company and all rights as a member, and the certificates, if any, representing such limited liability company interests and any interest of a Note Party on the books and records of such limited liability company or on the books and records of any securities intermediary pertaining to such interest and all dividends, distributions, cash, warrants, rights, options, instruments, securities and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such limited liability company interests.

(ggg) "**Prohibited Person**" means any Person that is: (i) listed on, or owned or controlled by a person listed on, a Sanctions list, (ii) a government of a Sanctioned Country, (iii) an agency or instrumentality of, or an entity directly or indirectly owned or controlled by, a government of a Sanctioned Country, (iv) a citizen or national of, located in, operating from, or incorporated under the laws of, a Sanctioned Country or (v) to the best knowledge of any Note Party, otherwise a target of Sanctions.

(hhh) "**Qualified Capital Stock**" shall mean any Capital Stock, other than any Capital Stock which, by its terms (or by the terms of any security or instrument into which it is convertible or for which it is exchangeable or exercisable), or upon the happening of any event, (i) matures (excluding any maturity as the result of an optional redemption by the issuer thereof) or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof, in whole or in part, on or prior to the first anniversary of the Maturity Date, (ii) is convertible into or exchangeable or exercisable (unless at the sole option of the issuer thereof) for (A) debt securities or other indebtedness or (B) any Capital Stock referred to in (i) above, in each case at any time on or prior to the first anniversary of the Maturity Date, or (iii) contains any repurchase or payment obligation which may come into effect prior to the first anniversary of the Maturity Date.

(iii) "**Rate Management Transaction**" means any transaction (including an agreement with respect thereto) which is a rate swap, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, forward transaction, currency swap transaction, cross-currency rate swap transaction, currency option or any other similar transaction (including any option with respect to any of these transactions) or any combination thereof, whether linked to one or more interest rates, foreign currencies, commodity prices, equity prices or other financial measures.

(jjj) "**Responsible Officer**" of any Person shall mean any executive officer or Financial Officer of such Person and any other officer or similar official thereof with significant responsibility for the administration of the obligations of such Person in respect of this Agreement.

(kkk) "**Sanctioned Country**" means, at any time, a country or territory which is, or whose government is, the subject or target of any comprehensive, territorial Sanctions broadly restricting or prohibiting dealings with such country, territory or government (as of the Closing Date, including, Cuba, Iran, North Korea, Syria, and the Crimea, Donetsk and Luhansk regions of Ukraine and each other Covered Region of Ukraine identified pursuant to Executive Order 14605 dated February 21, 2022, as may be amended from time to time).

(lll) "**Sanctions**" means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by any Sanctions Authority.

(mmm) "**Sanctions Authority**" means (i) the United States, (ii) the United Nations Security Council, (iii) the European Union, (iv) the United Kingdom or (v) the respective governmental institutions of any of the foregoing including, without limitation, the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of Commerce, the U.S. Department of State, any other agency of the U.S. government, and Her Majesty's Treasury of the United Kingdom.

(nnn) "**SEC Filings**" has the meaning set forth in Section 8(b)(iv).

(ooo) "**Securities Act**" means the Securities Act of 1933, as amended from time to time, and any successor statute.

(ppp) "**Subsidiary**" means, with respect to any Person, any corporation, partnership, limited liability company, association, joint venture or other business entity the accounts of which would be consolidated with those of such Person in such Person's consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, partnership, limited liability company, association, joint venture or other business entity of which more than fifty percent (50%) of the total voting power of shares of stock or other ownership interests entitled (other than stock and other interests having such power only by reason of the occurrence of any contingency) to vote in the election of the Person or Persons (whether directors, managers, trustees or other Persons performing similar functions) having the power to direct or cause the direction of the management and policies thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof; provided, that in determining the percentage of ownership interests of any Person controlled by another Person, no ownership interest in the nature of a nominee or a qualifying share of the former Person shall be deemed to be outstanding.

(qqq) "**Terrorism Laws**" means any of the following (a) Executive Order 13224 issued by the President of the United States, (b) the Terrorism Sanctions Regulations (Title 31 Part 595 of the U.S. Code of Federal Regulations), (c) the Terrorism List Governments Sanctions Regulations (Title 31 Part 596 of the U.S. Code of Federal Regulations), (d) the Foreign Terrorist Organizations Sanctions Regulations (Title 31 Part 597 of the U.S. Code of Federal Regulations), (e) the Patriot Act (as it may be subsequently codified), (f) all other present and future legal requirements of any Governmental Authority addressing, relating to, or attempting to eliminate, terrorist acts and acts of war and (g) any regulations promulgated pursuant thereto or pursuant to any legal requirements of any Governmental Authority governing terrorist acts or acts of war.

(rrr) Terms used herein without definition that are defined in the Uniform Commercial Code as in effect from time to time in the State of New York (the "**UCC**") shall have the respective meanings set forth therein, including the following terms (which are capitalized herein): "Account"; "Account Debtor"; "As-Extracted Collateral"; "Bank"; "Certificated Security"; "Chattel Paper"; "Commercial Tort Claims"; "Commodity Account"; "Commodity Contract"; "Commodity Intermediary"; "Consignee"; "Consignment"; "Consignor"; "Deposit Account"; "Document"; "Electronic Chattel Paper"; "Entitlement Order"; "Equipment"; "Farm Products"; "Fixtures"; "General Intangibles"; "Goods"; "Grantor"; "Health-Care-Insurance Receivable"; "Instrument"; "Inventory"; "Investment Property"; "Letter of Credit Right"; "Manufactured Home"; "Money"; "Payment Intangible"; "Proceeds"; "Record"; "Securities Account"; "Securities Intermediary"; "Security Certificate"; "Security Entitlement"; "Supporting Obligations"; "Tangible Chattel Paper"; and "Uncertificated Security".

APPENDIX B

Notices

If to any Note Party:

Attention:
Email:

If to the Payee:

Attention:
Email:

Schedule 5(n)

Jurisdiction of Organization; Legal Name; Organizational Identification Number; Chief Executive Office; and Equity Ownership

Legal Name of Entity	**Type of Entity**	**Jurisdiction of Formation**	**Organizational ID Number**	**Chief Executive Office Address**	**Equity Ownership**

Schedule 9(a)(iii)

Existing Liens

Schedule 9(b)(ii)

Existing Indebtedness

Schedule 9(c)(i)

Existing Investments

EXHIBIT A
TO NOTE, GUARANTY AND SECURITY AGREEMENT

PLEDGE SUPPLEMENT

This **PLEDGE SUPPLEMENT**, dated **[mm/dd/yy]**, is delivered by **[NAME OF PLEDGING OBLIGOR]** (the "**Pledging Obligor**") pursuant to the Note, Guaranty and Security Agreement, dated as of [•][•], 2022 (as it may be amended, restated, supplemented or otherwise modified from time to time, the "**Note**"), by and among LORDSTOWN EV CORPORATION, a Delaware corporation (the "**Issuer**"), LORDSTOWN EV SALES LLC, a Delaware limited liability company ("**Sales**"), and LORDSTOWN MOTORS CORP., a Delaware corporation (the "**Parent**" and together with Sales, the "**Guarantors**"; the Guarantors and the Issuer, together collectively, the "**Note Parties**"), and FOXCONN EV TECHNOLOGY, INC., an Ohio corporation, or its successors and assigns (the "**Payee**"). Capitalized terms used herein not otherwise defined herein has the meanings ascribed thereto in the Note.

Pledging Obligor hereby confirms the grant to the Payee set forth in the Note of, and does hereby grant to the Payee a security interest in all of Pledging Obligor's right, title and interest in and to all Collateral to secure the Obligations, in each case whether now or hereafter existing or in which Pledging Obligor now has or hereafter acquires an interest and wherever the same may be located. Pledging Obligor represents and warrants that the attached supplements to Schedules accurately and completely set forth all additional information required to be provided pursuant to the Note and hereby agrees that such supplements to Schedules shall constitute part of the Schedules to the Note.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, Pledging Obligor has caused this Pledge Supplement to be duly executed and delivered by its duly authorized officer as of [**mm/dd/yy**].

[NAME OF PLEDGING OBLIGOR]

By: _____
Name:
Title:

EXHIBIT B
TO NOTE, GUARANTY AND SECURITY AGREEMENT

ADVANCE FORM

This **ADVANCE FORM**, dated **[mm/dd/yy]**, is delivered by LORDSTOWN EV CORPORATION, a Delaware corporation (the "**Issuer**"), pursuant to the Note, Guaranty and Security Agreement, to be dated as of [•][•], 2022 (as it may be amended, restated, supplemented or otherwise modified from time to time, the "**Note**"), by and among the Issuer, LORDSTOWN EV SALES LLC, a Delaware limited liability company ("**Sales**"), and LORDSTOWN MOTORS CORP., a Delaware corporation (the "**Parent**" and together with Sales, the "**Guarantors**"; the Guarantors and the Issuer, together collectively, the "**Note Parties**"), and FOXCONN EV TECHNOLOGY, INC., an Ohio corporation, or its successors and assigns (the "**Payee**"). Capitalized terms used herein not otherwise defined herein has the meanings ascribed thereto in the Note.

The Issuer hereby gives you notice pursuant to Section 3(c) of the Note that it requests the Advance under the Note, and in connection therewith, the Issuer sets forth below the terms on which such Advance is requested to be made:

1. Amount of Advance: $_____

2. Proposed Closing Date:[•][•], 20[•].

3. Wire Instructions (to be an account of the Joint Venture Entity:

   Bank: _____

   ABA Number: _____

   Account Number: _____

   Bank Address: _____

   _____

   _____

   _____

   Reference: _____

The Issuer hereby represents and warrants that the conditions to the Advance specified in Section 4 of the Note are satisfied as of the date hereof.

[Signature Page Follows]

Executed as of the date specified on date first written above.

LORDSTOWN EV CORPORATION,
a Delaware corporation,
as Issuer

By: _____
Name:
Title: