

## **COMMUNITY BENEFITS AGREEMENT**

This Community Benefits Agreement (“Agreement”) is entered into on May 24, 2022, by and between New Flyer of America Inc. (“New Flyer”), on the one hand, and Greater Birmingham Ministries (“GBM”) and Jobs to Move America (“JMA”), on the other. JMA and GBM are referred collectively in this Agreement as the “Coalition Partners.” New Flyer and the Coalition Partners are referred to as the “Parties.”

### **PARTIES**

New Flyer is a bus manufacturer in North America and is a leader in the development of electric buses. JMA is a 501(c)(3) nonprofit organization based in California and Alabama, dedicated to advancing a fair and prosperous economy with good jobs and healthier communities for all. GBM is a 501(c)(3) non-profit GBM is a multi-faith, multi-racial organization that provides emergency services for people in need and engages the poor and the non-poor in systemic change efforts to build a strong, supportive, engaged community and pursue a more just society for all people.

### **SCOPE**

This Agreement applies to the New Flyer manufacturing facilities in Ontario, California, and Anniston, Alabama.

### **PURPOSE and RECITALS**

The purpose of this Agreement is to: (1) settle the Parties’ existing disputes and litigation; (2) support the creation of a robust jobs program through investments in pre-apprenticeship and training programs that create a jobs pipeline for low-income workers and historically-disadvantaged people to quality manufacturing jobs with career advancement opportunities in the fabrication and assembly of transit vehicles and their component parts; and (3) advance the manufacture and use of vehicles made by New Flyer, and in particular the electric buses made in New Flyer’s plants in Ontario, California and Anniston, Alabama.

WHEREAS, on November 27, 2018, JMA filed a *qui tam* action against New Flyer for alleged violations of the California False Claims Act related to New Flyer’s U.S. Employment Plan commitments in a bus manufacturing contract with the Los Angeles County Metropolitan Transportation Authority (“LA Metro”), which action is styled *State of Cal. et al. v. New Flyer of Am., Inc.*, No. 18STCV06276 (LA Super. Ct.) (“False Claims Litigation”); and

WHEREAS, JMA, the Coalition Partners, and other members of the Alabama Coalition for Community Benefits have made oral and written statements to public officials and current and prospective customers critical of New Flyer’s employment and business practices, which New Flyer believes to have substantially interfered with its customer relations; and

WHEREAS, JMA has filed charges with the U.S. Equal Employment Opportunity Commission (“EEOC”), including Charge No. 420-2022-00847, and the Department of Labor

Office of Federal Contract Compliance (“OFCCP”) Reference No. I00302234, collectively: “Charges”);

WHEREAS, New Flyer has denied and continues to deny the allegations and claims in all such critical statements, and it has denied and continues to deny all claims and allegations made in the Charges and the False Claims Litigation and it denies that it has engaged in any wrongful, discriminatory, unfair, or illegal employment or business practices; and

WHEREAS, the Parties have each and separately concluded that it would be in their best interest to resolve their differences fully and finally by entering into the mutual obligations of this Agreement and intend for this Agreement to be a material term of a Stipulation of Settlement of the False Claims Litigation; and

WHEREAS, this Agreement is not intended to replace, interfere with, abrogate, diminish, or modify existing or future local or national collective bargaining agreements or other labor-management agreements in effect between New Flyer and any union; and

WHEREAS, this Agreement reflects the Parties’ commitment to diversity in workforce hiring and promotion that is reflective of the communities in which New Flyer’s production facilities are located;

**NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL OBLIGATIONS CONTAINED IN THIS AGREEMENT, THE PARTIES HEREBY AGREE AS FOLLOWS:**

**ARTICLE I**  
**DEFINITIONS**

- 1.1 “Plants” mean New Flyer’s facilities in Anniston, Alabama and Ontario, California.
- 1.2 “Coalition” means the Alabama Coalition for Community Benefits, an unincorporated association of organizations based in Alabama. As of the date of this Agreement, The Coalition is comprised of the following members: A Better Balance, Alabama NAACP, Adelante Alabama Worker Center, Alabama Arise, Alabama Forward, Alabama Rivers Alliance, AFL-CIO, Communications Workers of America (CWA), Jobs to Move America, Greater-Birmingham Alliance to Stop Pollution, Greater Birmingham Ministries, Hometown Action, International Brotherhood of Electrical Workers (IBEW), United Auto Workers (UAW), United Steelworkers (USW).
- 1.3 “Good faith efforts” means reasonable actions by New Flyer to achieve the hiring and promotional goals contained in Article II, Section 2.3. New Flyer shall have the burden of proving its actions are good faith efforts under this definition in any proceeding to enforce this Agreement.
- 1.4 “Historically Disadvantaged People” or “Historically Disadvantaged Group” means Black, Indigenous, and/or People of Color; women; LGBTQ+ persons; Systems-Impacted People, as defined herein; persons emancipated from the foster-care system; residents of Anniston,

Alabama lacking GED or high school diploma; and veterans.

- 1.5 “Labor-Management Agreement” means an agreement enforceable under Section 301 of the Labor Management Relations Act (“LMRA”), 29 U.S.C. §185, and includes a collective bargaining agreement.
- 1.6 “Systems-Impacted People” means persons who have been arrested or convicted of a crime; incarcerated in a juvenile-detention center, jail, prison, or other carceral institution; and/or been placed on probation or parole and who have a desire for rehabilitation and a chance to obtain sustained gainful employment.
- 1.7 “Promotions” means placement of a non-exempt employee in a higher pay grade, promotion to a “lead” position, or promotion from a non-exempt to an exempt position.

**ARTICLE II**  
**JOBS, WORKFORCE DEVELOPMENT, AND CAREER PATHWAYS**

- 2.1 New Flyer will work with the Coalition Partners on developing and implementing a program to affirmatively build outreach, recruitment, and placement of Historically Disadvantaged People into jobs at the Plants. The program shall have the following components:
  - 2.1.1 Focus on augmentation of existing programs for workforce development, diversity and inclusion enhancement, and delivery of community benefits from the employment programs developed hereunder, specifically serving Historically Disadvantaged People.
  - 2.1.2 Commitment to recruit, hire, train and promote into all job levels the most qualified persons without regard to race, color, religion, gender or gender identification, sexual orientation, national origin, age, marital status, genetic information, disability, veteran, or other Historically Disadvantaged People status.
  - 2.1.3 Commitment to work collaboratively with community groups to be agreed upon by the Parties on projects and program development, directly supporting skill and career development for groups underrepresented in the workplace, including Historically Disadvantaged People.
- 2.2 New Flyer will not ask about applicants’ criminal history, including arrests and convictions, before a conditional offer of employment is made to the applicant, except where otherwise required by law. In this respect, New Flyer shall (1) treat applicants to the Anniston Plant as it does applicants in Minnesota pursuant to Minn. Stat. §364.021; and (2) treat applicants to its Ontario Plant in accordance with Cal. Gov’t Code §12952.
- 2.3 New Flyer commits to hire (including offers) at least 45% of new hires and to award at least 20% of promotions at each Plant from Historically Disadvantaged Groups (the “Hiring and Promotion Goals”). These efforts and the achievement of goals shall be measured annually. The Parties recognize and agree that the achievement of the Hiring and

Promotion Goals may depend upon the creation and implementation and results of the programs described in this Article 2, which are intended to increase the pool of qualified candidates from Historically Disadvantaged Groups. Any failure by New Flyer to meet the annual commitments contained in this Section 2.3 may be excused if New Flyer documents that it made Good Faith Efforts as defined in Article I, Section 1.3 of this Agreement to achieve the commitments and, notwithstanding its Good Faith Efforts, was unable to attract or locate a sufficient number of qualified candidates.

To implement this Section 2.3, the Parties agree on the following procedures:

- 2.3.1 New Flyer will track its efforts to meet the Hiring and Promotion Goals and will disclose tracking data to the Coalition Partners on a quarterly basis. The Parties will work collaboratively on a tool to track attainment of the Hiring and Promotion Goals, which will be agreed upon and implemented by no later than September 1, 2022.
- 2.3.2 Such tracking data shall be on a quarterly basis, as described in Section 2.2.3, below, and shall include, at a minimum: (1) the number of candidates for hiring and promotion by Historically Disadvantaged Group; (2) breakdown of candidate referrals by the Coalition Partners, New Flyer Human Resources, and other third-parties, including the Transportation Diversity Council; (3) tracking of candidate interviews for hiring or promotion; and (4) tracking of pre-apprenticeship and other training afforded to candidates and training source, and (5) vacancies in positions in the Plants and (6) offers made/accepted/declined.
- 2.3.3 The Parties agree to hold a single quarterly meeting (encompassing both Plants) to evaluate compliance with hiring goals and other commitments outlined in this Agreement (the “Quarterly Meetings”). At the Quarterly Meetings, New Flyer shall provide an updated accounting of hiring percentages and all Parties shall provide a description of their respective efforts to meet these goals, which shall include, for New Flyer, a written description of its Good Faith Efforts to achieve the commitments set forth in Section 2.3.
- 2.3.4 The reports required of New Flyer in this Agreement shall be made in writing (electronically) to the Coalition Partners within the first month of a calendar quarter for the preceding quarter. The Quarterly Meeting shall be held on one day in the second month of the quarter for the preceding quarter at a date and time agreed upon by the Parties unless the Parties agree to a different schedule or date.
- 2.4 New Flyer will put in place Spanish bilingual capacity in its outreach, recruitment, human resources, training materials, and key workplace communications in support of the Plants Training plans will provide English as a Second Language (“ESL”) learning opportunities, allowing ESL learners to develop and have equal opportunities for career advancement.
- 2.5 In the first Quarterly Meeting, the Parties shall exchange information on and discuss the Employer’s existing pre-apprenticeship and technical training programs in place at the Plants and such other components as may be agreed upon by the Parties.

- 2.6 New Flyer will develop with the Coalition Partners a customized, Pre-Apprenticeship Program, which may include elements of New Flyer's existing pre-apprenticeship program, that will help ensure the success of all workers at the Plants, particularly Historically Disadvantaged Groups. The program shall specifically be geared toward the preparation of workers for employment at New Flyer. The training will include life skills, language and mathematical literacy, and techniques for working as part of an interdependent team. The Parties will develop criteria to assess participants' progress during the program, including but not limited to accomplishments, leadership, and/or comparative assessment. The Coalition Partners will endeavor to locate suitable facilities to serve as sites for this program, including facilities on-site at the Plants, will work with New Flyer to identify additional sources of funding and in-kind donations for this program, and will recommend to New Flyer instructors capable of effectively delivering the training. The program will include post-completion mentoring of trainees whom New Flyer hires to give them the support needed to adjust to, and succeed, in an industrial work environment.
- 2.7 New Flyer will also develop and administer, in cooperation with the Coalition Partners, a technical training program at the Plants, which may include elements of New Flyer's existing technical training programs in place at the Plants. This technical training will consist of classroom and hands-on training in basic tools skills, precision metal work, electrical wiring, assembly of complex mechanical and electrical systems and basic concepts of mechanical and electrical engineering. The training program will focus on ensuring that employees have the skills and flexibility to meet quality and performance standards, and on the development of a successful and motivated workforce that earns fair wages and benefits. The program will include pre-employment and on-the-job training so that prospective employees will have the skills needed to begin employment successfully and then further enhance those skills through practical application. For this program, New Flyer will give preference to people who have completed the Pre-Apprenticeship Program for induction into the technical training program. The goal is to register the technical training program at the Plants as an apprenticeship training plan with the Department of Labor under the National Apprenticeship (Fitzgerald) Act and with the California Department of Industrial Relations for the Ontario Plant. The Coalition Partners will work with New Flyer to locate suitable facilities in reasonable proximity to the Plants to serve as sites for classroom training in this program if onsite facilities are not available.
- 2.8 New Flyer shall identify its internal training personnel who will be working in collaboration with the Coalition on the training programs described in Sections 4.5 and 4.6. New Flyer's internal training personnel shall meet to discuss the development and implementation of the training programs described in Section 2.4 and 2.5 in the Quarterly Meetings as the Parties deem necessary.
- 2.9 The Parties recognize and agree that diverse management fosters a diverse workforce demonstrates that New Flyer provides genuine opportunities for advancement. New Flyer and the Coalition Partners agree to increase the number of Historically Disadvantaged People from the surrounding communities who are highly qualified for supervisory and lead jobs in the Plants. New Flyer and the Coalition will discuss the development of programs to achieve this goal in the Quarterly Meetings. These programs include, without

limitation, efforts by New Flyer and the Coalition to advocate before the Alabama State Department of Education Career and Technical Education Division for the addition of Electric Vehicle Manufacturing Technology to the Transportation, Distribution and Logistics career cluster. Upon New Flyer's request, JMA will also advocate with the State of California for New Flyer to obtain High Road Training Partnership funding to support this work at the Ontario Plant. New Flyer will support the formation of agreements between high schools, community colleges, and universities to create a clear pathway from high school to earning a degree to employment at the Plants in management positions.

- 2.10 New Flyer will work with the Coalition Partners to identify barriers to employees' site access at the Plants, given gaps in public transportation, and will discuss the use of shuttles, ride-sharing programs, or other services to overcome such gaps in public transportation. New Flyer will further reduce employees' dependence on private vehicles for transportation by allowing at least one food truck daily on the premises of the Ontario Plant to serve employees on their lunch breaks, subject to the consent of the landlord of the Ontario facility and subject to local laws. The Parties acknowledge that the Anniston Facility already has a cafeteria that serves food.
- 2.11 The Parties seek to facilitate the entry of veterans into the manufacturing workforce. They agree to work with the Center for Military Recruitment, Assessment and Veterans Employment (hereinafter "Center") to develop a means for utilizing the Center's "Helmets to Hardhats" program as a resource for preliminary orientation, assessment of mechanical aptitude, referral to training programs, counseling and mentoring, support network, employment opportunities, and other needs as identified by the Parties. The Parties agree to coordinate with the Center to create and maintain an integrated database of veterans interested in working for New Flyer. To the extent permitted by law, New Flyer will give credit to such veteran applicants for bona fide, provable experience when considering whether they meet minimum necessary requirements or job experience for the position.

### **ARTICLE III** **FINANCIAL LITERACY**

New Flyer will allow non-management employees to attend a semi-annual debt clinic hosted by a Coalition Partner on-site at the Anniston Plant. New Flyer will allow the Coalition Partner representative site access to conduct the debt clinic. New Flyer will post signage in locations where employment notices are typically posted in each Plant to advise employees of the debt clinic. The first debt clinic will take place within 60 days of the execution of this Agreement. The Coalition Partner will share training materials for such a debt clinic with New Flyer at least 7 days in advance.

### **ARTICLE IV** **DIVERSITY AND ANTI-DISCRIMINATION**

- 4.1 New Flyer commits to complying with all federal, state, and local anti-discrimination and anti-harassment laws, as well as the anti-discrimination and anti-harassment policies contained in its internal policies and its policies and procedures for addressing

discrimination and harassment in the workplace, including those contained in this Agreement, provided that the commitments contained in this Section 4.1 shall not be independently enforceable through the dispute-resolution procedures contained in this Agreement.

4.2 New Flyer will recognize the following major Heritage Months at the Plants

Black History Month  
National Hispanic/Latinx Heritage Month  
Women's History Month  
Native American History Month  
Asian American and Pacific Islander Heritage Month.

During these Heritage Months, New Flyer will post signage in conspicuous public places at the Plants, celebrating the Heritage Month.

4.3 Within 30 days following execution of this Agreement, New Flyer shall share with the Coalition Partners all human resources policies that address harassment and discrimination at the Plants.

4.4 New Flyer shall make available to the Coalition Partners, in each Plant, a bulletin board measuring at least 30 inches by 30 inches, or the equivalent, for the exclusive use of the Coalition Partners in providing information relevant to this Agreement to employees, including but not limited to debt clinics, trainings, Heritage Months, and the Complaint Process. Such bulletin boards shall be located in central areas in each Plant and shall be accessible to employees. The Coalition Partners shall designate no more than five employees at each Plant who shall be permitted to post materials on the bulletin board on behalf of the Coalition Partners. Such materials shall comply with Section 15.3 of this Agreement; shall not contain anything profane, obscene, or defamatory; and shall not include commercial solicitations. The employees shall provide a copy of the posting to New Flyer at the time it is posted.

**ARTICLE V**  
**ENVIRONMENTAL SAFETY AND HEALTH—ANNISTON**

5.1 New Flyer shall maintain its current Joint Management and Employee Safety and Health Committee ("Committee") in the Anniston Plant. That Committee shall have 11 Employee members and 11 Management Members. Within 30 days following the full execution of this Agreement, New Flyer will provide the Coalition Partners a list of the Committee members, the date they become members of the Committee, and all rules, bylaws, and procedures of the Committee. The Coalition Partners shall be entitled to select 3 employee members of the Committee after the passage of 6 months from the execution of this Agreement, and an additional 3 employee members of the Committee as those current Employee members rotate off service on the following anniversary date of their service on the Committee (or sooner, upon the resignation of any member from the Committee), and the selections may include current employees serving on the Committee. This Committee shall meet monthly for one paid hour to discuss environmental health and safety issues and

potential improvements. The Employee members of the Committee shall continue to have access to all OSHA required hazard/materials information provided by New Flyer for that Plant.

- 5.2 New Flyer will continue the voluntary collection of race data in injury logging.
- 5.3 New Flyer will allow employees to attend safety training sessions conducted by a non-profit organization mutually agreed upon by the Parties for one hour twice per calendar year on site at each Plant. The agreed-upon non-profit organization and a representative of the Coalition Partners will have access to the Plants during the sessions for the purposes of providing the training. New Flyer will not be responsible for providing financial support to the non-profit organization for such training. Provided however, that the training provided for in this sub-section shall not conflict with New Flyer provided or required safety training.

**ARTICLE VI**  
**DISCRIMINATION AND HARASSMENT COMPLAINT SYSTEM**

- 6.1 This Complaint System is intended to supplement New Flyer's existing employee complaint and hotline system to further allow and encourage employees to file complaints regarding alleged sexual and other illegal discrimination and illegal harassment and alleged racism at the Plants in a manner that protects against retaliation and that permits employees to seek assistance in filing those complaints with New Flyer from one or more Designated Community Organizations ("DCOs").
- 6.2 Within 90 days following the Court approval of settlement of the False Claims Litigation, the Coalition Partners, with input from New Flyer but at the Coalition Partners' expense, will design and publish separate requests for proposals ("RFPs") for the position of DCO for each Plant. The RFPs shall include objective criteria for selection of the DCOs, including experience in related endeavors and capacity to fulfill the roles of DCO. The Coalition Partners and New Flyer shall select a DCO for each Plant from qualified respondents to the RFPs. If either DCO becomes unable to serve in that capacity, the Coalition Partners and New Flyer's Vice President for Human Resources, or their designee, shall meet within 30 days to select a replacement DCO for the relevant Plant. Within 30 days after the selection of the DCO for the relevant Plant, the Parties shall jointly develop and New Flyer shall post materials describing the DCO's contact information and services at each Plant in locations where employment notices are normally posted.

New Flyer shall not pay or compensate the DCO, nor shall it have any obligation to provide office space for the DCO. The DCO shall not be an agent of New Flyer. The DCO shall be required to abide by the non-disparagement provisions contained in Section 15.3 of this Agreement that apply to the Coalition Partners.

- 6.3 Employees may use a telephone hotline or e-hotline to report discrimination and harassment claims, which hotlines may include New Flyer's existing Ethics Point and Xpress Line hotline systems. Hotline notices at the Plants will inform employees reporting



discrimination or harassment claims of their right to representation by the relevant DCO and, with the employee's consent, shall notify the DCO of the claim and the employee's contact information. The DCO may assist workers in filing complaints through New Flyer's human resources system and advocate on the employee's behalf throughout the New Flyer internal complaint process. Representatives of the DCO shall be allowed access to the relevant Plant for any in-person meetings with New Flyer (including New Flyer human resources representatives) mandated or agreed to by New Flyer concerning the complaint. Representatives of the DCO shall also be allowed reasonable access to meeting areas in the relevant Plant for any in-person meeting solely with the employee (on non-working time). Complaints filed pursuant to the Complaint System set forth in this Article shall be confidential and shall only be submitted to New Flyer and not shared with outside parties without the employee's consent, unless otherwise required by law. The DCO shall maintain the confidentiality of the allegations in the Complaint and of any resolution to the Complaint unless the employee consents to disclosure.

- 6.4 As an alternative to the DCO representation described in Section 6.2 above, employees at the Plants may request the presence of a co-worker of the employee's choosing for any meeting with a supervisor, manager, or management representative related to a complaint filed under the Complaint System described herein. If the meeting takes place during the work time of the co-worker, New Flyer shall permit the co-worker to attend the meeting on paid time, and the co-worker shall not suffer any diminution in pay or retaliation as a result of attending the meeting.
- 6.5 The Parties shall include, as part of the Quarterly Meeting, discussion of the operation of the Complaint System described herein. According to the schedule set forth in Section 2.2.4, New Flyer shall provide the Coalition Partners with aggregate statistics on use of the Complaint Process in the Plants, including the number of complaints filed by complaint type, utilization of the DCO, and the number of complaints resolved or closed. Such aggregate statistics shall maintain the confidentiality of employees who have utilized the Complaint System.
- 6.6 Nothing in the Complaint System described in this Article is intended to supersede employees' rights under federal or state laws and regulations, and all employees shall retain all such rights under such laws and regulations, and the ability to pursue their legal claims.

## **ARTICLE VII**

### **DISPUTE RESOLUTION**

- 7.1 Where this Agreement expressly calls for the Parties to enter into further agreements, the Parties shall meet and confer in good faith to seek such further agreement. If either Party concludes that such meet and confer has reached an impasse, they may so declare, in which case the Parties shall jointly select a mediator from the JAMS Labor and Employment roster for Alabama or Southern California, as the case may be. If the Parties are unable to agree upon a mediator, they shall jointly request that JAMS assign a mediator meeting the

foregoing criteria. The Parties shall hold a non-binding mediation within 30 days following a Party's notice of impasse, the cost of which shall be shared equally. Such mediation shall be the sole means of resolving disputes over the failure to reach further agreements expressly required under this Agreement, although nothing in this Section 7.1 shall preclude either Party from bringing a complaint pursuant to the procedures set forth in Sections 7.2 to 7.6 alleging that the other side has failed to meet and confer in good faith.

- 7.2 The Parties agree that all other disputes over the interpretation or application of this Agreement shall be resolved using the procedures set forth in Sections 7.2 to 7.6 which shall be the sole and exclusive means of redressing all issues and disputes over the interpretation or application of this Agreement. Either Party may commence these procedures by sending a written complaint to the other Party's contact person listed in Article XIII. The guiding principle for resolving disputes regarding this Agreement shall be the positive atmosphere of community-employee-company relations that all Parties desire to establish and maintain. Towards that end, each Party shall designate a representative with decision-making authority to resolve such complaints. Following the receipt of a complaint, the Parties' designated leaders shall endeavor to meet within three business days of the complaint's receipt. During the process described in Sections 7.2 to 7.6, the Parties shall engage in good faith exchanges of information that is germane to the resolution of the dispute. When the Parties agree that a violation has occurred, and it is possible to correct, the Party responsible for the violation will make a good faith effort to correct the problem immediately.
- 7.3 If a dispute described in Section 7.2 is not resolved by the Parties' designated leaders, the responding party shall endeavor to respond to the complaining party within fourteen (14) days after the meeting of the parties' designated leaders is held pursuant to Section 7.2.
- 7.4 Any such disputes the Parties are not able to resolve pursuant to Section 7.3, the complaining Party may submit the matter to binding arbitration, provided that the Party gives at least 30 days' notice to the other Party, or in the case of an alleged violation of Article XV, at least 14 days' notice. The arbitrator (the "Arbitrator") shall be a member of the National Academy of Arbitrators and who maintains an office or residence in Alabama, Georgia, Texas, or Florida (in the case of a dispute involving the Anniston Plant) or California (in the case of a dispute involving the Ontario Plant or a claimed violation of Article XV). The Party that noticed the complaint shall request a list of seven such arbitrators from the Federal Mediation and Conciliation Service ("FMCS"). The Parties shall alternatively strike arbitrators from this list, with the first strike determined by coin toss.
- 7.5 The Arbitrator shall have the authority to determine the arbitration procedures to be followed, however, the arbitration shall not be published by the arbitrator, and the proceedings (information exchanged, testimony, exhibits, briefs, correspondence between the parties and with respect to the arbitration) shall be confidential but the decision shall not be confidential. The Arbitrator shall render a decision on the issue submitted within 30 days of submissions (oral or written), unless the Parties mutually agree in writing to a longer period. The Arbitrator shall also have the authority to order the non-compliant party

to comply with this Agreement. The Arbitrator shall not have authority to: (1) change, delete from, or add to any term, right or obligation under this Agreement; (2) set terms of conditions of employment for any employee, except as provided in this Agreement; (3) make an award that conflicts with any Labor-Management Agreement between a union and New Flyer covering a Plant; (4) order compensatory or punitive damages; or (5) order payment of the other Party's attorneys' fees, except in the event of a willful and knowing failure to comply with the procedures set forth in this Article. The cost of the Arbitrator shall be borne equally by the Parties, and each Party shall bear its own costs, except as provided in this subsection. Either Party may request that the matter be heard with live testimony, but the decision as to the form of the hearing shall be up to the Arbitrator. If a live hearing is ordered, the site of the arbitration shall be mutually agreed upon (or determined by Arbitrator in the event that the Parties cannot agree) and shall be in Los Angeles County (for an arbitration involving the Ontario Plant or an alleged violation of Article XV) and Calhoun County (for an arbitration involving the Anniston Plant).

- 7.6 The Parties agree to comply with any order of the Arbitrator, which shall be final and binding. The United States District Court for the District of Alabama shall have jurisdiction over any action to compel arbitration, or to vacate, enforce, or confirm an arbitration award involving the Anniston Plant or if no federal jurisdiction exists, the Calhoun County, Alabama Circuit Court shall have such jurisdiction. The United States District Court for the Central District of California shall have jurisdiction over any action to compel arbitration, or to vacate, enforce, or confirm an arbitration award, involving the Ontario Plant or an alleged violation by JMA or GBM, or if no federal jurisdiction exists, the Superior Court for the County of San Bernardino shall have jurisdiction for alleged violations involving the Ontario Plant and the Superior Court for the County of Los Angeles shall have jurisdiction over any alleged violation by JMA or GBM. The Parties agree that actions to compel arbitration, or to confirm, enforce or vacate an arbitration award under this Agreement shall be governed by the Federal Arbitration Act, as that law is in effect from time to time during the term of this Agreement, or if no federal jurisdiction exists over such action, the laws of the State of California.

**ARTICLE VIII**  
**SAVINGS CLAUSE, SEVERABILITY, REFORMATION and LAW OF**  
**INTERPRETATION**

- 8.1 The Parties agree that, in the event any article, provision, clause, sentence or word of the Agreement is determined to be illegal or void as being in contravention of any applicable law by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect. The Parties further agree that, if any article, provision, clause, sentence or word of the Agreement is determined to be illegal or void by a court of competent jurisdiction, the Parties shall substitute, by mutual agreement, in its place and stead, an article, provision, sentence or word that will meet the validity objections and that will be in accordance with the intent and purpose of the article, provision, clause, sentence or word in question.
- 8.2 The Parties further agree that, if they are unable to agree on such an alternative article,

provision, sentence or word, a court of competent jurisdiction may reform any clause, sentence or word in this Agreement if needed to ensure its legality, so long as the reformation is in accordance with the intent and purpose of the article, provision, clause, sentence, or word in question.

- 8.3 This Agreement shall be interpreted under the substantive law of the State of California without reference to the choice of law or conflicts of law principles thereof.

**ARTICLE IX**  
**RELATIONSHIP TO LABOR-MANAGEMENT AND COMMERCIAL AGREEMENTS**

- 9.1 Wherever a term, right, or obligation under this Agreement conflicts with a term, right, or obligation in a Labor-Management Agreement, including a collective bargaining agreement covering a Plant, the Labor-Management Agreement will control. Notwithstanding the foregoing, the Parties agree that the rights and obligations contained in Sections 2.4, 2.6, 2.7, 2.10, 4.1, 5.1, 5.3 and Article VI shall be null and void as to a Plant immediately if a union is recognized as the collective bargaining representative of employees at that Plant and a collective bargaining agreement is consummated (by execution, ratification, or interest arbitration, as the case may be), unless the union and New Flyer agree otherwise. This Agreement shall neither establish, nor be evidence of, any bargaining history or past practice arising under any Labor-Management Agreement.
- 9.2 This Agreement may not be cited or relied upon in any grievance, arbitration, or other legal proceeding concerning the application or interpretation of a Labor-Management Agreement.
- 9.3 To the extent that New Flyer is bound by a local/disadvantaged worker hiring goal in a commercial agreement existing at the time this Agreement is executed as to a covered Plant, the contractual hiring goals and requirements in such agreement shall prevail over any contrary obligation of Section 2.3 of this Agreement.

**ARTICLE X**  
**TERM**

This Agreement shall be in full force and effect for a term of five (5) years from the date it is fully executed by all Parties. This Agreement may be extended by mutual agreement on an annual basis thereafter.

**ARTICLE XI**  
**AMENDMENT AND WAIVER**

This Agreement may be amended, and any provision of this Agreement may be waived, only in a written instrument signed by each of the Parties. No course of dealing between or among the Parties, or any persons having any interest in this Agreement shall be deemed effective to modify, amend or discharge any part of this Agreement or any rights or obligations of any person under or by reason of this Agreement. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions, whether or not similar, nor shall

any waiver constitute a continuing waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

**ARTICLE XII**  
**INUREMENT AND ASSIGNMENT**

This Agreement shall inure to the benefit of and be binding on the Parties hereto and their respective successors and permitted assigns. This Agreement may not be assigned by a Party hereto without the prior written consent of the other Party hereto, which consent may be withheld by a Party in its sole discretion.

**ARTICLE XIII**  
**NOTICE**

All notices, requests, demands and other communications permitted or required to be given or delivered under or by reason of the provisions of this Agreement shall be in writing and shall be deemed conclusively to have been given (a) when personally delivered, (b) when sent by electronic mail or (c) one Business Day after being sent by reputable overnight express courier (charges prepaid). Unless another address is specified in writing, notices, requests, demands and communications to the Parties shall be sent to the addresses indicated below:

**FOR NEW FLYER OF AMERICA INC.:**

Colin Pewarchuk  
[Colin.Pewarchuk@nfigroup.com](mailto:Colin.Pewarchuk@nfigroup.com)

Denis Sutton  
[Denis.Sutton@nfigroup.com](mailto:Denis.Sutton@nfigroup.com)

With a copy to:  
Stephen M. Silvestri, Esq.  
[Stephen.silvestri@jacksonlewis.com](mailto:Stephen.silvestri@jacksonlewis.com)

**FOR JOBS TO MOVE AMERICA:**

Madeline Janis  
[mjanis@jobstomoveamerica.org](mailto:mjanis@jobstomoveamerica.org)

Melanie Prasad  
[mprasad@jobstomoveamerica.org](mailto:mprasad@jobstomoveamerica.org)

With a copy to:  
Paul L. More  
[pmore@msh.law](mailto:pmore@msh.law)

**FOR GREATER BIRMINGHAM  
MINISTRIES:**

Scott Douglas  
[scott@gbm.org](mailto:scott@gbm.org)

**ARTICLE XIV**  
**AUTHORITY**

The persons executing this Agreement on behalf of the Parties hereto warrant that (1) such Party is duly organized and existing, (2) they are duly authorized to execute and deliver this Agreement on behalf of said Party, and (3) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement.

**ARTICLE XV**  
**MUTUAL SUPPORT AND NON-DISPARAGEMENT**

- 15.1 Within 30 days following execution of this Agreement, JMA shall identify, in writing, each known organization that JMA and the Coalition contacted concerning New Flyer, NFI Group Inc. or any of their subsidiaries (the “NFI Entities”) since January 1, 2018. Such written notice shall include, to the extent known, the contact information of the organization’s representative (including address, telephone/cell number, and e-mail address). For clarity, the purpose of this requirement is to provide a list solely for the issuance of the Joint Statement described in Section 15.4. The issuance of the Joint Statement to a particular person or entity shall be in the sole discretion of New Flyer.
- 15.2 During the term of this Agreement, at New Flyer’s request, the Coalition Partners will use reasonable efforts to assist, and will encourage other members of the Coalition to use reasonable efforts to assist, New Flyer in explaining to customers, potential customers, government agencies, elected officials, and others the advantages of New Flyer’s electric bus technology and the positive relationship between New Flyer, the Coalition Partners, and other members of the Coalition, as well as the benefits of New Flyer’s job creation, recruitment, hiring and training programs developed pursuant to this Agreement.
- 15.3 Upon the execution of this Agreement and for the term of this Agreement, (1) the Coalition Partners shall not individually or collectively make statements designed or intended to disparage the NFI Entities with third parties including, but not limited to the media, NFI Entities’ vendors, suppliers, and customers, public transit authorities and members of their boards where any NFI Entity has made proposals for business (including, but not limited to the third parties listed in Exhibit A), the American Public Transportation Association, public governmental entities in the U.S., and public elected and appointed officials; (2) the Coalition Partners shall send a written communication to the current members of the Coalition requesting that they cease any disparagement of NFA and that they observe the obligations of this Section 15.3 for the term of the Agreement; (3) the NFI Entities shall not make statements designed or intended to disparage the Coalition Partners with third parties; and (4) the Parties shall, in general, refer to this Agreement as a “partnership” and a “cooperation agreement” rather than the product of a “victory” by one Party over another.
- 15.4 The Parties shall meet and confer to reach agreement on a plan to communicate a positive message about this Agreement, including a joint statement of the Parties (the “Joint Statement”) to provide to organizations identified in Section 15.1 and any other third

parties or through social media. Nothing in this Section 15.4 shall preclude either Party from communicating freely with any individual, organization, or government entity, provided such communications comply with Section 15.3.

- 15.5 During the term of this Agreement and in coordination with New Flyer, the Coalition Partners will use reasonable efforts to advocate for training and other funding to support the implementation of this Agreement.
- 15.6 Within 10 days following execution of this Agreement, JMA will withdraw and request closure of the following pending complaints/charges against Flyer: Charge No. 420-2022-00847 and Department of Labor Office of Federal Contract Compliance (“OFCCP”) Reference No. I00302234.
- 15.7 The Coalition Partners hereby represent and warrant that other than JMA’s role as *qui tam* plaintiff in the False Claims Litigation, they have not acted in any as a relator in connection with any contract between the New Flyer and any governmental agency (federal, state, county, municipality, township, etc.).
- 15.8 General Release. Coalition Partners on behalf of themselves and their past and present officers, representatives, attorneys and their respective successors and assigns (collectively: “**Releasors**”) hereby release and forever discharge New Flyer and each of the NFI Entities, past and present, and all of their respective past and present directors, officers, employees, representatives, agents and attorneys, (hereby collectively: “**Releasees**”) from any and all claims and any and all causes of action, of any kind or character, whether now known or unknown, that they may have against Releasees relating to the subject matter of this Agreement and that existed up to and including the date on which this Agreement is executed by all Parties, including, but not limited to, any claim for damages, expenses, remuneration for Releasors and for any past and present employee of Releasees and all claims or causes of action arising from or related to the employment or commercial actions, practices, policies or failures to act, employee benefits, and any alleged discriminatory employment practices, including but not limited to any and all claims and causes of action arising under any federal, state or local laws pertaining to discrimination in employment or equal employment opportunity including, without limitation, claims under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, et seq. (which prohibits discrimination based on race, color, sex, religion or national origin); 42 U.S.C. §1981, the Age Discrimination in Employment Act of 1967, as amended (“ADEA”), 29 U.S.C. § 621 et seq.; The Equal Pay Act, 29 U.S.C. Section 206 (d); the Americans with Disabilities Act, 42 U.S.C. §2101; the Fair Labor Standards Act (which regulates minimum wage and overtime compensation), the WARN Act (which requires advance notice of a mass layoff or plant closing) as well as any claims of breach of contract, wrongful discharge, defamation, compensatory and punitive damages; including any claim that the Releasors have engaged in fraud or misrepresentation in connection with or have violated any of its contracts with any governmental agency or any other customer, vendor or party (collectively, the Released Claims”), except that the Parties agree that this general release shall not relieve New Flyer of any obligations under this Agreement and shall not release or prevent Releasors from bringing any claims through the complaint and arbitration system in Article VII (“Dispute Resolution”).

The Coalition Partners covenant that each of them and collectively, they will not file a claim with any government agency or any lawsuit in Court on behalf of itself or any third party as to the Released Claims, nor shall it join as party, representative of a class or member of a class in any lawsuit over the Released Claims.

JMA and GBM each recognizes that it may have some claim against New Flyer relating to the subject matter of this Agreement of which it is totally unaware and unsuspecting, which it is giving up by execution of the General Release. It is the intention of each in executing the Settlement Agreement to forego each such claim. In furtherance of this intention, each expressly waives any rights or benefits conferred by the provision of Section 1542 of the Civil Code of the State of California, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

In connection with such waiver and relinquishment, JMA and GBM each acknowledges that it is aware that it may hereafter discover facts in addition to, or different from, those which it now knows or believes to be true with respect to the Released Claims, but that it is their intention hereby to settle and release all claims fully, finally, and forever. In furtherance of such intention, the releases given herein shall be and remain in effect as full and complete releases, notwithstanding the discovery or existence of any such additional facts. JMA and GBM each expressly acknowledges that this Agreement is intended to include in its effect, without limitation, all Released Claims which each does not know or suspect to exist in their favor at the time of execution of this Agreement, and that this Agreement contemplates the extinguishment of any such claims.

Section 15.8 shall survive termination or expiry of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year written below.

**JOBS TO MOVE AMERICA**

By: Madeline James

Its: Executive Director

Date: May 20, 2022

**GREATER BIRMINGHAM MINISTRIES**

By: [Signature]

Its: Executive Director

Date: May 20, 2022



NEW FLYER OF AMERICA INC.

By: *Chris Atchley*

Its: PRESIDENT, NA BUS AND COACH

By: *Chris Sutton*

Its: VP LABOR + EMPLOYEE RELATIONS

Date: MAY 24, 2022