



TRINIDAD AND TOBAGO

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

THIS AGREEMENT is entered into as of this _____ day of January, 2024 (*the "Effective Date"*)

Between

CARIBBEAN AIRLINES LIMITED ("CAL") a company duly incorporated under the Companies Act Chap. 81:01 of the laws of Trinidad and Tobago with its registered office situate at Iere House, Golden Grove Road, Piarco in the island of Trinidad

And **[insert name]**, a xxxxx duly organized under the laws of xxxxx, with an office situate xxxxxx.

(collectively called 'the Parties').

WHEREAS

- A. The Parties are desirous of evaluating a potential business transaction for the [insert purpose] (*'the Transaction'*).
- B. During the discussions of the Transaction, the Parties (*each a "Receiving Party" and "Disclosing Party" where applicable*) may provide, make available or otherwise disclose certain of its confidential and proprietary information to the other.

THEREFORE, in consideration of the foregoing premises and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, intending to be legally bound hereby, the parties hereto agree as follows:

1. Definition of Confidential Information.

1.1 For the purpose of this Agreement, "**Confidential Information**" means any data or information that is proprietary to the Disclosing Party and not generally known to the public, whether in tangible or intangible form, however disclosed, that is furnished by the Disclosing Party to the Receiving Party on or after the Effective Date in connection with the Transaction and may include the above-described information constituting –

- 1.1.1 any materials relating to any agreements or contracts between the Disclosing Party and a third party;



- 1.1.2 any patent applications, writings, documents, specifications, drawings, sketches, diagrams, designs, charts, models, marketing studies, any computer software owned or developed by the Disclosing Party (including source code, object code, manuals and other materials related thereto), and other knowledge and processes of or developed by the Disclosing Party;
 - 1.1.3 advertising and sales materials, data processing reports, customer sales analyses, invoices, price lists and information, samples, process descriptions, manufacturing processes, business methods, business policies, procedures, techniques, research and development projects and results, projections, financial information;
 - 1.1.4 information relating to customers, suppliers, distributors, projects under consideration or bid, profits, costs, pricing or tooling, any names and addresses of customers or clients and any data on or relating to past, present and prospective customers or clients, and
 - 1.1.5 any and all other materials and information relating to or dealing with the business operations or activities of the Disclosing Party which the Disclosing Party holds confidential.
- 1.2 All Confidential Information remains the sole and exclusive property of the Disclosing Party.
- 1.3 Notwithstanding the foregoing, Confidential Information will not include information which:
- 1.3.1 was or is known or available to such Receiving Party or any of its Representatives (as defined below) on or prior to the date of disclosure to such Receiving Party; or
 - 1.3.2 is or becomes a part of the public domain or otherwise is or becomes available to the public through no breach of this Agreement by such Receiving Party; or
 - 1.3.3 is rightfully obtained by such Receiving Party or any of its Representatives from a party other than by or on behalf of the Disclosing Party without, to the knowledge of the Receiving Party or the applicable Representative (as the case may be), breach of any confidentiality obligations to the Disclosing Party with respect to such information; or
 - 1.3.4 was or is independently developed by such Receiving Party or any of its Representatives without reliance on the Disclosing Party's information; or
 - 1.3.5 is requested or required to be used or disclosed by the Receiving Party or its Representatives, by applicable law, rule, regulation or by any legal, judicial, governmental, regulatory, or self-regulatory authority, process, or proceeding (collectively, "*Law*") as determine upon advice of counsel to the Receiving Party or the applicable Representative (as the case may be).

2 **Disclosure and Use of Confidential Information.**

During the term of this Agreement, the Receiving Party will-

- 2.1 limit disclosure of the Confidential Information to those of its affiliates and its and their respective employees, officers, directors, advisors, attorneys, accountants, investment bankers, investors, financing sources and other agents and representatives or affiliates of such persons (all of the foregoing who receive or who have access to such Confidential Information *collectively called 'Representatives'*) who need to know the Confidential Information in connection with the Transaction and only for that purpose;
- 2.2 advise its Representatives of the proprietary nature of the Confidential Information and the terms of this Agreement applicable to its Representatives;
- 2.3 use the same degree of care to avoid publication or dissemination of any such Confidential Information as such Receiving Party employs with respect to its own confidential information of a similar nature.
- 2.4 limit disclosure of the Confidential Information if it is requested or required to be used or disclosed by applicable Law, as determined upon the advice of counsel.
- 2.5 use the Confidential Information solely in connection with the evaluation of the Transaction and, except as permitted under this Agreement not, without the prior written consent of the Disclosing Party, use any such Confidential Information for any other purpose.

3 Return or Destruction of Confidential Information.

- 3.1 All physical representations of Confidential Information provided hereunder shall be returned to the Disclosing Party promptly or, at the Receiving Party's option, destroyed, together with all copies thereof at such time as the Disclosing Party may so request in writing, provided, however, that the Receiving Party and its Representatives may retain copies of such Confidential Information, subject to the use and nondisclosure restrictions of this Agreement for the term hereof, (i) solely as required by applicable Law or internal compliance procedures, or (ii) contained in computer records or files created pursuant to automatic electronic archiving or back-up procedures.
- 3.2 Upon the Disclosing Party's written request, the Receiving Party shall provide confirmation (email sufficient) that all such Confidential Information, whether in original or copied form, has been returned to the Disclosing Party or destroyed as provided above.

4 Term.

This Agreement will continue and remain in full force and effect until its expiration **one (1) year from the Effective Date.**

5 No Binding Agreement for Any Transaction.

Nothing contained in this Agreement will be construed as obligating any party hereto to transact any business with the other party hereto as a result of the execution of this Agreement, the disclosure of Confidential Information hereunder or otherwise, nor will anything contained herein be construed as granting or conferring any rights on any Receiving Party, whether by license or otherwise, whether expressly, impliedly or



otherwise, in or to any Confidential Information, or any patents, copyrights, trademarks or other intellectual properties of the Disclosing Party, or any portion thereof.

6 Remedies

Each party acknowledges that the covenants contained in this Agreement, in view of the nature of the business in which the parties are engaged, are reasonable and necessary in order to protect their respective legitimate business interests, and that any violation or breach thereof may result in irreparable injury to the other party. Each party agrees that, if it violates any of such covenants, then the other party will be entitled to seek to obtain from any court of competent jurisdiction temporary, preliminary and permanent injunctive relief, which right will be cumulative and in addition to any other rights or remedies to which the such party may otherwise be entitled at law or in equity.

7 Warranties

7.1 The Disclosing party shall endeavor to include in the Confidential Information all information that it believes relevant for the purpose of the evaluation of the Transaction, however no representation or warranty is made as to the accuracy or completeness of the Confidential Information or at all.

7.2 The Disclosing Party is not under any obligation to disclose any information it chooses not to disclose.

8 Miscellaneous.

8.1 This Agreement constitutes the full and entire agreement between the parties, supersedes all prior agreements, understandings, inducements or conditions, express or implied, oral or written, and may not be waived, modified or terminated except by the written agreement of each of the parties hereto.

8.2 This Agreement will be governed by and construed in accordance with the laws of **New York State, United States of America**, except that the conflict of laws provisions under New York State law will not be applied for the purpose of making other law applicable. Each party consents and submits to the exclusive jurisdiction of the federal courts of the State of New York for the adjudication of any action or legal proceeding relating to or arising out of this Agreement, and each party agrees not to commence any action or legal proceeding relating thereto except in any such court. Each party hereby irrevocably and unconditionally waives any objection to the laying of venue in such courts and agrees not to plead or claim that any such action or legal proceeding brought in the federal courts of the State of New York has been brought in an inconvenient forum. The Parties hereby waive any right to a trial by jury of any dispute arising out of this Agreement.



8.3 Any Notices or communications required or permitted to be given hereunder may be delivered by hand or registered post to the address of the other party indicated above or by fax or email to the addresses below:

Caribbean Airlines Limited

Name:
Title:
Fax:
Email:

[insert name]

Name:
Title:
Fax:
Email:

8.4 Neither Party may directly or indirectly assign or transfer this Agreement by operation of law or otherwise without the prior written consent of the other party which consent shall not be unreasonably withheld.

8.5 This Agreement will be binding upon and inure to the benefit of the parties hereto, and their respective representatives, successors and permitted assigns.

8.6 Notwithstanding anything herein to the contrary, CAL acknowledges that Castllake is a private equity firm and a sponsor of private equity funds whose portfolio companies and limited partners now and in the future may engage in business activities competitive with and similar to the proposed Transaction and CAL. CAL further acknowledges that Castllake's review of Confidential Information will inevitably enhance its knowledge and understanding of the industry and business related to CAL and the Transaction in a way that cannot be separated from Castllake's other knowledge and such enhanced knowledge and understanding will not, in and of itself to the extent Castllake does not knowingly and intentionally make use of such Confidential Information, be deemed to be "use" of Confidential Information constituting a breach hereunder.

8.7 Any number of counterparts of this Agreement may be executed and delivered (including electronically) by the Parties, each of which will be, and will be deemed to be, an original instrument, but all taken together will constitute one and the same agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

CARIBBEAN AIRLINES LIMITED



By: _____
Name:
Title:

By: _____
Name:
Title: