

# **avatar airlines**

## **SECURED CONVERTIBLE “SERIES A” NOTE PURCHASE AGREEMENT**

(Offering consists of \$30,000,000 of Secured Convertible “Series A” Notes)  
(Minimum Purchase: \$10,000)



*Conceptual Avatar Airlines 66,000' Headquarters and Training Center*

6586 W. Atlantic Ave  
Suite 2023  
Boca Raton, FL 33446  
Tel. 561-769-9976



## SECURED CONVERTIBLE "SERIES A" NOTE PURCHASE AGREEMENT

This Secured Convertible "Series A" Note Purchase Agreement is offered to you by Avatar Airlines, Inc. (the "**Company**").

**This investment involves a high degree of risk.** This investment is suitable only for people who can bear the economic risk for an indefinite period and who can afford to lose their entire investment. Furthermore, investors must understand that such investment is illiquid and is expected to continue to be illiquid for an indefinite period. No public market exists for the securities, and no public market is expected to develop following this offering.

**The securities offered hereby have not been registered under the Securities Act of 1933**, as amended (the "**Act**"), or any state securities or Blue Sky laws and are being offered and sold in reliance on exemptions from the registration requirements of the Act and state securities or Blue Sky laws.

Accordingly, the securities cannot be sold or otherwise transferred except in compliance with the Act. In addition, the securities cannot be sold or otherwise transferred except in compliance with the applicable state securities or Blue-Sky laws. The securities have not been approved or disapproved by the Securities and Exchange Commission ("**SEC**"), any state securities commission or other regulatory authority, nor have any of the foregoing authorities passed upon the merits of this offering or the adequacy or accuracy of this purchase agreement or any other materials or information made available to Purchaser in connection with this offering. Any representation to the contrary is unlawful.

The securities may only be purchased by persons who are "**accredited investors**" as that term is defined in Section 501 of Regulation D promulgated under the Act. The Company is relying on the representations and warranties set forth by each Purchaser in this purchase agreement and the other information provided by Purchaser in connection with this offering to determine the applicability to this offering of exemptions from the registration requirements of the Act.

Prospective investors may not treat the contents of the Purchase Agreement, any private placement memorandum or any of the other materials provided by the Company (collectively, the "**Offering Materials**") or any prior or subsequent communications from the Company or any of its officers, employees, or agents, as investment, legal or tax advice.

In making an investment decision, investors must rely on their own examination of

the Company and the terms of their offering, including the merits and the risks involved. Each prospective investor should consult with investor's own counsel, accountant and other professional advisor as to investment, legal, tax and other related matters concerning the investor's proposed investment.

The offering materials may contain forward-looking statements and information relating to, among other things, the Company, its business plan and strategy, and its industry. These forward-looking statements are based on the beliefs of assumptions made by and information currently available to the Company's management. When used in the offering materials the words "estimate" "project" "believes" "anticipate" "intend" "expect" and similar expressions are intended to identify and constitute forward-looking statements. These statements reflect management's current views with respect to future events and are subject to risks and uncertainties that could cause the Company's actual results to differ materially from those contained in the forward-looking statements. Investors are cautioned not to place undue reliance on these forward-looking statements which speak only as of the date on which they are made. The Company does not undertake any obligation to revise or update these forward-looking statements to reflect events or circumstances after such date or to reflect the occurrence of unanticipated events.

The information contained in the offering materials may change or vary after the launch date. The Company undertakes to make available to every investor during this transaction and prior to sale of securities the opportunity to ask questions of and receive answers from the Company concerning the terms and conditions of the offering and to obtain any appropriate additional information necessary to verify the accuracy of the information contained in the offering materials.

The Company may not be offering the securities in every state. The offering materials do not constitute an offer or solicitation in any state or jurisdiction in which the securities are not being offered.

The information presented in the offering materials was prepared by the Company solely for the use of prospective investors in connection with this offering. No representations or warranties are made as to the accuracy or completeness of the information contained in any offering materials and nothing contained in the offering materials is or should be relied upon as a promise or representation as to the future performance of the Company.

The Company reserves the right in its sole discretion and for any reason whatsoever to modify amend and or withdraw all or a portion of the offering and or accept or reject in whole or in part any prospective investment in the securities or to allot to any prospective investor less than the amount of securities such investor desires to purchase. Except as otherwise indicated, the offering materials speak

as of their date. Neither the delivery nor the purchase of the securities shall under any circumstances create any implication that there has been no change in the affairs of the Company since that date.

**THIS SECURED CONVERTIBLE “SERIES A” NOTE PURCHASE AGREEMENT**

(the “**Agreement**”) is dated \_\_\_\_\_ between the Company, a Nevada Corporation, and the persons and/or entities identified hereinbelow on the signature page (the “**Purchaser**”) (jointly, the “**Parties**”) and shall be deemed effective on the last date upon which this Agreement is countersigned on the signature page and delivered to the recipient (the “**Effective Date**”).

**WHEREAS** Purchaser is willing and able to loan Company in one or more disbursements, up to an aggregate of \$30,000.000, to provide Company with additional resources to conduct its business;

**NOW, THEREFORE**, in consideration of the foregoing, and the representations, warranties, covenants and conditions set forth below, the Company and Purchaser, intending to be legally bound, hereby agree as follows:

**I. AMOUNT AND TERMS OF LOAN**

1. Subject to the terms of this Agreement, each Purchaser agrees to lend to Company at the Closing (hereinafter defined) the amount set forth hereinbelow on the signature page (the “**Loan Amount**”) against the issuance and delivery by the Company of a secured convertible “Series A” promissory note for such amount, in substantially the form attached hereto as Exhibit 1 (the “**Note**” or “**Securities**”).

**II. CLOSING AND DELIVERY**

2. **Closing.** The closing of the sale and purchase of the Note (the “**Closing**”) shall be held on the Effective Date, at The Law Offices of Michael E. Zapin, 301 W Atlantic Avenue, Suite 0-5, Delray Beach, FL 33444 or on such other date and at such other place as the Parties shall mutually agree. At Closing the Parties shall execute any required instruments to effectuate the execution of the Note

and transfer of the loan proceeds.

3. **Delivery.** Funds shall be delivered to Company pursuant to Company's wiring instructions to be provided. Purchaser acknowledges that Closing will only be scheduled once Purchaser is approved by Company and the Parties have otherwise agreed to close. Purchaser acknowledges that the closing proceeds shall be paid directly to Company's operating account for its immediate use.

### III. REPRESENTATIONS AND WARRANTIES OF COMPANY

4. **Organization, Good Standing and Qualification.** The Company is a corporation organized and existing and in good standing pursuant to the laws of the State of Nevada, and permitted to engage in any lawful business. The Company through its authorized representative hereinbelow, has the corporate power to execute and deliver this Agreement, to execute the Note contemplated by this Agreement and perform its obligations pursuant to the terms of the Note. All necessary corporate actions that are a prerequisite to Company entering into the transaction contemplated by this Agreement and by the Note, has or will be taken prior to the issuance and delivery of the Note, as well as any conversion of the Notes to equity as contemplated by the Note.
5. **Governmental Approval.** All required consents, approvals, or filings with any governmental authority on the part of Company shall be obtained in connection with the transactions contemplated by the Note.
6. **Compliance.** To the best of Company's knowledge it is not in violation of any applicable law or regulation or rule as respecting the business that it conducts, that would materially affect Company's business, assets, liabilities, financial condition or other corporate operations, including Company's ability to carry out its obligations under the Note.
7. **Offering.** Subject to the accuracy of the representations and warranties of Purchaser contained hereinbelow, Company's offer, issuance and sale of the Securities are and will be exempt from the registration requirements of the Securities Act of 1933, as Amended (the "**Act**"), as well as any registration and qualification requirements of all applicable state securities laws.
8. **Use of Proceeds.** Company shall use the proceeds of sale and issuance of the Note exclusively for any lawful business operations of Company.

#### IV. REPRESENTATIONS AND WARRANTIES OF PURCHASER

9. **Power and Authority.** Purchaser has all necessary power, consent, and authority under all applicable provisions of law to execute and deliver this Purchase Agreement, and upon Purchaser's agreement to close title on the Note, to close such title by delivery of good funds to Company's order in exchange for Company's Note.
10. **Sophistication of Purchaser.** Without obviating the representations and warranties made by Company hereinabove, Purchaser acknowledges that it has received all information it has requested from the Company, and it considers necessary or appropriate for deciding whether to acquire the Note. Purchaser represents that it has had an opportunity to ask questions and receive answers from the Company regarding the terms and conditions of the offering of the Note and to obtain any additional information necessary to verify the accuracy of the information given the Purchaser. Purchaser represents that it has such knowledge and experience and business sophistication in financial and business matters that it can evaluate the merits and risk of this investment.
11. **Economic Risk.** Purchaser acknowledges that investment in the Note involves a high degree of risk and represents that it is able without materially impairing its financial condition to hold the Note for the prescribed period therein and to potentially suffer a complete loss of its investment.
12. **Further Limitations on Disposition.** Without in any way limiting the representation set forth above Purchaser further agrees not to make any disposition of all or any portion of the Securities unless and until (a.) there is then in effect a registration statement under the Act covering such proposed disposition and such disposition is made in accordance with such registration statements; or (b.) the Purchaser shall have notified the Company of the proposed disposition and shall have furnished the Company with a detailed statement of the circumstances surrounding the proposed disposition and if reasonably requested by the Company such Purchaser shall have furnished the Company with an opinion of counsel reasonably satisfactory through the Company that such disposition will not require registration under the Act or any applicable state securities law provided that no such opinion shall be required for dispositions in compliance with rule 144 except in unusual circumstances.
13. Notwithstanding the provisions of par's 12(a.) and (b.) above, no such registration statement or opinion of counsel shall be necessary for a transfer by such Purchaser to a partner or retired partner or member or retired member of such Purchaser in accordance with partnership or limited liability Company interests or transfers by gift will or intestate succession to any spouse or lineal

descendants or ancestors if all transferees agree in writing to be subject to the terms hereof to the same extent as if they were Purchasers hereunder.

14. **Accredited Investor Status.** Purchaser represents that Purchaser is an “accredited investor” within the meaning of Rule 501 of Regulation D under the Securities Act. Purchaser represents and warrants that the information set forth in response to question (c) on the signature page concerning Purchaser is true. Purchaser represents that to the extent it has any questions with respect to its status as an accredited investor or the application of the investment limits, it has sought professional advice. Purchaser has the requisite knowledge and experience in financial and business matters to be capable of evaluating the merits and risks of an investment in the Company.
15. **Domicile.** Purchaser maintains Purchaser’s domicile and is not a transient or temporary resident at the address shown on the signature page.
16. **Foreign Investors.** If Purchaser is not a United States person ( as defined by section 7701(a)(30) of the Internal Revenue Code of 1986, as amended), Purchaser hereby represents that it has satisfied itself as to the full observance of the laws of its jurisdiction in connection with any invitation to subscribe for the Securities or any use of this Purchase Agreement including (a.) the legal requirements within its jurisdiction for the purchase of the Securities; (b.) any foreign exchange restrictions applicable to such purchase; (c.) and you can sense that any governmental or other consents that may need to be obtained, and (d.) the income tax and other tax consequences if any that may be relevant to the purchase, holding, redemption, sale, or transfer of the Securities. Purchaser’s purchase and payment for and continued beneficial ownership of the Securities will not violate any applicable securities or other laws of the Purchasers jurisdiction.

## V. FURTHER AGREEMENTS

17. **Market Stand-Off Agreement.** Each Purchaser agrees that such Purchaser shall not sell transfer make any short sale of grant any option for the purchase of or enter into any hedging or similar transaction with the same economic effect as a sale, any common stock or other securities of the Company held by such Purchaser other than those included in the registration during the 180 day period following the effective date of the Company’s first firm commitment underwritten public offering of its common stock registered under the Securities Act (or such longer period as the underwriters or the Company shall request in order to facilitate compliance with FINRA Rule 2711 or NYSE Member rule 472 or any successor or similar rule or regulation), provided that all officers and directors of the Company are bound by and have entered into similar

agreements. Each Purchaser agrees to execute and deliver such other agreements as may be reasonably requested by the Company or the underwriters that are consistent with the Purchaser's obligations hereunder or that are necessary to give further effect to this section. In addition, if requested by the Company or the representative of the underwriters of common stock (or other securities) of the Company, each Purchaser shall provide within 10 days of such request such information as may be required by the Company or such representative in connection with the completion of any public offering of the Company's securities pursuant to a registration statement filed under the Act. The obligations described in this section shall not apply to a registration relating solely to employee benefit plans on Form S-1 or Form S-8 or similar forms that may be promulgated in the future or a registration relating solely to a transaction on Form S-4 or similar forms that may be promulgated in the future.

18. **Further Assurances.** Each Purchaser agrees that at any time requested, it will promptly execute and deliver to the Company such further instruments and documents and take such further action as the Company may reasonably require in order to carry out the full intent and purpose of this Purchase Agreement and to comply with state or federal securities laws or other regulatory approvals.

## **VI. INDEMNITY AND GOVERNING LAW**

19. **Indemnity.** The representations made by the Purchaser shall survive the closing of this agreement and the Note contemplated hereby. The Purchaser agrees to indemnify and hold harmless the Company and its respective officers directors and affiliates and each other person if any who controls the Company within the meaning of section 15 of the Securities Act against any and all loss, liability, claim, damages, and expense including but not limited to any and all reasonable attorney's fees and costs including attorney's fees on appeal and expenses reasonably incurred in investigating, preparing, or defending against any false representation or warranty or breach of failure by the Purchaser to comply with any covenant or agreement made by the Purchaser or in any other document furnished by the Purchaser to any of the foregoing in connection with this transaction.
20. **Governing Law.** Notwithstanding Company's formation in the State of Nevada, the Parties agree this Agreement shall be governed and construed in accordance with the laws of the State of Florida. Purchaser and Company consent to the exclusive jurisdiction of any state or federal court of competent jurisdiction located within the state of Florida and no other place. The parties



each waive: (a.) any defense of *forum non conveniens*; (b.) any right to trial by jury in any action, proceeding or counterclaim arising out of or relating to this Agreement or actions of either Party; (c.) waive any bond or surety or security upon such bond which might but for this waiver be required of such party.

## VII. GENERAL PROVISIONS

21. **Binding Agreement.** The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties. Nothing in this Agreement, express or implied, is intended to confer upon any third party any rights, remedies, obligations, or liabilities except as specifically provided herein.
22. **Counterparts.** This Agreement may be executed in two or more counterparts, each when taken together shall constitute one and the same instrument. A fully executed but legible copy hereof shall be deemed an original for all intents and purposes.
23. **Titles.** Titles and subtitles are used in this Agreement for convenience only and are not to be considered in construing or interpreting this Agreement.
24. **Notices.** All required or permitted notices herein shall be in writing and shall be deemed effectively given: (a.) upon personal delivery to the party to be notified; (b.) when sent by confirmed electronic mail (confirmed by recipient's office); (c.) when sent by standard overnight delivery courier (including the U.S. Postal Service) with written verification of delivery by such service. All such communications shall utilize the addresses for the Parties as indicated on the signature page of this Agreement, or at such other address(es) that the Parties may designate to the recipient in writing.
25. **Modifications; Waivers.** No modification or waiver of any provision of this Agreement shall be deemed effective unless contained in a signed writing by the Party sought to be bound. No delay or omission to exercise any right, power or remedy accruing shall impair any such right power or remedy and shall not under any circumstances be construed as a waiver or any breach or default, or acquiescence therein.
26. **Expenses.** The Parties agree to each bear its own respective expenses and legal fees incurred with respect to this Agreement and the transactions contemplated by it.

**27. Entire Agreement.** This Agreement, the Exhibits hereto, and Company's Private Placement Memorandum incorporated herein by reference, which Purchaser acknowledges to have received, read and understood, constitute the full and entire understanding and agreement between the Parties with regard to the subjects hereof and no party shall be liable or bound to any other party in any manner by any representations warranties covenants and agreements except as specifically set forth therein.

**To the Company:** AVATAR AIRLINES INC.

**To the Note Holder:** As their names and address appear on the Signature Page hereto or to any other address which may hereafter be designated by either party by notice given in such manner. All notices shall be deemed to have been given as of the date of receipt.

(k) Notwithstanding that this Agreement may be performable outside of the United States, this Agreement shall be governed by the laws of the United States and the State of Nevada.

(l) Nothing in this Agreement, expressed or implied, as intended to confer upon any person, other than the parties hereto, or their successors, any rights or remedies under or by reason of this Agreement, unless this Agreement specifically states such intent.

(m) The section and subsection headings in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

(n) A reproduction of this Agreement may be executed by one or more parties hereto and such executed copy may be delivered by electronic transmission device pursuant to which the signature of or on behalf of such party can be seen, and such execution and delivery shall be considered valid, binding and effective for all purposes. At the request of any party hereto, all parties agree to execute an original of this Agreement as well as any reproduction hereof.

**[ALL PROSPECTIVE NOTE HOLDERS MUST COMPLETE AND SIGN BELOW]**

**IN WITNESS WHEREOF**, the undersigned has executed this Agreement as of the date below written.

**(Indicate Total Note Amount Being Purchased)**

**TOTAL AMOUNT DUE:**



**All checks payable to “Law Offices of Michael E. Zapin As Attorney” for Avatar Airlines, Inc.** 301 W Atlantic Avenue, Suite 0-5, Delray Beach, FL 33444

**If by wire transfer, pursuant to the following instructions:**

Escrow Agent: LAW OFFICES OF MICHAEL E. ZAPIN

Escrow Agent Address: 301 W Atlantic Avenue, Suite 0-5, Delray Beach, FL 33444

Bank Name: CITIBANK

Account Name: Law Offices of Michael E. Zapin Attorney Trust Account

Account No.: 9139269861

ACH/Wire Routing No.: 266086554

International Swift Code: CITIUS33

Subject to acceptance by the Company, the undersigned, as Note Holder, has completed this Agreement to evidence his, her agreement to purchase Series A Secured Convertible Notes as set forth above:

**Type of Ownership (check one)**

Joint tenants with rights of survivorship

Individual

Tenants in Common

Tenancy by the Entirety (only available to a married couple in certain jurisdictions)

Trustees Other Representatives:

**SUBJECT TO ALL ABOVE TERMS AND CONDITIONS, ACCEPTANCE OF THIS NOTE PURCHASE AGREEMENT IS MADE BY THE FOLLOWING PARTIES:**

(If executing as an Individual sign below for “Note Holder 1.” All others include signatures on the additional signature slots. Trustee or other Representatives sign at slot indicated for Representatives)

**Today’s Date**

**Note Holder 1 Signature**

Print Name (as Notes are to be held)



Street Address

Email address

**Today's Date**

**Note Holder 2 Signature** (if applicable)

Print Name (as Notes are to be held)

Street Address

Email address

**Today's Date**

**Note Holder 3 Signature** (if applicable)

Print Name (as Notes are to be held)

Street Address

Email Address

**Today's Date**

**Note Holder 4 Signature** (if applicable)

Print Name (as Notes are to be held)

Street Address

Email Address

**If executing in a REPRESENTATIVE Capacity:**

**1<sup>st</sup> Rep Signature for Note** (if applicable)



Print Name

SSN or Tax ID Number

Full Name of Trust or Other Entity

**2<sup>nd</sup> Rep Signature for Note (if applicable)**

Print Name

SSN or Tax ID Number

Full Name of Trust or Other Entity

**3<sup>rd</sup> Rep Signature for Note (if applicable)**

Print Name

SSN or Tax ID Number

Full Name of Trust or Other Entity

**[Note Holders do *not* write below this line]**

**COMPANY ACCEPTANCE**

The foregoing Agreement is **accepted** on behalf of **AVATAR AIRLINES, INC.**

Date

**AVATAR AIRLINES, INC. AUTHORIZED SIGNATORY:**