



## **AVATAR AIRLINES SECURED CONVERTIBLE “SERIES A” PROMISSORY NOTE**

**THIS SECURED CONVERTIBLE “SERIES A” PROMISSORY NOTE (“NOTE”) HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. NO SALE OR DISPOSITION MAY BE EFFECTED EXCEPT IN COMPLIANCE WITH RULE 144 UNDER SAID ACT OR AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL FOR THE HOLDER SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE ACT OR RECEIPT OF A NO-ACTION LETTER FROM THE SECURITIES AND EXCHANGE COMMISSION. THIS NOTE CONSTITUTES A “SECURITY” UNDER SEC REGULATIONS.**

**AVATAR AIRLINES, INC. (“THE “COMPANY”) HAS ELECTED TO SELL THIS SECURITY ONLY TO “ACCREDITED INVESTORS” AS SUCH TERM IS DEFINED IN RULE 501(a) OF REGULATION D. EACH PROSPECTIVE INVESTOR WILL BE REQUIRED TO MAKE REPRESENTATIONS AS TO THE BASIS UPON WHICH PROSPECTIVE INVESTOR QUALIFIES AS AN ACCREDITED INVESTOR. PURSUANT TO RULE 506(c) INDEPENDENT VERIFICATION OF ACCREDITED STATUS WILL BE REQUIRED.**

THIS NOTE WILL BE SUBJECT TO RESTRICTIONS ON ITS TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE SECURITIES ACT AND UNDER APPLICABLE STATE SECURITIES LAWS OR PURSUANT TO A REGISTRATION OR EXEMPTION THEREFROM.

**PROSPECTIVE INVESTORS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE TERMS OF COMPANY’S PRIVATE PLACEMENT OFFERING RELATED TO THIS NOTE, THE TERMS OF WHICH ARE EXPRESSLY INCORPORATED HEREIN. YOUR CONSUMMATION OF THIS TRANSACTION CONSTITUTES YOUR ACKNOWLEDGEMENT UNDERSTANDING OF AND AGREEMENT TO SUCH TERMS.**



## SECURED CONVERTIBLE "SERIES A" PROMISSORY NOTE

Amount: \$ \_\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_\_\_

**For value received** Avatar Airlines Inc, a Nevada corporation (the "**Company**"), promises to pay to \_\_\_\_\_ or its assigns ("**Holder**") the principal sum of \$\_\_\_\_\_ together with accrued and unpaid interest thereon, each due and payable on the date and in the manner set forth below.

This Secured Convertible "Series A" Promissory Note is issued as part of Company's "Series A" class which provides certain rights and remedies, as well as collateral security to all "Series A" class members on a pro rata basis.

**1. Repayment.** All payments of interest and principal shall be in lawful money of the United States of America. All payments shall be applied first to accrued interest, and thereafter to principal. The outstanding principal amount of the Loan shall be due and payable at the latest, on \_\_\_\_\_, 20\_\_\_\_, or such earlier time as defined by this Note (the "Maturity Date").

**2. Interest Rate.** The Company promises to pay simple interest on the outstanding principal amount hereof from the date hereof until payment in full, which interest shall be payable at the rate of 8.0% per annum or the maximum rate permissible by law, whichever is less. Interest shall be due and payable on the Maturity Date and shall be calculated based on a 365-day year for the actual number of days elapsed.

**3. Conversion; Repayment Upon Maturity; Sale of the Company.**

(a) In the event that the Company issues and sells shares of its Equity Securities to investors (the "Investors") on or before the date of the repayment in full of this Note in an equity financing that either (i) is a registered offering under the Securities Act of 1933, or (ii) is qualified by the Securities and Exchange Commission pursuant to Regulation A of the Securities Act of 1933 (a "Qualified Financing"), then same shall constitute the Maturity Date and the outstanding principal balance of this Note shall automatically convert in whole without any further action by the Holder into such Equity Securities at a conversion price equal to 50% (or 2 for 1) of the per share price paid by the Investors and be otherwise on the same terms and conditions as given to the Investors. Any unpaid accrued interest on this Note shall be converted into Equity Securities on the same terms as the principal of the Notes.



The Company anticipates the possible issuance of one or more private equity stock offerings prior to any public offerings. If this should occur prior to the automatic conversion date the Note holder shall receive a 30-day notice with an option to convert the Note at the same rate as above.

(b) Holder covenants to execute any agreements as may be required of each Investors as part of the Qualified Financing, which may include, without limitation, any investors' rights agreement, voting agreement, or right of first refusal agreement of the Company.

(c) If, after aggregation, the conversion of this Note would result in the issuance of a fractional share, the Company shall, in lieu of issuance of any fractional share, pay the Holder otherwise entitled to such fraction a sum in cash equal to the product resulting from multiplying the then current fair market value of one share of the class and series of capital stock into which this Note has converted by such fraction.

(d) In the event that a Qualified Financing is not consummated prior to the Maturity Date, then Holder may elect to voluntarily convert the outstanding principal balance and any unpaid accrued interest under this Note into shares of Common Stock of the Company at a conversion price to be declared by the Company at least 30 days prior to the Maturity Date. Holder's election to convert the Notes under this Section 3(d) must be made at least five days prior to the Maturity Date and will be effective upon the Maturity Date. If no election is made by the Holder, then the outstanding principal balance and any unpaid accrued interest shall be paid in lawful money of the United States of America.

(e) Notwithstanding any provision of this Note to the contrary, if the Company consummates a Sale of the Company (as defined below) prior to the conversion or repayment in full of this Note, the Company will give the Holder at least five days prior written notice of the anticipated closing date of such Sale of the Company and such closing date shall be deemed the Maturity Date.

(f) For purposes of this Note: "Sale of the Company" shall mean (i) any consolidation or merger of the Company with or into any other corporation or other entity or person, or any other corporate reorganization, other than any such consolidation, merger or reorganization in which the stockholders of the Company immediately prior to such consolidation, merger or reorganization, continue to hold at least a majority of the voting power of the surviving entity in substantially the same proportions (or, if the surviving entity is a wholly owned subsidiary, its parent) immediately after such consolidation, merger or reorganization; (ii) any transaction or series of related transactions to which the Company is a party in which in excess of 50% of the Company's voting power is transferred; provided, however, that a Sale of the Company shall not



include any transaction or series of transactions principally for bona fide equity financing purposes in which cash is received by the Company or any successor or indebtedness of the Company is cancelled or converted or a combination thereof; or (iii) a sale, lease, exclusive license or other disposition of all or substantially all of the assets of the Company.

(g) "Equity Securities" shall mean the Company's capital stock or any securities conferring the right to purchase the Company's capital stock or securities convertible into, or exchangeable for (with or without additional consideration), the Company's capital stock, except that such defined term shall not include any security granted, issued and/or sold by the Company to any employee, director or consultant in such capacity or issued upon the conversion or exercise of any option or warrant outstanding as of the date of this Note.

4. **Maturity; Prepayment.** Unless this Note has been previously converted or satisfied in accordance with the terms of Section 3, the entire outstanding principal balance and all unpaid accrued interest shall become fully due and payable on the Maturity Date. The principal and accrued interest may not be prepaid unless approved in writing by the Investor holding the Note(s).

5. **Expenses.** In the event of any default hereunder, the Company shall pay all reasonable attorneys' fees and court costs incurred by Holder in enforcing and collecting this Note.

7. **Default.** If there shall be any Event of Default hereunder, at the option and upon the declaration of the Holder and upon written notice to the Company (which election and notice shall not be required in the case of an Event of Default under Section 7(c) or 7(d)), this Note shall accelerate, and all principal and unpaid accrued interest shall become due and payable. The occurrence of any one or more of the following shall constitute an Event of Default:

(a) The Company fails to pay timely any of the principal amount due under this Note on the date the same becomes due and payable or any accrued interest or other amounts due under this Note on the date the same becomes due and payable;

(b) The Company shall default in its performance of any covenant under the Agreement or any Note;

(c) The Company files any petition or action for relief under any bankruptcy, reorganization, insolvency or moratorium law or any other law for the relief of, or relating to, debtors, now or



hereafter in effect, or makes any assignment for the benefit of creditors or takes any corporate action in furtherance of any of the foregoing; or

(d) An involuntary petition is filed against the Company (unless such petition is dismissed or discharged within 60 days under any bankruptcy statute now or hereafter in effect, or a custodian, receiver, trustee, assignee for the benefit of creditors (or other similar official) is appointed to take possession, custody, or control of any property of the Company.

8. **Waiver.** The Company hereby waives demand, notice, presentment, protest and notice of dishonor.

9. **Governing Law.** This Note shall be governed by and construed under the laws of the State of Florida, as applied to agreements among Florida residents, made and to be performed entirely within the State of Florida, without giving effect to conflicts of laws principles.

10. **Parity with Other Notes.** The Company's repayment obligation to the Holder under this Note shall be on parity with the Company's obligation to repay all Notes issued pursuant to the Agreement. If the Company is obligated to repay the Notes and does not have sufficient funds to repay all the Notes in full, payment shall be made to the Holders of the Notes on a pro rata basis. The preceding sentence shall not, however, relieve the Company of its obligations to the Holder hereunder.

11. **SECURED Status.** Notwithstanding anything in this Note to the contrary, the obligations of the Company to the "Series A" class of holders in respect to this Note or the Notes of other class members (including, without limitation, the principal and interest on this Note) shall be SECURED in right of payment to all other debts of the Company. As a security for the full prompt complete and final payment and performance when due (whether stated as Maturity Date, as an acceleration or otherwise) of the amounts due hereunder, and in order to induce Holder to make the loan to the Company, the Company hereby grants, assigns and otherwise transfers a continuing security interest in all of its respective right, title and interest in and to all assets of the Company, whether now owned or hereafter acquired, together with all proceeds of the forgoing and all accessions to, substitutions and replacements therefore. At the time of the first closing transaction on this Series A Note, Company shall execute and file a form UCC-1 with the Secretary of State of Florida, designating all current and future Series A Class Members as the secured party, care of Company's address, Avatar Airlines, Inc. 20283 State Rd 7, Suite 400, Boca Raton, FL 33498, or such other address as Company may do business in the future. Company shall maintain a listing of all Series A Class Note Holders for which this security interest is given. In the event Company's assets are inadequate to make Series A Class Note Holders whole in the



event of a liquidation, any remaining balance owed to Class Members shall be paid on a Pro Rata basis irrespective of the date and time upon which each Series A Note is transacted. The status of Series A Class Note Holders as secured parties is deemed self-executing without need of a separate security agreement. In the event Company does not file said UCC-1 contemporaneously with the first closing transaction, any Series A Class Note Holder is authorized to file said UCC-1 on behalf of all Series A Class Note Holders, giving notice to Company, whereupon Company shall be liable for reimbursement for any recording fees and costs incurred therewith. Compliance (or non-compliance) with this paragraph shall not be deemed an event of default.

12. **Modification; Waiver.** Any term of this Note may be amended or waived with the written consent of the Company and the Requisite Holders.

13. **Assignment.** This Note may be transferred only upon its surrender to the Company for registration of transfer, duly endorsed, or accompanied by a duly executed written instrument of transfer in form satisfactory to the Company. Thereupon, this Note shall be reissued to, and registered in the name of, the transferee, or a new Note for like principal amount and interest shall be issued to, and registered in the name of, the transferee. Interest and principal shall be paid solely to the registered holder of this Note. Such payment shall constitute full discharge of the Company's obligation to pay such interest and principal.

***In Witness Whereof,*** Company has caused this Note to be duly executed by its duly authorized officer as of the date first above written.

**Avatar Airlines, Inc.**

By \_\_\_\_\_