

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

FORM 8-K

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

Date of Report (Date of earliest event reported): December 21, 2023

Faraday Future Intelligent Electric Inc.
(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction
of incorporation)

001-39395

(Commission File Number)

84-4720320

(I.R.S. Employer
Identification No.)

**18455 S. Figueroa Street
Gardena, CA**

(Address of principal executive offices)

90248

(Zip Code)

(424) 276-7616

(Registrant's telephone number, including area code)

Not Applicable

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

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

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Class A common stock, par value \$0.0001 per share	FFIE	The Nasdaq Stock Market LLC
Redeemable warrants, exercisable for shares of Class A common stock at an exercise price of \$11.50 per share	FFIEW	The Nasdaq Stock Market LLC

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

Emerging growth company

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

Item 1.01 Entry into a Material Definitive Agreement.

On December 21, 2023, Faraday Future Intelligent Electric Inc. (the “Company”) entered into a Purchase Agreement (the “Purchase Agreement”) with Matthias Aydt (the “Purchaser”), the Global Chief Executive Officer of the Company, pursuant to which the Company agreed to issue and sell one share of the Company’s newly designated Series A Preferred Stock, par value \$0.0001 per share (the “Series A Preferred Stock”), to the Purchaser for a purchase price of \$100.00. The closing of the sale and purchase of the share of Series A Preferred Stock was completed on December 21, 2023.

Additional information regarding the rights, preferences, privileges and restrictions applicable to the Series A Preferred Stock is set forth under Item 5.03 of this Current Report on Form 8-K.

Pursuant to the Purchase Agreement, the Purchaser has agreed to cast the votes represented by the share of Series A Preferred Stock on the Shareholder Proposals (defined below) in the same proportion as shares of common stock of the Company (the “Common Stock”) are voted (excluding any shares of Common Stock that are not voted, whether due to abstentions, broker non-votes or otherwise) on each Shareholder Proposal; provided, that unless and until at least one-third of the outstanding shares of Common Stock on the record date established for the meeting of stockholders at which the Shareholder Proposals are presented are present in person or represented by proxy at such meeting, the Purchaser will not vote the share of Series A Preferred Stock on the Shareholder Proposals. A “Shareholder Proposal” means each of the Share Authorization Proposal and the Reverse Stock Split Proposal and, together, the “Shareholder Proposals”, “Share Authorization Proposal” means any proposal approved by the Company’s Board of Directors (the “Board”) and submitted to the stockholders of the Company to adopt an amendment to the Company’s Third Amended and Restated Certificate of Incorporation to increase the number of authorized shares of Class A Common Stock and Class B Common Stock, increasing the total number of shares of Common Stock, and “Reverse Stock Split Proposal” means any proposal approved by the Board and submitted to the stockholders of the Company to adopt an amendment, or a series of alternate amendments, to the Company’s Third Amended and Restated Certificate of Incorporation to combine the outstanding shares of Common Stock into a smaller number of shares of Common Stock at a ratio specified in or determined in accordance with the terms of such amendment or series of alternate amendments, and to reduce the number of outstanding shares of Common Stock and effect a corresponding reduction in the total number of authorized shares of Common Stock.

The foregoing summary of the Purchase Agreement does not purport to be complete and is qualified in its entirety by the full text of the Purchase Agreement, a copy of which is filed as Exhibit 10.1 to this Current Report on Form 8-K and incorporated herein by reference.

Item 3.02 Unregistered Sales of Equity Securities.

The disclosure included in Item 1.01 of this Current Report on Form 8-K is incorporated under this Item 3.02 by reference. The Purchaser is an “accredited investor” and the offer and sale of the share of Series A Preferred Stock was exempt from registration under Section 4(a)(2) of the Securities Act of 1933, as amended.

Item 3.03 Material Modification to Rights of Security Holders.

The disclosure included in Item 5.03 of this Current Report on Form 8-K related to the Series A Certificate of Designation (as defined below) is incorporated into this Item 3.03 by reference. Prior to the issuance of the Series A Preferred Stock, stockholder approval of the Shareholder Proposals required the affirmative approval of a majority of the voting power of the outstanding shares of Common Stock. Following the issuance of the Series A Preferred Stock, stockholder approval of the Shareholder Proposals requires affirmative approval from a majority of the voting power of the shares of Common Stock and the share of Series A Preferred Stock, voting together as a single class. The Purchaser will cast the votes represented by the share of Series A Preferred Stock on the Shareholder Proposals in a manner that mirrors the votes cast by holders of Common Stock on each Shareholder Proposal. Prior to the issuance of the share of Series A Preferred Stock, abstentions and any other non-votes would have had the same effect as a vote against the Shareholder Proposals. Following the issuance of the share of Series A Preferred Stock, abstentions and any other non-votes on the Shareholder Proposals will still technically have the same effect as a vote against such proposal, but because the share of Series A Preferred Stock has a high number of votes and will vote in a manner that mirrors votes actually cast by the holders of Common Stock (which does not include abstentions or any other non-votes), abstentions and any other non-votes will have no effect on the manner in which the Series A Preferred Stock votes are cast.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

Certificate of Designation of Preferences Designating the Series A Preferred Stock

On December 21, 2023, in connection with the Purchase Agreement, the Company filed a Certificate of Designation of Preferences, Rights and Limitations of Series A Preferred Stock (the “Series A Certificate of Designation”) with the Secretary of State of the State of Delaware. The Series A Certificate of Designation designates one share of the Company’s preferred stock as Series A Preferred Stock, and establishes and designates the preferences, rights and limitations thereof. The Series A Certificate of Designation became effective upon filing. Pursuant to the Series A Certificate of Designation:

Convertibility. The share of Series A Preferred Stock is not convertible into, or exchangeable for, shares of any other class or series of stock or other securities of the Company.

Dividends. The share of Series A Preferred Stock shall not be entitled to receive dividends.

Voting. The share of Series A Preferred Stock will have 4,500,000,000 votes, but has the right to vote only on the Shareholder Proposals and until such time as the Shareholder Proposals are approved by the stockholders, and will have no voting rights except (i) with respect to the Shareholder Proposals in which its votes are cast for and against such Shareholder Proposal in the same proportion as shares of Common Stock are voted for and against such Shareholder Proposal (with any shares of Common Stock that are not voted, whether due to abstentions, broker non-votes or otherwise not counted as votes for or against the Shareholder Proposal) and (ii) unless the holders of one-third (1/3rd) of the outstanding shares of Common Stock are present, in person or by proxy, at the meeting of stockholders at which the Shareholder Proposals are submitted for stockholder approval (or any adjournment thereof). The share of Series A Preferred Stock will vote together with the Common Stock as a single class on any Shareholder Proposal. The Series A Preferred Stock has no other voting rights, except as may be required by the General Corporation Law of the State of Delaware.

Rank; Liquidation. Upon a liquidation, bankruptcy, reorganization, merger, acquisition, sale, dissolution or winding up of the Company, whether voluntarily or involuntarily, pursuant to which assets of the Company or consideration received by the Company are to be distributed to the stockholders, the holder of Series A Preferred Stock will be entitled to receive, before any payment is made to the holders of Common Stock by reason of their ownership thereof, an amount equal to \$100.00.

Transfer Restrictions. The Series A Preferred Stock may not be transferred at any time prior to stockholder approval of the Shareholder Proposals without the prior written consent of the Board.

Redemption. The outstanding share of Series A Preferred Stock will be redeemed in whole, but not in part, for a redemption price of \$100.00, payable out of funds lawfully available therefor, upon the earlier of (i) any time such redemption is ordered by the Company’s Board in its sole discretion, automatically and effective on such time and date specified by the Board in its sole discretion, or (ii) automatically immediately following the approval by the stockholders of the Company of both Shareholder Proposals.

The foregoing summary of the Series A Certificate of Designation does not purport to be complete and is subject to, and is qualified in its entirety by, the full text of the Series A Certificate of Designation, which is filed as Exhibit 3.1 to this Current Report on Form 8-K and is incorporated herein by reference.

Item 8.01 Other Events.

As of December 21, 2023, the Company had 126,426,770 shares of Class A Common Stock, 800,008 shares of Class B Common Stock and one share of Series A Preferred Stock issued and outstanding.

The Company is filing the risk factors set forth in Exhibit 99.1 attached hereto to update and supplement certain of the risk factors previously provided under “Risk Factors” in Part I, Item 1A in the Company’s Annual Report on Form 10-K for the fiscal year ended December 31, 2022, filed with the Securities and Exchange Commission (the “SEC”) on March 9, 2023, as amended by the Form 10-K/A filed with the SEC on August 21, 2023, and as further amended by its Quarterly Reports on Form 10-Q for the period ended March 31, 2023, filed with the SEC on May 12, 2023, as amended by the Form 10-Q/A filed with the SEC on August 21, 2023, for the period ended June 30, 2023, filed with the SEC on August 21, 2023, and for the period ended September 30, 2023, filed with the SEC on November 13, 2023. The disclosure set forth in Exhibit 99.1 to this Current Report on Form 8-K is incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits. The following exhibits are filed with this Current Report on Form 8-K:

No.	Description of Exhibits
3.1	Certificate of Designation of Preferences, Rights and Limitations of Series A Preferred Stock, dated December 21, 2023.
10.1	Purchase Agreement, dated December 21, 2023, by and between the Company and Matthias Aydtt.
99.1	Updated Risk Factor Disclosure.
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

FARADAY FUTURE INTELLIGENT ELECTRIC INC.

Date: December 27, 2023

By: /s/ Jonathan Maroko

Name: Jonathan Maroko

Title: Interim Chief Financial Officer

FARADAY FUTURE INTELLIGENT ELECTRIC INC.

CERTIFICATE OF DESIGNATION
OF
PREFERENCES, RIGHTS AND LIMITATIONS OF
SERIES A PREFERRED STOCK

Pursuant to Sections 151 and 242 of the
General Corporation Law of the State of Delaware

FARADAY FUTURE INTELLIGENT ELECTRIC INC., a Delaware corporation (the "*Company*"), hereby certifies that the following recital and resolution were duly adopted by the board of directors of the Company (the "*Board*"), in accordance with the provisions of Sections 151 and 242 of the General Corporation Law of the State of Delaware, as amended (the "*DGCL*"), on December 20, 2023, which resolution provides for the creation of a series of the Company's Preferred Stock, par value \$0.0001 per share, which is designated as "*Series A Preferred Stock*," with the rights, preferences, privileges and restrictions set forth therein.

WHEREAS, the Third Amended and Restated Certificate of Incorporation of the Company (as amended, the "*Certificate of Incorporation*"), authorizes the issuance of 164,437,500 shares of capital stock, consisting of 154,437,500 shares of common stock, par value \$0.0001 per share ("*Common Stock*"), and 10,000,000 shares of preferred stock, par value \$0.0001 per share ("*Preferred Stock*"), issuable from time to time in one or more series, and further provides that the Board is authorized to provide for the issue of all or any of the shares of Preferred Stock in one or more series;

WHEREAS, Article IV, Section 4.2 of the Certificate of Incorporation provides that the Board is authorized to provide from time to time by resolution or resolutions for the creation and issuance, out of the authorized and unissued shares of the Preferred Stock, of one or more series of Preferred Stock by filing a certificate pursuant to the DGCL, setting forth such resolution and, with respect to each such series, establishing the designation of such series and the number of shares to be included in such series and fixing the voting powers (full or limited, or no voting power), preferences and relative, participating, optional or other special rights, and the qualifications, limitations and restrictions thereof, of the shares of each such series;

WHEREAS, the Board has determined that it is reasonable, advisable, fair and in the best interests of the Company and its stockholders to establish and issue a new series of Preferred Stock, designated as Series A Preferred Stock (the "*Series A Preferred Stock*"), consisting of one authorized share and to establish the rights, powers, preferences, privileges and restrictions of the Series A Preferred Stock;

WHEREAS, Article IV, Section 4.4 of the Certificate of Incorporation requires the approval of the holders of a majority of then-outstanding shares of the Company's Class B common stock, par value \$0.0001 per share ("*Class B Common Stock*") for the Board to create a new class of shares each of which bear or may bear more than one vote per share; and

WHEREAS, Nasdaq Listing Rule 5640 prohibits corporate actions that would disparately reduce or restrict existing stockholder rights, including through the issuance of super-voting preferred stock, however Nasdaq has previously approved the implementation of super-voting preferred stock in the stockholder meeting context, under certain circumstances and in consultation with the exchange.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the authority vested in the Board in accordance with the provisions of Article IV of the Certificate of Incorporation and the provisions of Section 151 of the DGCL, the Board hereby establishes and issues the Series A Preferred Stock with the rights, powers, preferences, privileges and restrictions thereof, subject to approval by the Company's Class B Common Stock stockholders and the confirmation of The Nasdaq Stock Market LLC.

APPROVAL OF SERIES A PREFERRED STOCK

As of the date of this Certificate of Designation, the holder of all of the issued and outstanding Class B Common Stock has, pursuant to and in accordance with Article VI, Section 6.1 of the Certificate of Incorporation and Section 228 of the DGCL, approved by written consent on behalf of the Class B Common Stock (among other things) the issuance of the Series A Preferred Stock.

TERMS OF SERIES A PREFERRED STOCK

1. **Designation, Amount and Par Value.** The series of Preferred Stock created hereby shall be designated as the Series A Preferred Stock, and the number of shares so designated shall be one (1). The share of Series A Preferred Stock shall have a par value of \$0.0001 per share and will be uncertificated and represented in book-entry form.
2. **Dividends.** The share of Series A Preferred Stock shall not be entitled to receive dividends.
3. **Voting Rights.** Except as otherwise required by law, the holder of the share of Series A Preferred Stock shall have the following voting rights (and shall not have any other voting rights):
 - 3.1. The share of Series A Preferred Stock shall have no voting rights except with respect to the Shareholder Proposals (as defined below) in which its votes are cast for and against each Shareholder Proposal in the same proportion as shares of Common Stock (as defined below) are voted for and against such Shareholder Proposal (with any shares of Common Stock that are not voted (whether due to abstentions, broker non-votes or otherwise) not counted as votes for or against such Shareholder Proposal), in which the outstanding share of Series A Preferred Stock shall have 4,500,000,000 votes with respect to the Shareholder Proposals. The outstanding share of Series A Preferred Stock shall vote together with the outstanding shares of common stock of the Company ("**Common Stock**") as a single class exclusively with respect to each Shareholder Proposal until such time as, following the filing of this Certificate of Designation, is the Shareholder Proposals are approved by the stockholders of the Company, and shall not be entitled to vote on any other matter except to the extent required by non-waivable provisions of the DGCL. As used herein, the term "**Shareholder Proposal**" means each of the Share Authorization Proposal and the Reverse Stock Split Proposal and, together, the "**Shareholder Proposals**", the term "**Share Authorization Proposal**" means any proposal approved by the Board and submitted to the stockholders of the Company to adopt an amendment to the Certificate of Incorporation to increase the number of shares of authorized Class A Common Stock and Class B Common Stock, increasing the total number of shares of Common Stock, and the term "**Reverse Stock Split Proposal**" means any proposal approved by the Board and submitted to the stockholders of the Company to adopt an amendment, or a series of alternate amendments, to the Certificate of Incorporation to combine the outstanding shares of Common Stock into a smaller number of shares of Common Stock at a ratio specified in or determined in accordance with the terms of such amendment or series of alternate amendments, and to reduce the number of outstanding shares of Common Stock and effect a corresponding reduction in the total number of authorized shares of Common Stock.
 - 3.2. The share of Series A Preferred Stock shall have no voting rights with respect to the Shareholder Proposals unless the holders of one-third (1/3rd) of the outstanding shares of Common Stock are present, in person or by proxy, at the meeting of stockholders at which the Shareholder Proposals are submitted for stockholder approval (or any adjournment thereof).
4. **Rank; Liquidation.** Upon a liquidation, bankruptcy, reorganization, merger, acquisition, sale, dissolution or winding up of the Company, whether voluntarily or involuntarily, pursuant to which assets of the Company or consideration received by the Company are to be distributed to the stockholders, the holder of Series A Preferred Stock shall be entitled to receive, before any payment is made to the holders of Common Stock by reason of their ownership thereof, an amount of \$100.00.

5. **Transfer Restrictions.** The Series A Preferred Stock may not be Transferred at any time prior to stockholder approval of the Shareholder Proposals without the prior written consent of the Board. “*Transferred*” means, directly or indirectly, whether by merger, consolidation, share exchange, division, or otherwise, the sale, transfer, gift, pledge, encumbrance, assignment or other disposition of the share of Series A Preferred Stock (or any right, title or interest thereto or therein) or any agreement, arrangement or understanding (whether or not in writing) to take any of the foregoing actions.
6. **Redemption.**
- 6.1. The outstanding share of Series A Preferred Stock shall be redeemed in whole, but not in part, out of funds lawfully available therefor, upon the earlier of (i) any time such redemption is ordered by the Board in its sole discretion, automatically and effective on such time and date specified by the Board in its sole discretion, or (ii) automatically immediately following the approval by the stockholders of the Company of both Shareholder Proposals (any such redemption pursuant to this Section 6.1, the “*Redemption*”). As used herein, the “*Redemption Time*” shall mean the effective time of the Redemption.
- 6.2. The share of Series A Preferred Stock redeemed in the Redemption pursuant to this Section 6 shall be redeemed in consideration for the right to receive an amount equal to \$100.00 in cash (the “*Redemption Price*”) for the share of Series A Preferred Stock that is owned of record as of immediately prior to the applicable Redemption Time and redeemed pursuant to the Redemption, payable upon the applicable Redemption Time.
- 6.3. From and after the time at which the share of Series A Preferred Stock is called for Redemption (whether automatically or otherwise) in accordance with Section 6.1 hereof, such share of Series A Preferred Stock shall cease to be outstanding, and the only right of the former holder of such share of Series A Preferred Stock, as such, will be to receive the applicable Redemption Price. Upon such Redemption, the share of Series A Preferred Stock redeemed pursuant to this Certificate of Designation shall be automatically retired and restored to the status of an authorized but unissued share of Preferred Stock. Notice of a meeting of the Company’s stockholders for the submission to such stockholders of any proposal to approve a Shareholder Proposal shall constitute notice of the Redemption of the share of Series A Preferred Stock at the Redemption Time pursuant to Section 6.1(ii) hereof. In connection with the filing of this Certificate of Designation, the Company has set apart funds for payment for the Redemption of the share of Series A Preferred Stock and shall continue to keep such funds apart for such payment through the payment of the purchase price for the Redemption of such share.
7. **Severability.** Whenever possible, each provision hereof shall be interpreted in a manner as to be effective and valid under applicable law, but if any provision hereof is held to be prohibited by or invalid under applicable law, then such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating or otherwise adversely affecting the remaining provisions hereof.

IN WITNESS WHEREOF, Faraday Future Intelligent Electric Inc. has caused this Certificate of Designation of Preferences, Rights and Limitations of Series A Preferred Stock to be duly executed by the undersigned duly authorized officer as of this 21st day of December, 2023.

FARADAY FUTURE INTELLIGENT ELECTRIC INC.

By: /s/ Jonathan Maroko
Jonathan Maroko
Interim Chief Financial Officer

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT (this "*Agreement*") is made as of December 21, 2023, by and between the purchaser listed on EXHIBIT A attached hereto (the "*Purchaser*") and FARADAY FUTURE INTELLIGENT ELECTRIC INC., a Delaware corporation (the "*Company*").

RECITALS

WHEREAS, the Company desires to sell to the Purchaser, and the Purchaser desires to purchase from the Company, one (1) share of Series A Preferred Stock, par value \$0.0001 per share ("*Series A Preferred Stock*"), for the purchase price of \$100.00 (the "*Purchase Price*"); and

WHEREAS, the Series A Preferred Stock shall have the rights, preferences, privileges, qualifications, limitations and restrictions set forth in the Certificate of Designation of Series A Preferred Stock (the "*Series A COD*"), substantially in the form attached hereto as EXHIBIT B, which shall be filed by the Company with the Secretary of State of the State of Delaware prior to the Closing (as defined below).

NOW, THEREFORE, in consideration of the foregoing premises and the respective representations and warranties, covenants and agreements contained herein, the receipt and sufficiency of which is hereby acknowledged, the Company and the Purchaser agree as follows:

ARTICLE I: SALE AND PURCHASE

1.1. Upon the terms and subject to the conditions herein contained, the Company agrees to sell to the Purchaser, and the Purchaser agrees to purchase from the Company, at the Closing, one (1) share of Series A Preferred Stock for the Purchase Price. The sale and purchase of the share of Series A Preferred Stock pursuant to this Agreement is referred to herein as the "*Stock Purchase*."

1.2. At or prior to the Closing, the Purchaser will pay the Purchase Price by wire transfer of immediately available funds in accordance with wire instructions provided by the Company to the Purchaser prior to the Closing, or by check or money order payable to the Company.

1.3. Subject to the satisfaction of each of the conditions set forth in Article IV and Article V hereof (to the extent not waived in accordance therewith), the closing of the Stock Purchase (the "*Closing*") shall take place remotely on the date hereof via the exchange of documents and signatures (the date on which such Closing occurs is hereinafter referred to as the "*Closing Date*").

ARTICLE II: COVENANTS, REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

The Purchaser hereby covenants as follows, and makes the following representations and warranties, each of which is and shall be true and correct on the date hereof, to the Company. All such covenants, representations and warranties shall survive the Closing.

2.1. **Power and Authorization.** The Purchaser has the power, authority and capacity to execute and deliver this Agreement, to perform his obligations hereunder, and to consummate the Stock Purchase contemplated hereby.

2.2. **Valid and Enforceable Agreement; No Violations.** This Agreement has been duly executed and delivered by the Purchaser and constitutes a legal, valid and binding obligation of the Purchaser, enforceable against the Purchaser in accordance with its terms, except that such enforcement may be subject to (a) bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium or other similar laws affecting or relating to enforcement of creditors' rights generally, and (b) general principles of equity, whether such enforceability is considered in a proceeding at law or in equity (the "*Enforceability Exceptions*"). This Agreement and the consummation of the Stock Purchase will not materially violate, conflict with or result in a breach of or default under (i) any agreement or instrument to which the Purchaser is a party or by which the Purchaser or any of his assets are bound, or (ii) any laws, regulations or governmental or judicial decrees, injunctions or orders applicable to the Purchaser.

2.3. Accredited Investor. The Purchaser is an “accredited investor” within the meaning of Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, as amended (the “*Securities Act*”), and is acquiring the Series A Preferred Stock hereunder for investment for his own account and not with a view to, or for resale in connection with, any distribution thereof in a manner that would violate the registration requirements of the Securities Act. Purchaser is able (i) to bear the economic risk of its investment in the Company, (ii) to hold the Series A Preferred Stock for an indefinite period of time, and (iii) presently and, based on existing conditions, hereafter to afford a complete loss of such investments. In making its decision to invest in the Company, Purchaser has relied solely upon independent investigations made by it and by its own professional financial and other advisors. Purchaser has been given the opportunity to obtain information and to examine all documents relating to the Company, and to ask questions of, and to receive answers from, the Company or any persons acting on their behalf concerning the Company and the terms and conditions of this investment, and to obtain any additional information it desires to verify the accuracy of any information previously furnished. All such questions have been answered to Purchaser’s full satisfaction, and all information and documents, records and books pertaining to this investment which it has requested have been made available to it.

2.4. No Public Market. The Purchaser acknowledges and agrees that no public market exists (and it is likely that none will ever exist) for the Series A Preferred Stock and the share of Series A Preferred Stock is subject to transfer restrictions as set forth in the Series A COD.

2.5. Transfer Restrictions. The Purchaser acknowledges and agrees as follows:

(a) The Series A Preferred Stock has not been registered for sale under the Securities Act, in reliance on Section 4(a)(2) of the Securities Act; the Company does not currently intend to register the Series A Preferred Stock under the Securities Act at any time in the future.

(b) The Purchaser understands that there are substantial restrictions on the transferability of the Series A Preferred Stock and that the book-entry certificate representing the Series A Preferred Stock will bear restrictive legends in substantially the following form (and a stop-transfer order may be placed against transfer of such certificates or other instruments):

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), OR ANY STATE SECURITIES LAWS, AND NEITHER SUCH SECURITIES NOR ANY INTEREST THEREIN MAY BE OFFERED, SOLD, PLEDGED, ASSIGNED OR OTHERWISE TRANSFERRED UNLESS (1) A REGISTRATION STATEMENT WITH RESPECT THERETO IS EFFECTIVE UNDER THE SECURITIES ACT AND ANY APPLICABLE STATE SECURITIES LAWS, OR (2) AN EXEMPTION FROM SUCH REGISTRATION EXISTS AND THE COMPANY RECEIVES AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE COMPANY, THAT SUCH SECURITIES MAY BE OFFERED, SOLD, PLEDGED, ASSIGNED OR TRANSFERRED IN THE MANNER CONTEMPLATED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES REPRESENTED HEREBY ARE ALSO SUBJECT TO TRANSFER RESTRICTIONS AS SET FORTH IN THE CERTIFICATE OF DESIGNATION OF PREFERENCES, RIGHTS AND LIMITATIONS OF SERIES A PREFERRED STOCK.

OTHER THAN FOR A REDEMPTION PURSUANT TO AND IN ACCORDANCE WITH SECTION 6, THE SECURITIES REPRESENTED BY THIS CERTIFICATE MAY NOT BE TRANSFERRED AT ANY TIME WITHOUT THE PRIOR WRITTEN CONSENT OF THE BOARD OF DIRECTORS OF THE CORPORATION.

ARTICLE III: COVENANTS, REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company hereby covenants as follows, and makes the following representations and warranties, each of which is and shall be true and correct on the date hereof, to the Purchaser. All such covenants, representations and warranties shall survive the Closing.

3.1. **Power and Authorization.** The Company is duly incorporated, validly existing and in good standing under the laws of its state of incorporation, and has the power, authority and capacity to execute and deliver this Agreement, to perform its obligations hereunder, and to consummate the Stock Purchase contemplated hereby.

3.2. **Valid and Enforceable Agreement; No Violations.** This Agreement has been duly executed and delivered by the Company and constitutes a legal, valid and binding obligation of the Company, enforceable against it in accordance with its terms, except that such enforcement may be subject to the Enforceability Exceptions. The issuance of the Series A Preferred Stock has been duly authorized by the Company. This Agreement, the issuance of the Series A Preferred Stock and consummation of the Stock Purchase will not violate, conflict with or result in a breach of or default under (a) the charter, bylaws or other organizational documents of the Company, (b) any agreement or instrument to which the Company is a party or by which the Company or any of its assets are bound, or (c) any laws, regulations or governmental or judicial decrees, injunctions or orders applicable to the Company.

3.3. **Securities Law Matters.** Assuming the accuracy of the Purchaser's representations and warranties hereunder, the Series A Preferred Stock issued pursuant to the Stock Purchase will be (a) exempt from the registration requirements of the Securities Act pursuant to Section 4(a)(2) of the Securities Act, and (b) issued in compliance with all applicable state and federal laws concerning the issuance of the Series A Preferred Stock.

3.4. **Validity of the Series A Preferred Stock.** The share of Series A Preferred Stock to be issued pursuant to this Agreement at the Closing (a) has been duly authorized by the Company and, upon its issuance pursuant to the Stock Purchase in accordance with the terms of this Agreement, the Series A Preferred Stock will be validly issued, fully paid and non-assessable and (b) will not, as of the date of issuance, be subject to any preemptive, participation, rights of first refusal or other similar rights.

ARTICLE IV: CONDITIONS TO COMPANY'S OBLIGATIONS AT CLOSING

The Company's obligation to complete the Stock Purchase and deliver the Series A Preferred Stock to the Purchaser in exchange for the Purchase Price shall be subject to the following conditions to the extent not waived by the Company:

4.1. **Representation and Warranties.** The representations and warranties made by the Purchaser in Article II hereof shall be true and correct in all material respects (except to the extent any such representation and warranty is qualified by materiality, in which case, such representation and warranty shall be true and correct in all respects as so qualified) as of the Closing Date, except to the extent any such representation or warranty expressly speaks as of an earlier date, in which case such representation or warranty shall be true and correct as of such earlier date.

4.2. **Performance.** The Purchaser shall have performed in all material respects all obligations and covenants herein required to be performed by it at or prior to the Closing.

ARTICLE V: CONDITIONS TO PURCHASER'S OBLIGATIONS AT CLOSING

The Purchaser's obligation to deliver the Purchase Price and accept delivery of the Series A Preferred Stock and to effect the Stock Purchase shall be subject to the following conditions to the extent not waived by the Purchaser:

5.1. **Representations and Warranties.** The representations and warranties made by the Company in Article III hereof shall be true and correct in all material respects (except to the extent any such representation and warranty is qualified by materiality, in which case, such representation and warranty shall be true and correct in all respects as so qualified) as of the Closing Date, except to the extent any such representation or warranty expressly speaks as of an earlier date, in which case such representation or warranty shall be true and correct as of such earlier date.

5.2. **Performance.** The Company shall have performed in all material respects all obligations and covenants herein required to be performed by it at or prior to the Closing.

5.3. **Judgments.** No judgment, writ, order, injunction, award or decree of or by any court, or judge, justice or magistrate, including any bankruptcy court or judge, or any order of or by any governmental authority, shall have been issued, and no action or proceeding shall have been instituted by any governmental authority, enjoining or preventing the consummation of the transactions contemplated hereby.

5.4. **Certificate of Designation.** The Company shall have filed the Series A COD with the Secretary of State of the State of Delaware, and the Series A COD shall remain in full force and effect as of the Closing.

ARTICLE VI: VOTING AGREEMENT

6.1. **Voting Agreement.** Purchaser hereby covenants and agrees to vote the share of Series A Preferred Stock (which shall have 4,500,000,000 votes) on the Shareholder Proposals (as defined in the Series A COD) for or against each such proposal in the same proportion as shares of the Company's common stock, par value \$0.0001 per share (the "**Common Stock**"), are voted (excluding any shares of Common Stock that are not voted, whether due to abstentions, broker non-votes or otherwise) on such proposal; *provided, however*, that unless and until at least one-third of the outstanding shares of Common Stock on the record date set for the meeting of stockholders at which the Shareholder Proposals are presented are present in person, by remote communication, if applicable, or by proxy at such meeting, the Purchaser will not vote the share of Series A Preferred Stock on such Shareholder Proposals.

ARTICLE VII: MISCELLANEOUS

7.1. **Entire Agreement.** This Agreement, and any other documents and agreements executed in connection with this Agreement or the Stock Purchase, including the Series A COD, constitute the entire agreement and understanding of the parties hereto pertaining to the subject matter hereof and supersede all prior and contemporaneous oral or written agreements, representations, warranties, contracts, correspondence, conversations, memoranda and understandings between or among the parties or any of their agents, representatives or affiliates relative to such subject matter, including, without limitation, any emails or draft documents. This Agreement shall be binding upon, and shall be enforceable by and inure solely to the benefit of, the Company and the Purchaser and their respective successors and permitted assigns; *provided, however*, that neither this Agreement nor any of the rights hereunder may be assigned without the prior written consent of the other party to this Agreement, and any attempted assignment of this Agreement or any of such rights without such consent shall be void and of no effect.

7.2. **Amendment.** This Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties to this Agreement.

7.3. **Construction.** References in the singular shall include the plural, and vice versa, unless the context otherwise requires. References in the masculine shall include the feminine and neuter, and vice versa, unless the context otherwise requires. Headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meanings of the provisions hereof. No party, nor its respective counsel, shall be deemed the drafter of this Agreement for purposes of construing the provisions of this Agreement, and all language in all parts of this Agreement shall be construed in accordance with its fair meaning, and not strictly for or against any party.

7.4. **Costs and Expenses.** The Company shall pay all costs and expenses incurred by it and the Purchaser in connection with the negotiation, preparation, execution and performance of this Agreement, including, but not limited to, attorneys' fees.

7.5. **Notices.** All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt, or (a) personal delivery to the party to be notified, (b) when sent, if sent by electronic mail or facsimile during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next business day, (c) five days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one business day after deposit with a nationally recognized overnight courier, freight prepaid, specifying next business day delivery, with written verification of receipt. All communications shall be sent to the respective parties at their address as set forth on the signature page or **EXHIBIT A**, as applicable, or to such e-mail address, facsimile number or address as subsequently modified by written notice given in accordance with this Section 7.5.

7.6. **Governing Law.** This Agreement shall in all respects be construed in accordance with and governed by the substantive laws of the State of Delaware, without reference to its choice of law rules to the extent they would direct any matter hereunder to (or apply the laws of) any other jurisdiction.

7.7. **Severability.** If one or more provisions of this Agreement are held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (a) such provision shall be excluded from this Agreement, (b) the balance of the Agreement shall be interpreted as if such provision were so excluded and (c) the balance of the Agreement shall be enforceable in accordance with its terms.

7.8. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, the Uniform Electronic Transactions Act or other applicable law, *e.g.*, www.docusign.com) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

[Signature pages follow]

IN WITNESS WHEREOF, the undersigned has executed, or caused to be executed on its behalf by an agent there unto duly authorized, this Purchase Agreement as of the date first above written.

Faraday Future Intelligent Electric Inc.

By: /s/ Jonathan Maroko
Name: Jonathan Maroko
Title: Interim Chief Financial Officer
Address: 18455 S. Figueroa Street, Gardena, CA 90248

IN WITNESS WHEREOF, the undersigned has executed, or caused to be executed on its behalf by an agent there unto duly authorized, this Purchase Agreement as of the date first above written.

PURCHASER:

/s/ Matthias Aydt

Name: Matthias Aydt

Address: 18455 S. Figueroa St., Gardena, CA 90248

EXHIBIT A

PURCHASER

Matthias Ayd, the Global Chief Executive Officer of the Company.

EXHIBIT B

FARADAY FUTURE INTELLIGENT ELECTRIC INC.

CERTIFICATE OF DESIGNATION
OF
PREFERENCES, RIGHTS AND LIMITATIONS OF
SERIES A PREFERRED STOCK

Pursuant to Sections 151 and 242 of the
General Corporation Law of the State of Delaware

FARADAY FUTURE INTELLIGENT ELECTRIC INC., a Delaware corporation (the “*Company*”), hereby certifies that the following recital and resolution were duly adopted by the board of directors of the Company (the “*Board*”), in accordance with the provisions of Sections 151 and 242 of the General Corporation Law of the State of Delaware, as amended (the “*DGCL*”), on December 20, 2023, which resolution provides for the creation of a series of the Company’s Preferred Stock, par value \$0.0001 per share, which is designated as “*Series A Preferred Stock*,” with the rights, preferences, privileges and restrictions set forth therein.

WHEREAS, the Third Amended and Restated Certificate of Incorporation of the Company (as amended, the “*Certificate of Incorporation*”), authorizes the issuance of 164,437,500 shares of capital stock, consisting of 154,437,500 shares of common stock, par value \$0.0001 per share (“*Common Stock*”), and 10,000,000 shares of preferred stock, par value \$0.0001 per share (“*Preferred Stock*”), issuable from time to time in one or more series, and further provides that the Board is authorized to provide for the issue of all or any of the shares of Preferred Stock in one or more series;

WHEREAS, Article IV, Section 4.2 of the Certificate of Incorporation provides that the Board is authorized to provide from time to time by resolution or resolutions for the creation and issuance, out of the authorized and unissued shares of the Preferred Stock, of one or more series of Preferred Stock by filing a certificate pursuant to the DGCL, setting forth such resolution and, with respect to each such series, establishing the designation of such series and the number of shares to be included in such series and fixing the voting powers (full or limited, or no voting power), preferences and relative, participating, optional or other special rights, and the qualifications, limitations and restrictions thereof, of the shares of each such series;

WHEREAS, the Board has determined that it is reasonable, advisable, fair and in the best interests of the Company and its stockholders to establish and issue a new series of Preferred Stock, designated as Series A Preferred Stock (the “*Series A Preferred Stock*”), consisting of one authorized share and to establish the rights, powers, preferences, privileges and restrictions of the Series A Preferred Stock;

WHEREAS, Article IV, Section 4.4 of the Certificate of Incorporation requires the approval of the holders of a majority of then-outstanding shares of the Company’s Class B common stock, par value \$0.0001 per share (“*Class B Common Stock*”) for the Board to create a new class of shares each of which bear or may bear more than one vote per share; and

WHEREAS, Nasdaq Listing Rule 5640 prohibits corporate actions that would disparately reduce or restrict existing stockholder rights, including through the issuance of super-voting preferred stock, however Nasdaq has previously approved the implementation of super-voting preferred stock in the stockholder meeting context, under certain circumstances and in consultation with the exchange.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the authority vested in the Board in accordance with the provisions of Article IV of the Certificate of Incorporation and the provisions of Section 151 of the DGCL, the Board hereby establishes and issues the Series A Preferred Stock with the rights, powers, preferences, privileges and restrictions thereof, subject to approval by the Company’s Class B Common Stock stockholders and the confirmation of The Nasdaq Stock Market LLC.

APPROVAL OF SERIES A PREFERRED STOCK

As of the date of this Certificate of Designation, the holder of all of the issued and outstanding Class B Common Stock has, pursuant to and in accordance with Article VI, Section 6.1 of the Certificate of Incorporation and Section 228 of the DGCL, approved by written consent on behalf of the Class B Common Stock (among other things) the issuance of the Series A Preferred Stock.

TERMS OF SERIES A PREFERRED STOCK

1. **Designation, Amount and Par Value.** The series of Preferred Stock created hereby shall be designated as the Series A Preferred Stock, and the number of shares so designated shall be one (1). The share of Series A Preferred Stock shall have a par value of \$0.0001 per share and will be uncertificated and represented in book-entry form.
2. **Dividends.** The share of Series A Preferred Stock shall not be entitled to receive dividends.
3. **Voting Rights.** Except as otherwise required by law, the holder of the share of Series A Preferred Stock shall have the following voting rights (and shall not have any other voting rights):
 - 3.1. The share of Series A Preferred Stock shall have no voting rights except with respect to the Shareholder Proposals (as defined below) in which its votes are cast for and against each Shareholder Proposal in the same proportion as shares of Common Stock (as defined below) are voted for and against such Shareholder Proposal (with any shares of Common Stock that are not voted (whether due to abstentions, broker non-votes or otherwise) not counted as votes for or against such Shareholder Proposal), in which the outstanding share of Series A Preferred Stock shall have 4,500,000,000 votes with respect to the Shareholder Proposals. The outstanding share of Series A Preferred Stock shall vote together with the outstanding shares of common stock of the Company ("**Common Stock**") as a single class exclusively with respect to each Shareholder Proposal until such time as, following the filing of this Certificate of Designation, is the Shareholder Proposals are approved by the stockholders of the Company, and shall not be entitled to vote on any other matter except to the extent required by non-waivable provisions of the DGCL. As used herein, the term "**Shareholder Proposal**" means each of the Share Authorization Proposal and the Reverse Stock Split Proposal and, together, the "**Shareholder Proposals**", the term "**Share Authorization Proposal**" means any proposal approved by the Board and submitted to the stockholders of the Company to adopt an amendment to the Certificate of Incorporation to increase the number of shares of authorized Class A Common Stock and Class B Common Stock, increasing the total number of shares of Common Stock, and the term "**Reverse Stock Split Proposal**" means any proposal approved by the Board and submitted to the stockholders of the Company to adopt an amendment, or a series of alternate amendments, to the Certificate of Incorporation to combine the outstanding shares of Common Stock into a smaller number of shares of Common Stock at a ratio specified in or determined in accordance with the terms of such amendment or series of alternate amendments, and to reduce the number of outstanding shares of Common Stock and effect a corresponding reduction in the total number of authorized shares of Common Stock.
 - 3.2. The share of Series A Preferred Stock shall have no voting rights with respect to the Shareholder Proposals unless the holders of one-third (1/3rd) of the outstanding shares of Common Stock are present, in person or by proxy, at the meeting of stockholders at which the Shareholder Proposals are submitted for stockholder approval (or any adjournment thereof).
4. **Rank; Liquidation.** Upon a liquidation, bankruptcy, reorganization, merger, acquisition, sale, dissolution or winding up of the Company, whether voluntarily or involuntarily, pursuant to which assets of the Company or consideration received by the Company are to be distributed to the stockholders, the holder of Series A Preferred Stock shall be entitled to receive, before any payment is made to the holders of Common Stock by reason of their ownership thereof, an amount of \$100.00.

5. **Transfer Restrictions.** The Series A Preferred Stock may not be Transferred at any time prior to stockholder approval of the Shareholder Proposals without the prior written consent of the Board. “*Transferred*” means, directly or indirectly, whether by merger, consolidation, share exchange, division, or otherwise, the sale, transfer, gift, pledge, encumbrance, assignment or other disposition of the share of Series A Preferred Stock (or any right, title or interest thereto or therein) or any agreement, arrangement or understanding (whether or not in writing) to take any of the foregoing actions.
6. **Redemption.**
- 6.1. The outstanding share of Series A Preferred Stock shall be redeemed in whole, but not in part, out of funds lawfully available therefor, upon the earlier of (i) any time such redemption is ordered by the Board in its sole discretion, automatically and effective on such time and date specified by the Board in its sole discretion, or (ii) automatically immediately following the approval by the stockholders of the Company of both Shareholder Proposals (any such redemption pursuant to this Section 6.1, the “*Redemption*”). As used herein, the “*Redemption Time*” shall mean the effective time of the Redemption.
- 6.2. The share of Series A Preferred Stock redeemed in the Redemption pursuant to this Section 6 shall be redeemed in consideration for the right to receive an amount equal to \$100.00 in cash (the “*Redemption Price*”) for the share of Series A Preferred Stock that is owned of record as of immediately prior to the applicable Redemption Time and redeemed pursuant to the Redemption, payable upon the applicable Redemption Time.
- 6.3. From and after the time at which the share of Series A Preferred Stock is called for Redemption (whether automatically or otherwise) in accordance with Section 6.1 hereof, such share of Series A Preferred Stock shall cease to be outstanding, and the only right of the former holder of such share of Series A Preferred Stock, as such, will be to receive the applicable Redemption Price. Upon such Redemption, the share of Series A Preferred Stock redeemed pursuant to this Certificate of Designation shall be automatically retired and restored to the status of an authorized but unissued share of Preferred Stock. Notice of a meeting of the Company’s stockholders for the submission to such stockholders of any proposal to approve a Shareholder Proposal shall constitute notice of the Redemption of the share of Series A Preferred Stock at the Redemption Time pursuant to Section 6.1(ii) hereof. In connection with the filing of this Certificate of Designation, the Company has set apart funds for payment for the Redemption of the share of Series A Preferred Stock and shall continue to keep such funds apart for such payment through the payment of the purchase price for the Redemption of such share.
7. **Severability.** Whenever possible, each provision hereof shall be interpreted in a manner as to be effective and valid under applicable law, but if any provision hereof is held to be prohibited by or invalid under applicable law, then such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating or otherwise adversely affecting the remaining provisions hereof.

IN WITNESS WHEREOF, Faraday Future Intelligent Electric Inc. has caused this Certificate of Designation of Preferences, Rights and Limitations of Series A Preferred Stock to be duly executed by the undersigned duly authorized officer as of this 21st day of December, 2023.

FARADAY FUTURE INTELLIGENT ELECTRIC INC.

By: /s/ Jonathan Maroko
Jonathan Maroko
Interim Chief Financial Officer

ADDITIONAL RISK FACTORS

Investing in our common stock is highly speculative and involves risks. You should carefully consider the additional risk factors below as well as the risk factors described in Part I, Item 1A, "Risk Factors" in our Annual Report on Form 10-K/A for the year ended December 31, 2022 and any updates to those risk factors or new risk factors contained in our subsequent Quarterly Reports on Form 10-Q and any registration statements that we file with the Securities and Exchange Commission. We expect to update these Risk Factors from time to time in the periodic and current reports that we file with the Securities and Exchange Commission after the date of this Form 8-K.

The Company needs the proceeds from certain financings to pay its outstanding obligations and to operate its business, and it will likely file for bankruptcy protection if it is unable to consummate these financings.

The Company must raise additional financing in order for the Company to continue its operations and pay its outstanding obligations and continue its obligations. The Company intends to raise additional funds by continuing to sell its shares of the Class A Common Stock, par value \$0.0001 per share (the "Class A Common Stock") pursuant to its ATM Program (as defined below), receiving funding under its unfunded commitments to purchase convertible notes under its secured securities purchase agreement, unsecured securities purchase agreement and consummating an equipment-based financing ("Potential Financings"). There are certain conditions to the Company's receipt of the proceeds of each Potential Financing, many of which are not within the Company's control. For example, the Company's ability to continue to sell shares pursuant to the ATM Program requires the Company to have sufficient authorized and unissued shares and that the Class A Common Stock remain listed on a national securities exchange. Additionally, in order to receive funding under its unfunded commitments for purchases of convertible notes, the purchasers must waive certain conditions to the consummation of such fundings. These conditions include that there to be an effective resale registration statement to resell the shares of Class A Common Stock underlying the convertible notes, the Class A Common Stock remain listed on a national securities exchange and the Company maintains sufficient authorized and unissued shares of Class A Common Stock to be issued upon a request to convert the notes. The Company currently does not intend to file a new registration statement for the resale of such shares for the foreseeable future and, while the Company intends to hold a special meeting of its stockholders to seek stockholder approval of a reverse stock split, currently the Company does not have sufficient unissued and authorized shares to satisfy conversion requests of such note purchasers. Additionally, the consummation of the equipment-based financing is subject to the receipt of the consents of holders of the Company's currently outstanding secured convertible notes. The Company may not be able to satisfy these conditions or receive the necessary waivers. If these Potential Financings are not consummated, the Company will likely not have sufficient resources to fund its outstanding obligations and continue operations and the Company will likely have to file for bankruptcy protection and its assets will likely be liquidated. The Company's equity holders would likely not receive any recovery at all in a bankruptcy scenario.

The Company's ability to continue to utilize its "at-the-marketing" program will be significantly reduced if its public float is less than \$75 million when the Company files its annual report on Form 10-K for the year ending December 31, 2023.

The Company's operations have consumed substantial amounts of cash since its inception. To date, the Company has primarily financed its operations through the sale of its Common Stock, par value \$0.0001 per share (the "Common Stock"), warrants and convertible notes. For example, on June 16, 2023, the Company filed a Registration Statement on Form S-3 covering the offering of up to \$300.0 million of Class A Common Stock, and warrants, which was declared effective by the SEC on June 28, 2023 (the "Registration Statement"). On September 26, 2023, the Company also entered into a sales agreement with Stifel, Nicolaus & Company, Incorporated, B. Riley Securities, Inc., A.G.P./Alliance Global Partners, Wedbush Securities Inc. and Maxim Group LLC, as sales agents, to sell shares of Class A Common Stock, from time to time, with aggregate gross sales proceeds of up to \$90.0 million pursuant to the Registration Statement as an "at-the-market" offering under the Securities Act of 1933, as amended (the "ATM Program"). The ATM Program has been the primary source of liquidity for the Company since September 2023.

Under current SEC regulations, if at the time the Company files its Annual Report on Form 10-K for the year ended December 31, 2023 (the “Annual Report”) its public float is less than \$75 million, and for so long as its public float remains less than \$75 million, the amount the Company can raise through primary public offerings of securities, including through the ATM Program, in any twelve-month period using the Registration Statement is limited to an aggregate of one-third of its public float, which is referred to as the “baby shelf rules.” SEC regulations permit the Company to use the highest closing sales price of the Class A Common Stock (or the average of the last bid and last ask prices of the Class A Common Stock) on any day within 60 days of sales under the Registration Statement to calculate the public float. As of the current date, the Company’s public float is less than \$75 million. If the public float remains less than \$75 million at the time the Company files its Annual Report, the Company only has the capacity to sell shares under the Registration Statement following the date of the Annual Report, and until the Company again has a public float with a value in excess of \$75 million, if ever, up to one-third of the public float, including through the ATM Program, in any twelve-month period. If the public float decreases at the time of the sales, the amount of securities the Company may sell under the Registration Statement, including through the ATM Program, will also decrease.

Although alternative public and private transaction structures may be available, these may require additional time and cost, may impose operational restrictions on the Company, and may not be available on attractive terms. The Company’s inability to continue to raise capital when needed will harm its business, financial condition and results of operations, and will likely cause the Company’s stock value to decline and the Company will likely have to file for bankruptcy protection and its assets will likely be liquidated. The Company’s equity holders would likely not receive any recovery at all in a bankruptcy scenario.

The Company is not currently in compliance with the continued listing requirements for The Nasdaq Stock Market. If the Company does not regain compliance and continue to meet the continued listing requirements, the Class A Common Stock may be delisted, which could affect the market price and liquidity for the Company’s Common Stock and reduce the Company’s ability to raise additional capital.

The Company anticipates that it will receive a letter from the Listing Qualifications Staff of the Nasdaq Stock Market, LLC (“Nasdaq”) on or about December 27, 2023, that the Company is not in compliance with the requirement to maintain a minimum bid price of \$1.00 per share for 30 consecutive trading days for continued listing on Nasdaq, as set forth in Nasdaq Listing Rule 5550(a)(2) (the “Minimum Bid Price Requirement”). Beginning on November 9, 2023, the Company’s closing bid price of the Class A Common Stock has been below \$1.00 per share.

Pursuant to Nasdaq Listing Rule 5810(c)(3)(A), the Company will have 180 calendar days from receipt of a notice from Nasdaq (the “Compliance Period”), to regain compliance with the Minimum Bid Price Requirement. If at any time during the Compliance Period, the bid price of the Class A Common Stock closes at or above \$1.00 per share for a minimum of ten consecutive business days, Nasdaq will provide the Company with written confirmation of compliance with the Minimum Bid Price Requirement and the matter will be closed. In the event the Company does not regain compliance with the Minimum Bid Price Requirement by the end of the Compliance Period, the Company may be eligible for an additional 180-calendar day grace period. Pursuant to Nasdaq Listing Rule 5810(3)(A)(iii), if during any compliance period specified in Nasdaq Listing Rule 5810(c)(3)(A), a company’s security has a closing bid price of \$0.10 or less for ten consecutive trading days, the Listing Qualifications Department of Nasdaq will issue a Staff Delisting Determination under Nasdaq Listing Rule 5810 with respect to that security (the “Low Priced Stocks Rule”). If a company receives such delisting notice, the company can request a hearing before a Nasdaq hearings panel (the “Panel”). If the Class A Common Stock closes at or below \$0.10 for ten consecutive days during the Compliance Period or any additional compliance period, the Company could receive a Staff Delisting Determination during the Compliance Period or any additional compliance period or, if the Company receives such Staff Delisting Determination, Nasdaq may not grant the Company’s request for a hearing, or if Nasdaq grants the Company’s request for a hearing, the Panel may not grant the Company’s request for continued listing of the Class A Common Stock on The Nasdaq Capital Market pending the Company’s compliance with all applicable listing criteria, including the Minimum Bid Price Requirement, or the Company may be unable to timely satisfy the terms of any extension that may be granted by the Panel.

The Company will continue to monitor the closing bid price of its Class A Common Stock and seek to regain compliance with all applicable Nasdaq requirements within the allotted compliance periods and may, if appropriate, consider available options, including implementation of a reverse stock split, to regain compliance with the Minimum Bid Price Requirement or the Low Priced Stocks Rule, as applicable.

If the Company seeks to implement a reverse stock split in order to remain listed on Nasdaq, the announcement or implementation of such a reverse stock split could negatively affect the price of its Common Stock. On December 21, 2023, the Company's Board of Directors approved a proposal, to be submitted to stockholders for approval at a special meeting of stockholders, to authorize the Board to effect a reverse stock split of the Common Stock at a ratio of 1-for-3 shares of outstanding Common Stock and a proportionate decrease in authorized Common Stock (the "Reverse Stock Split Proposal"). On December 27, 2023, the Company filed a preliminary proxy statement with the SEC for the purposes of seeking stockholder approval of the Reverse Stock Split Proposal, among others. If the stockholders approve the Reverse Stock Split Proposal and the Board determines to effect the reverse stock split at a ratio for 1-for-3 (the "Reverse Stock Split") when the Company's share price is at or below \$0.33 per share, the Reverse Stock Split will not result in the Company regaining compliance with the Minimum Bid Price Requirement. If the Company does not regain compliance within the allotted compliance periods, including any extensions that may be granted by Nasdaq, Nasdaq will provide notice that its Class A Common Stock will be subject to delisting.

Further, while Nasdaq rules do not impose a specific limit on the number of times a listed company may effect a reverse stock split to maintain or regain compliance with the Minimum Bid Price Requirement, Nasdaq has stated that a series of reverse stock splits may undermine investor confidence in securities listed on Nasdaq. Accordingly, Nasdaq may determine that it is not in the public interest to maintain the Company's listing, even if we regain compliance with the Minimum Bid Price Requirement.

In addition, Nasdaq Listing Rule 5810(c)(3)(A)(iv) states that if a listed company that fails to meet the Minimum Bid Price Requirement after effecting one or more reverse stock splits over the prior two-year period with a cumulative ratio of 250 shares or more to one, then the company is not eligible for a Compliance Period. The Company effected a 1-for-80 reverse stock split of its Common Stock on August 25, 2023, and if the Company's stockholders approve the Reverse Stock Split Proposal and the Reverse Stock Split is implemented, the Company will have effected reverse stock splits with a cumulative ratio of 240 shares to one. Any subsequent reverse stock split would cause the Company to exceed the 1-for-250 ratio.

The Company may fail to regain compliance with the Minimum Bid Price requirement during the Compliance Period or maintain compliance with the other Nasdaq listing requirements. In particular, the rights granted to FF Global Partners LLC ("FFGP") under the Amended Shareholder Agreement or other similar rights granted to other investors may cause FF to fall out of compliance with certain of Nasdaq's Listing Rules, including Nasdaq Rule 5640, which disallows the voting rights of existing stockholders to be disparately reduced through any corporate action or issuance. Any non-compliance may be costly, divert management's time and attention, and could have a material adverse effect on the Company's business, reputation, financing, and results of operation. A delisting could substantially decrease trading in the Class A Common Stock, adversely affect the market liquidity of the Common Stock as a result of the loss of market efficiencies associated with Nasdaq and the loss of federal preemption of state securities laws, materially adversely affect its ability to obtain financing on acceptable terms, if at all, and may result in the potential loss of confidence by investors, suppliers, customers and employees and fewer business development opportunities. Additionally, the market price of the Class A Common Stock may decline further and stockholders may lose some or all of their investment.