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

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**FORM 8-K**

**CURRENT REPORT**

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

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Date of Report (Date of earliest event reported): September 1, 2023

**AULT ALLIANCE, INC.**

(Exact name of registrant as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

001-12711  
(Commission File Number)

94-1721931  
(I.R.S. Employer Identification No.)

11411 Southern Highlands Parkway, Suite 240, Las Vegas, NV 89141  
(Address of principal executive offices) (Zip Code)

(949) 444-5464  
(Registrant's telephone number, including area code)

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
Common Stock, \$0.001 par value	AULT	NYSE American
13.00% Series D Cumulative Redeemable Perpetual Preferred Stock, par value \$0.001 per share	AULT PRD	NYSE American

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.

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**ITEM 1.01 ENTRY INTO A MATERIAL DEFINITIVE AGREEMENT.**

On September 1, 2023, Ault Alliance, Inc. (the “Company”) commenced an offering on a continuing basis of up to an aggregate principal amount of \$48,000,000 of its senior notes, consisting of \$8,000,000 principal amount of its 7.00% senior notes due 2024 (the “2024 Notes”), \$10,000,000 principal amount of its 8.50% senior notes due 2026 (the “2026 Notes”) and \$30,000,000 principal amount of its 10.50% senior notes due 2028 (the “2028 Notes” and, collectively with the 2024 Notes and the 2026 Notes, the “Notes”). The offering will continue until (i) the date that the maximum amount of Notes has been sold or (ii) an earlier date determined by the Company in its sole discretion. The offering has been registered under the Securities Act of 1933, as amended (the “Securities Act”), pursuant to a registration statement on Form S-3 (Registration No. 333-260618) filed by the Company with the U.S. Securities and Exchange Commission (the “SEC”), effective November 12, 2021, and the prospectus supplement filed by the Company with the SEC pursuant to Rule 424(b) of the Securities Act on September 1, 2023.

The Notes are the Company’s senior unsecured obligations and rank equally with all of the Company’s other senior unsecured indebtedness. The 2024 Notes mature on December 31, 2024 and bear interest at a rate of 7.00% per annum. The 2026 Notes mature on December 31, 2026 and bear interest at a rate of 8.50% per annum. The 2028 Notes mature on December 31, 2028 and bear interest at a rate of 10.50% per annum. The maturity dates of the 2024 Notes, 2026 Notes and 2028 Notes may be extended for an additional three, six and twelve months, respectively, at the Company’s option upon payment to those noteholders of an extension fee equal to 1.00% of the outstanding principal balance of their notes. The Company will pay interest on the Notes on the 15th day of each month, beginning in the month next succeeding the month in which each Note is issued, with partial payment on a pro rata basis for the first month as appropriate.

The 2028 Notes may be redeemed at the Company’s option, in whole at any time or in part from time to time, upon not less than 30 days nor more than 60 days written notice to the holders prior to the date of redemption, at a redemption price of 100% of the outstanding principal amount of the 2028 Notes to be redeemed, plus accrued and unpaid interest to, but excluding, the date of redemption. Notwithstanding the foregoing, the 2028 Notes may not be redeemed prior to two years after the respective issuance date of such notes. The 2024 Notes and the 2026 Notes are not redeemable by the Company prior to maturity.

If an event of default with respect to the Notes occurs, the principal amount of the Notes, plus any accrued and unpaid interest, may be declared immediately due and payable, subject to certain conditions. These amounts automatically become due and payable in the case of certain types of bankruptcy, insolvency or reorganization events of default involving the Company.

Investors must purchase the Notes on the Company’s online platform located at [www.monthlyincome.com](http://www.monthlyincome.com) and simultaneously enter into an Investor Agreement (the “Investor Agreement”), the terms of which govern the purchase of the Notes.

The foregoing description is a summary of the terms of the Notes and the Investment Agreement and does not purport to be a complete statement of the rights and obligations thereunder. The foregoing description is qualified in its entirety by reference to the full text of the 2024 Notes, the 2026 Notes, the 2028 Notes and the Investment Agreement, copies of which are filed as Exhibits 4.1, 4.2, 4.3 and 10.1, respectively, to this Current Report on Form 8-K and incorporated by reference herein.

The legal opinion of Olshan Frome Wolosky LLP, counsel to the Company, relating to the legality of the issuance and sale of the Notes is filed as Exhibit 5.1 to this Current Report on Form 8-K.

**ITEM 2.03 CREATION OF DIRECT FINANCIAL OBLIGATION OR AN OBLIGATION UNDER AN OFF-BALANCE SHEET ARRANGEMENT OF A REGISTRANT.**

The disclosure set forth in Item 1.01 above is incorporated by reference into this Item 2.03.

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**ITEM 9.01 FINANCIAL STATEMENTS AND EXHIBITS.**

(d) Exhibits.

<b>Exhibit No.</b>	<b>Description</b>
4.1	<a href="#">Form of 7.00% Senior Note due 2024.</a>
4.2	<a href="#">Form of 8.50% Senior Note due 2026.</a>
4.3	<a href="#">Form of 10.50% Senior Note due 2028.</a>
5.1	<a href="#">Opinion of Olshan Frome Wolosky LLP.</a>
10.1	<a href="#">Ault Alliance, Inc. Investor Agreement.</a>
23.1	<a href="#">Consent of Olshan Frome Wolosky LLP (included in the opinion filed as Exhibit 5.1).</a>
101	Pursuant to Rule 406 of Regulation S-T, the cover page is formatted in Inline XBRL (Inline eXtensible Business Reporting Language).
104	Cover Page Interactive Data File (embedded as Inline XBRL document and contained in Exhibit 101).

**SIGNATURES**

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 thereunto duly authorized.

**AULT ALLIANCE, INC.**

Dated: September 1, 2023

By: /s/ Henry C.W. Nisser  
Name: Henry C.W. Nisser  
Title: President

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**FORM OF 7.00% SENIOR NOTE DUE 2024**

\$ \_\_\_\_\_

Dated: \_\_\_\_\_, 202\_

**FOR VALUE RECEIVED**, the undersigned, Ault Alliance, Inc., a Delaware corporation (the “Maker”), PROMISES TO PAY to the order of \_\_\_\_\_ (together with its successors and assigns, the “Payee”) the principal sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_), together with interest at the rate specified below. This 7.00% Senior Note due 2024 (the “Note”) is being issued pursuant to the terms of the Investor Agreement of even date herewith by and between the Maker and the Payee.

1. **Principal and Term**. The Outstanding Principal Balance (as defined herein) shall be due and payable in full on December 31, 2024 (the “Maturity Date”). The Maturity Date may be extended for an additional three months to March 31, 2025 upon the Maker’s payment in cash to the Payee of an extension fee equal to 1.00% of the Outstanding Principal Balance. The term “Outstanding Principal Balance” means, as of any date of determination, the principal amount of this Note that remains unpaid.

2. **Interest**.

(a) **Calculation; Payment of Interest**. Simple interest shall accrue on the Outstanding Principal Balance at the fixed interest rate of 7.00% per annum from the date that the purchase funds have cleared. Interest shall be made to the Payee on a monthly basis by no later than the 15<sup>th</sup> day of the month following the month of accrual. Interest shall compound annually and shall be computed on the basis of a year consisting of 360 days, with payments each month consisting of the same amount regardless of the actual number of days in such month. Partial month calculations shall be done as nearly to pro rata as possible of that portion of the month remaining. Such calculations shall be made in the Maker’s sole discretion. Upon credit of the interest to Payee’s Account on the Maker’s website, the interest shall be deemed paid in full.

(b) **Payment of Outstanding Principal Balance**. Payments of the Outstanding Principal Balance will be credited by the Maker to the Payee’s Account on or prior to the repayment of the Note on the Maturity Date. Upon credit of the Outstanding Principal Balance to the Payee’s Account, the Outstanding Principal Balance shall be deemed paid in full.

(c) **No Redemption by Maker**. The Note shall not be redeemable by the Maker or subject to voluntary prepayment prior to the Maturity Date.

3. **Unsecured**. This Note is not secured by any mortgage, lien, pledge, charge, financing statement, security interests, hypothecation, or other security device of Maker of any type, and is a general obligation of the Maker.

4. **Events of Default**. If any one of the following events shall occur and be continuing (each, an “Event of Default”): (i) the Maker shall fail to pay as and when due in accordance with the terms hereof any Outstanding Principal Balance or accrued but unpaid interest on this Note, and such failure shall continue for thirty (30) days after the Maker has received notice thereof from the Payee; or (ii) the Maker shall file a petition for relief or commence a proceeding under any bankruptcy, insolvency, reorganization or similar law (or its governing board shall authorize any such filing or the commencement of any such proceeding), have any liquidator, administrator, trustee or custodian appointed with respect to it or any substantial portion of its business or assets, make a general assignment for the benefit of creditors or generally admit its inability to pay its debts as they come due; then in any such event the Payee may, by notice to the Maker, declare the entire Outstanding Principal Balance together with all interest accrued and unpaid thereon to be immediately due and payable, whereupon this Note and all such accrued interest shall become and be immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Maker. Notwithstanding the foregoing, if any event described in clause (ii) above shall occur, the entire Outstanding Principal Balance together with all interest accrued and unpaid thereon shall automatically become due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Maker.

5. Binding Effect; Assignment. This Note shall be binding upon the Maker and its successors and inure to the benefit of the Payee and its successors and assigns. The obligations of the Maker under this Note may not be delegated to or assumed by any other party, and any such purported delegation or assumption shall be null and void.

6. Miscellaneous.

(a) Both the Outstanding Principal Balance and interest are payable in lawful money of the United States of America. If any payment due hereunder falls on a Saturday, a Sunday or any other day on which commercial banks in New York, New York are authorized or required to close under applicable law, such payment shall be payable on the next succeeding business day, with interest accruing thereon until the date of payment thereof.

(b) If the Maker shall fail to pay any amount payable hereunder on the due date therefor, Maker shall pay all costs of collection, including, but not limited to, attorney's fees and expenses, incurred by Payee on account of such collection.

(c) The Maker waives presentment, demand, protest and notice of any kind (including notice of presentment, demand, protest, dishonor and nonpayment). The Maker shall pay the Payee all sums which are payable pursuant to the terms of this Note without setoff, recoupment or deduction of any kind or for any reason whatsoever.

(d) No delay on the part of the Payee in exercising any option, power or right hereunder, shall constitute a waiver thereof, nor shall the Payee be estopped from enforcing the same or any other provision at any later time or in any other instance. No waiver of any of the terms or provisions of this Note shall be effective unless in writing, duly signed by the party to be charged. This Note shall not be modified except by a writing signed by both the Maker and the Payee.

(e) This Note shall be governed by and construed in accordance with the laws of the State of New York, without regard to principles of conflicts of law.

**IN WITNESS WHEREOF**, the Maker has caused this Note to be duly executed as of the date first above written.

**AULT ALLIANCE, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



**FORM OF 8.50% SENIOR NOTE DUE 2026**

\$ \_\_\_\_\_

Dated: \_\_\_\_\_, 202\_

**FOR VALUE RECEIVED**, the undersigned, Ault Alliance, Inc., a Delaware corporation (the “Maker”), PROMISES TO PAY to the order of \_\_\_\_\_ (together with its successors and assigns, the “Payee”) the principal sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_), together with interest at the rate specified below. This 8.50% Senior Note due 2026 (the “Note”) is being issued pursuant to the terms of the Investor Agreement of even date herewith by and between the Maker and the Payee.

1. **Principal and Term**. The Outstanding Principal Balance (as defined herein) shall be due and payable in full on December 31, 2026 (the “Maturity Date”). The Maturity Date may be extended for an additional six months to June 30, 2027 upon the Maker’s payment in cash to the Payee of an extension fee equal to 1.00% of the Outstanding Principal Balance. The term “Outstanding Principal Balance” means, as of any date of determination, the principal amount of this Note that remains unpaid.

2. **Interest**.

(a) **Calculation; Payment of Interest**. Simple interest shall accrue on the Outstanding Principal Balance at the fixed interest rate of 8.50% per annum from the date that the purchase funds have cleared. Interest shall be made to the Payee on a monthly basis by no later than the 15<sup>th</sup> day of the month following the month of accrual. Interest shall compound annually and shall be computed on the basis of a year consisting of 360 days, with payments each month consisting of the same amount regardless of the actual number of days in such month. Partial month calculations shall be done as nearly to pro rata as possible of that portion of the month remaining. Such calculations shall be made in the Maker’s sole discretion. Upon credit of the interest to Payee’s Account on the Maker’s website, the interest shall be deemed paid in full.

(b) **Payment of Outstanding Principal Balance**. Payments of the Outstanding Principal Balance will be credited by the Maker to the Payee’s Account on or prior to the repayment of the Note on the Maturity Date. Upon credit of the Outstanding Principal Balance to the Payee’s Account, the Outstanding Principal Balance shall be deemed paid in full.

(c) **No Redemption by Maker**. The Note shall not be redeemable by the Maker or subject to voluntary prepayment prior to the Maturity Date.

3. **Unsecured**. This Note is not secured by any mortgage, lien, pledge, charge, financing statement, security interests, hypothecation, or other security device of Maker of any type, and is a general obligation of the Maker.

4. **Events of Default**. If any one of the following events shall occur and be continuing (each, an “Event of Default”): (i) the Maker shall fail to pay as and when due in accordance with the terms hereof any Outstanding Principal Balance or accrued but unpaid interest on this Note, and such failure shall continue for thirty (30) days after the Maker has received notice thereof from the Payee; or (ii) the Maker shall file a petition for relief or commence a proceeding under any bankruptcy, insolvency, reorganization or similar law (or its governing board shall authorize any such filing or the commencement of any such proceeding), have any liquidator, administrator, trustee or custodian appointed with respect to it or any substantial portion of its business or assets, make a general assignment for the benefit of creditors or generally admit its inability to pay its debts as they come due; then in any such event the Payee may, by notice to the Maker, declare the entire Outstanding Principal Balance together with all interest accrued and unpaid thereon to be immediately due and payable, whereupon this Note and all such accrued interest shall become and be immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Maker. Notwithstanding the foregoing, if any event described in clause (ii) above shall occur, the entire Outstanding Principal Balance together with all interest accrued and unpaid thereon shall automatically become due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Maker.



5. Binding Effect; Assignment. This Note shall be binding upon the Maker and its successors and inure to the benefit of the Payee and its successors and assigns. The obligations of the Maker under this Note may not be delegated to or assumed by any other party, and any such purported delegation or assumption shall be null and void.

6. Miscellaneous.

(a) Both the Outstanding Principal Balance and interest are payable in lawful money of the United States of America. If any payment due hereunder falls on a Saturday, a Sunday or any other day on which commercial banks in New York, New York are authorized or required to close under applicable law, such payment shall be payable on the next succeeding business day, with interest accruing thereon until the date of payment thereof.

(b) If the Maker shall fail to pay any amount payable hereunder on the due date therefor, Maker shall pay all costs of collection, including, but not limited to, attorney's fees and expenses, incurred by Payee on account of such collection.

(c) The Maker waives presentment, demand, protest and notice of any kind (including notice of presentment, demand, protest, dishonor and nonpayment). The Maker shall pay the Payee all sums which are payable pursuant to the terms of this Note without setoff, recoupment or deduction of any kind or for any reason whatsoever.

(d) No delay on the part of the Payee in exercising any option, power or right hereunder, shall constitute a waiver thereof, nor shall the Payee be estopped from enforcing the same or any other provision at any later time or in any other instance. No waiver of any of the terms or provisions of this Note shall be effective unless in writing, duly signed by the party to be charged. This Note shall not be modified except by a writing signed by both the Maker and the Payee.

(e) This Note shall be governed by and construed in accordance with the laws of the State of New York, without regard to principles of conflicts of law.

**IN WITNESS WHEREOF**, the Maker has caused this Note to be duly executed as of the date first above written.

**AULT ALLIANCE, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



**FORM OF 10.50% SENIOR NOTE DUE 2028**

\$ \_\_\_\_\_

Dated: \_\_\_\_\_, 202\_

**FOR VALUE RECEIVED**, the undersigned, Ault Alliance, Inc., a Delaware corporation (the “Maker”), PROMISES TO PAY to the order of \_\_\_\_\_ (together with its successors and assigns, the “Payee”) the principal sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_), together with interest at the rate specified below. This 10.50% Senior Note due 2028 (the “Note”) is being issued pursuant to the terms of the Investor Agreement of even date herewith by and between the Maker and the Payee.

1. **Principal and Term**. The Outstanding Principal Balance (as defined herein) shall be due and payable in full on December 31, 2028 (the “Maturity Date”), or such sooner date upon the redemption of the Note by the Maker as set forth in Section 2(c) hereof. The Maturity Date may be extended for an additional 12 months to December 31, 2029 upon the Maker’s payment in cash to the Payee of an extension fee equal to 1.00% of the Outstanding Principal Balance. The term “Outstanding Principal Balance” means, as of any date of determination, the principal amount of this Note that remains unpaid.

2. **Interest**.

(a) **Calculation; Payment of Interest**. Simple interest shall accrue on the Outstanding Principal Balance at the fixed interest rate of 10.50% per annum from the date that the purchase funds have cleared. Interest shall be made to the Payee on a monthly basis by no later than the 15<sup>th</sup> day of the month following the month of accrual. Interest shall compound annually and shall be computed on the basis of a year consisting of 360 days, with payments each month consisting of the same amount regardless of the actual number of days in such month. Partial month calculations shall be done as nearly to pro rata as possible of that portion of the month remaining. Such calculations shall be made in the Maker’s sole discretion. Upon credit of the interest to Payee’s Account on the Maker’s website, the interest shall be deemed paid in full.

(b) **Payment of Outstanding Principal Balance**. Payments of the Outstanding Principal Balance will be credited by the Maker to the Payee’s Account on or prior to the repayment of the Note on the Maturity Date or such sooner date upon the redemption of the Note by the Maker. Upon credit of the Outstanding Principal Balance to the Payee’s Account, the Outstanding Principal Balance shall be deemed paid in full.

(c) **Redemption by Maker**. The Note shall be redeemable in whole at any time or in part from time to time by the Maker upon five (5) days’ notice to Payee at par plus any accrued but unpaid interest up to but not including the date of redemption; provided, however, that the Note may not be redeemed prior to two years after the date of this Note (the “Redemption Date”). Interest shall cease accruing on the Note on the Redemption Date. The Outstanding Principal Balance together with interest through the Redemption Date shall be credited to the Payee’s Account within five (5) Business Days following the Redemption Date, upon which all amounts due under this Note shall be deemed paid in full. “Business Day” shall mean any day except any Saturday, any Sunday, any day which is a federal legal holiday in the United States or any day on which banking institutions in New York, New York are authorized or required by law or other governmental action to close.

3. **Unsecured**. This Note is not secured by any mortgage, lien, pledge, charge, financing statement, security interests, hypothecation, or other security device of Maker of any type, and is a general obligation of the Maker.

4. Events of Default. If any one of the following events shall occur and be continuing (each, an “Event of Default”): (i) the Maker shall fail to pay as and when due in accordance with the terms hereof any Outstanding Principal Balance or accrued but unpaid interest on this Note, and such failure shall continue for thirty (30) days after the Maker has received notice thereof from the Payee; or (ii) the Maker shall file a petition for relief or commence a proceeding under any bankruptcy, insolvency, reorganization or similar law (or its governing board shall authorize any such filing or the commencement of any such proceeding), have any liquidator, administrator, trustee or custodian appointed with respect to it or any substantial portion of its business or assets, make a general assignment for the benefit of creditors or generally admit its inability to pay its debts as they come due; then in any such event the Payee may, by notice to the Maker, declare the entire Outstanding Principal Balance together with all interest accrued and unpaid thereon to be immediately due and payable, whereupon this Note and all such accrued interest shall become and be immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Maker. Notwithstanding the foregoing, if any event described in clause (ii) above shall occur, the entire Outstanding Principal Balance together with all interest accrued and unpaid thereon shall automatically become due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Maker.

5. Binding Effect; Assignment. This Note shall be binding upon the Maker and its successors and inure to the benefit of the Payee and its successors and assigns. The obligations of the Maker under this Note may not be delegated to or assumed by any other party, and any such purported delegation or assumption shall be null and void.

6. Miscellaneous.

(a) Both the Outstanding Principal Balance and interest are payable in lawful money of the United States of America. If any payment due hereunder falls on a Saturday, a Sunday or any other day on which commercial banks in New York, New York are authorized or required to close under applicable law, such payment shall be payable on the next succeeding business day, with interest accruing thereon until the date of payment thereof.

(b) If the Maker shall fail to pay any amount payable hereunder on the due date therefor, Maker shall pay all costs of collection, including, but not limited to, attorney’s fees and expenses, incurred by Payee on account of such collection.

(c) The Maker waives presentment, demand, protest and notice of any kind (including notice of presentment, demand, protest, dishonor and nonpayment). The Maker shall pay the Payee all sums which are payable pursuant to the terms of this Note without setoff, recoupment or deduction of any kind or for any reason whatsoever.

(d) No delay on the part of the Payee in exercising any option, power or right hereunder, shall constitute a waiver thereof, nor shall the Payee be estopped from enforcing the same or any other provision at any later time or in any other instance. No waiver of any of the terms or provisions of this Note shall be effective unless in writing, duly signed by the party to be charged. This Note shall not be modified except by a writing signed by both the Maker and the Payee.

(e) This Note shall be governed by and construed in accordance with the laws of the State of New York, without regard to principles of conflicts of law.

**IN WITNESS WHEREOF**, the Maker has caused this Note to be duly executed as of the date first above written.

**AULT ALLIANCE, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

September 1, 2023

Ault Alliance, Inc.  
11411 Southern Highlands Parkway, Suite 240  
Las Vegas, Nevada 89141

Re: Registration Statement on Form S-3 (Registration No. 333-260618)

Ladies and Gentlemen:

We have acted as counsel to Ault Alliance, Inc., a Delaware corporation (the “Company”), in connection with the issuance and sale of up to an aggregate principal amount of \$48.0 million of its senior notes, consisting of \$8 million principal amount of its 7.00% senior notes due 2024, \$10.0 million principal amount of its 8.50% senior notes due 2026 and \$30.0 million principal amount of its 10.50% senior notes due 2028 (collectively, the “Notes”), pursuant to a Registration Statement on Form S-3 (File No. 333-260618) (the “Registration Statement”) filed with the U.S. Securities and Exchange Commission (the “SEC”) under the Securities Act of 1933, as amended (the “Act”), and declared effective by the SEC on November 12, 2021, and the related prospectus dated therein (the “Prospectus”), as supplemented by the prospectus supplement dated September 1, 2023 pursuant to Rule 424(b) promulgated under the Act (the “Prospectus Supplement”).

For purposes of this opinion, we have examined such documents and reviewed such questions of law as we have considered necessary and appropriate for the purposes of our opinion set forth below. In rendering our opinion, we have assumed the authenticity of all documents submitted to us as originals, the genuineness of all signatures and the conformity to authentic originals of all documents submitted to us as copies. We have also assumed the legal capacity for all purposes relevant hereto of all natural persons and, with respect to all parties to agreements or instruments relevant hereto other than the Company, that such parties had the requisite power and authority (corporate or otherwise) to execute, deliver and perform such agreements or instruments, that such agreements or instruments have been duly authorized by all requisite action (corporate or otherwise), executed and delivered by such parties and that such agreements or instruments are the valid, binding and enforceable obligations of such parties. As to questions of fact material to our opinions, we have relied upon certificates of officers of the Company and of public officials.

Based upon and subject to the foregoing, we are of the opinion that the Notes, when issued by the Company and delivered to and paid for by investors in the manner and on the terms described in the Prospectus Supplement, will be validly authorized and issued by the Company and will constitute valid and binding obligations of the Company, enforceable against the Company in accordance with their terms, except (i) as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws affecting creditors’ rights generally and by general equitable principles (regardless of whether enforceability is considered in a proceeding in equity or at law), (ii) as enforceability of any indemnification or contribution provision may be limited under the federal and state securities laws, (iii) that the remedy of specific performance and injunctive and other forms of equitable relief may be subject to the equitable defenses and to the discretion of the court before which any proceeding therefor may be brought and (iv) that we express no opinion as to whether a state court outside of the State of New York or a federal court of the United States would give effect to the choice of New York law provided for in the Notes.

We hereby consent to the filing of this opinion as an exhibit to the Company’s Current Report on Form 8-K filed with the SEC on September 1, 2023, which is incorporated by reference in the Registration Statement and the Prospectus, and to the reference to this firm under the heading “Legal Matters” in the Prospectus Supplement and the Prospectus. In giving such consent, we do not hereby concede that we are within the category of persons whose consent is required under Section 7 of the Act, or the rules and regulations of the SEC thereunder.

Very truly yours,

/s/ Olshan Frome Wolosky LLP  
OLSHAN FROME WOLOSKY LLP



## INVESTOR AGREEMENT

The following terms constitute a binding agreement (“Agreement”) between you, as an Investor (“Investor” or “you”), and Ault Alliance, Inc., a Delaware corporation (“Ault,” “we” or “us”). This Agreement will govern all purchases of 7.00% Senior Notes due 2024, 8.50% Senior Notes due 2026 and 10.50% Senior Notes due 2028 (collectively, the “Notes”) that you may, from time to time, make from Ault. Prior to completing your purchase of Notes, by executing this Agreement, you acknowledge you have reviewed the Terms of Use (“Terms of Use”), the Privacy Policy (“Privacy Policy”), and the Frequently Asked Questions (“FAQs”) on the Ault website at [monthlyincome.com](http://monthlyincome.com) and any subdomain thereof (the “Ault Site”). By signing electronically below, you agree that you have read these documents and agree to the following terms, together with the Terms of Use, consent to our Privacy Policy, agree to transact business with us and receive communications relating to the Notes electronically, and agree to have any dispute with us resolved by binding arbitration. All terms not otherwise defined herein shall have the same meaning as in the Note.

In consideration of the covenants, agreements, representations and warranties hereinafter set forth, and for other good and valuable consideration, receipt of which is hereby acknowledged, it is agreed as follows:

1. **PURCHASE OF NOTES.** Subject to the terms and conditions of this Agreement, we will provide you with the opportunity to purchase Notes with a minimum principal amount of \$1,000 and in any larger denomination in an integral multiple of \$500 through the Ault Site. At the time you commit to purchase a Note, you must have sufficient funds to complete the purchase, and you will not have access to those funds after you make a purchase commitment. Your commitment to purchase Notes pursuant to the terms and conditions of this Agreement will be made by you through an acceptance of this Agreement on the Ault Site at [www.monthlyincome.com](http://www.monthlyincome.com). Such acceptance is binding upon you.

2. **ISSUANCE.** Each time you purchase a Note, it will be issued immediately. Upon our receipt of your payment of the purchase price, your Note will begin bearing interest on the average daily balance at the interest rate stated on the Note.

3. **TERMS OF THE NOTES.** Each Note shall have the terms and conditions described in the Note issued by Ault, a copy of which is attached to this Agreement as Exhibit A and incorporated herein by such reference.

The Notes shall be issued by Ault. The Notes are direct, unsecured obligations of Ault.

**NO ENTITY OR PERSON HAS BEEN AUTHORIZED TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATION NOT CONTAINED IN THIS AGREEMENT OR THE OFFERING PROSPECTUS AND, IF GIVEN OR MADE, SUCH INFORMATION OR REPRESENTATION MUST NOT BE RELIED UPON AS HAVING BEEN AUTHORIZED BY AULT.**

#### 4. **Your Covenants and Acknowledgements.**

You understand and acknowledge the following:

(a) The Notes will be offered and sold pursuant to an effective shelf registration statement on Form S-3 (File No. 333-260618), including a base prospectus, filed with the U.S. Securities and Exchange Commission (the “SEC”) on November 12, 2021. A prospectus supplement and accompanying prospectus relating to and describing the terms of the offering (the “Offering Prospectus”) were filed with the SEC on September 1, 2023 and may be obtained by visiting the SEC’s website at [www.sec.gov](http://www.sec.gov) or by contacting Ault. You have received and have had the opportunity to review the Offering Prospectus provided to you. Neither the SEC nor any state securities commission has passed upon the merits of or given its approval of any securities offered or the terms of the offering nor passed upon the truthfulness or completeness of the Offering Prospectus or any other selling literature. Any representation to the contrary is a criminal offense.

(b) INVESTMENT IN THE NOTES INVOLVES A HIGH DEGREE OF RISK AND YOU MAY LOSE ALL YOUR INVESTMENT. THESE ARE SPECULATIVE SECURITIES. YOU SHOULD PURCHASE THESE SECURITIES ONLY IF YOU CAN AFFORD A COMPLETE LOSS OF YOUR INVESTMENT. BEFORE PURCHASING A NOTE, YOU SHOULD REVIEW THE RISK DISCLOSURES AND OTHER TERMS OF THE SECURITIES AVAILABLE OR INCORPORATED BY REFERENCE IN THE OFFERING PROSPECTUS ON THE SEC'S EDGAR FILINGS DATABASE AT WWW.SEC.GOV.

(c) THE NOTES DO NOT REPRESENT AN OWNERSHIP INTEREST IN ANY SPECIFIC AULT ASSETS. YOU UNDERSTAND THAT THE NOTES ARE UNSECURED OBLIGATIONS OF AULT ONLY.

(d) ALL AGREEMENTS AND OBLIGATIONS RELATING TO YOUR NOTES ARE BETWEEN YOU AND AULT AND NOT WITH ANY THIRD PARTY.

(e) YOU UNDERSTAND THAT AS AULT HAS A LIMITED OPERATING HISTORY IN ISSUING THE NOTES, WE FACE INCREASED RISKS, UNCERTAINTIES, EXPENSES AND DIFFICULTIES, WHICH COULD IMPACT YOUR INVESTMENT.

(f) PLEASE SEE THE OFFERING PROSPECTUS AND OUR OTHER FILINGS WITH THE SEC WHICH ARE AVAILABLE ON THE SEC'S WEBSITE AT WWW.SEC.GOV FOR CERTAIN RISK DISCLOSURES REGARDING YOUR INVESTMENT IN THE NOTES.

(g) THE NOTES WILL NOT BE LISTED ON ANY SECURITIES EXCHANGE OR MARKET, NOR DO WE HAVE CURRENT PLANS TO ESTABLISH ANY KIND OF TRADING PLATFORM TO ASSIST INVESTORS WHO WISH TO SELL THEIR NOTES. THERE IS NO PUBLIC MARKET FOR THE NOTES, AND NONE IS EXPECTED TO DEVELOP.

(h) THE NOTES WILL BE GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

(i) THE NOTES ARE TRANSFERABLE FREE OF CHARGE.

(j) WE WILL ISSUE THE NOTES ONLY IN ELECTRONIC FORM. INVESTORS WILL BE REQUIRED TO HOLD THEIR NOTES THROUGH AULT'S ELECTRONIC NOTE REGISTER.

(k) THE 2028 NOTES MAY BE REDEEMED BY AULT TWO YEARS AFTER ISSUANCE.

(l) IF THE SECURITY OF OUR INVESTORS' CONFIDENTIAL INFORMATION STORAGE SYSTEMS IS BREACHED OR OTHERWISE SUBJECTED TO UNAUTHORIZED ACCESS, YOUR SECURE INFORMATION MAY BE STOLEN.

(m) THE NOTES WILL NOT RESTRICT OUR ABILITY TO INCUR ADDITIONAL INDEBTEDNESS, INCLUDING INDEBTEDNESS SECURED BY OUR ASSETS.

You and Ault agree that the Notes are intended to be indebtedness of Ault for U.S. federal income tax purposes. You agree that you will not take any position inconsistent with such treatment of the Notes for tax, accounting or other purposes, unless required by law. You acknowledge that you are prepared to bear the risk of loss of your entire purchase price for any Notes you purchase.



## 5. YOUR ACKNOWLEDGMENTS, REPRESENTATIONS, WARRANTIES AND COVENANTS.

(a) You understand that the Notes will not be listed on any securities exchange or market, that there will be no trading platform for the Notes, and that Note purchasers should be prepared to hold the Notes they purchase until the maturity date or upon our redemption of the Notes (applicable only to the 2028 Notes).

(b) You further represent and warrant to Ault, as of the date of this Agreement and as of any date that you commit to purchase Notes, that: (i) you have the power to enter into and perform your obligations under this Agreement; (ii) this Agreement has been duly authorized, executed and delivered by you and (iii) in connection with this Agreement, you have complied in all material respects with applicable federal, state and local laws.

(c) You should check the Office of Foreign Assets Control (“OFAC”) website at <<http://www.treas.gov/ofac>> before making the following representations. You represent that the amounts invested by you in the Notes were not and are not directly or indirectly derived from activities that contravene federal, state or international laws and regulations, including anti-money laundering laws and regulations. Federal regulations and Executive Orders administered by OFAC prohibit, among other things, the engagement in transactions with, and the provision of services to, certain foreign countries, territories, entities and individuals. The lists of OFAC prohibited countries, territories, persons and entities can be found on the OFAC website at <<http://www.treas.gov/ofac>>. In addition, the programs administered by OFAC (the “OFAC Programs”) prohibit dealing with individuals<sup>1</sup> or entities in certain countries regardless of whether such individuals or entities appear on the OFAC lists.

6. **AULT REPRESENTATIONS AND WARRANTIES.** Ault represents and warrants to you, as of the date of this Agreement and as of any date that you commit to purchase Notes, that: (a) it is duly organized and validly existing as a corporation in good standing under the laws of the State of Delaware and has the requisite corporate power to enter into and perform its obligations under this Agreement; (b) this Agreement has been duly authorized, executed and delivered; (c) the Notes have been duly authorized and, following payment of the purchase price by you and electronic execution, authentication and delivery to you, will constitute valid and binding obligations of Ault enforceable in accordance with their terms, except as the enforcement thereof may be limited by applicable bankruptcy, insolvency or other laws; and (d) Ault has complied in all material respects with applicable federal, state and local laws in connection with the offer and sale of the Notes.

7. **NO ADVISORY RELATIONSHIP.** YOU ACKNOWLEDGE AND AGREE THAT THE PURCHASE AND SALE OF THE NOTES PURSUANT TO THIS AGREEMENT IS AN ARMS-LENGTH TRANSACTION BETWEEN YOU AND AULT. AULT IS NOT AN INVESTMENT ADVISER OR BROKER/DEALER. IN CONNECTION WITH THE PURCHASE AND SALE OF THE NOTES, AULT IS NOT ACTING AS YOUR AGENT OR FIDUCIARY. AULT ASSUMES NO ADVISORY OR FIDUCIARY RESPONSIBILITY IN YOUR FAVOR IN CONNECTION WITH THE PURCHASE AND SALE OF THE NOTES. AULT HAS NOT PROVIDED YOU WITH ANY LEGAL, ACCOUNTING, REGULATORY, INVESTMENT OR TAX ADVICE WITH RESPECT TO THE NOTES. YOU HAVE CONSULTED YOUR OWN LEGAL, ACCOUNTING, REGULATORY, INVESTMENT AND/OR TAX ADVISORS TO THE EXTENT YOU HAVE DEEMED APPROPRIATE.

8. **LIMITATIONS ON DAMAGES.** IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY LOST PROFITS OR SPECIAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE DAMAGES, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. FURTHERMORE, NEITHER PARTY MAKES ANY REPRESENTATION OR WARRANTY TO THE OTHER REGARDING THE EFFECT THAT THIS AGREEMENT MAY HAVE UPON THE FOREIGN, FEDERAL, STATE OR LOCAL TAX LIABILITY OF THE OTHER.

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<sup>1</sup> These individuals include specially designated nationals, specially designated narcotics traffickers and other parties subject to OFAC sanctions and embargo programs.

9. **FURTHER ASSURANCES.** The parties agree to execute and deliver such further documents and information as may be reasonably required in order to effectuate the purposes of this Agreement.

10. **CONSENT TO ELECTRONIC TRANSACTIONS AND DISCLOSURES.** Because Ault's Note program operates only on the Internet, it is necessary for you to consent to transact business with us online and electronically. As part of doing business with us, therefore, we also need you to consent to our giving you certain disclosures electronically, either via the Ault Site or to the email address you provide to us. By entering into this Agreement, you consent to receive electronically all documents, communications, notices, contracts and agreements arising from or relating in any way to you or our rights, obligations or services under this Agreement (each, a "Disclosure"). The decision to do business with us electronically is yours. This document informs you of your rights concerning Disclosures.

*Electronic Communications.* Any Disclosures will be provided to you electronically through [monthlyincome.com](http://monthlyincome.com) either on our Ault Site or via electronic mail to the verified email address you provided. If you require paper copies of such Disclosures, you may write to us at the mailing address provided below and a paper copy will be sent to you.

*Scope of Consent.* Your consent to receive Disclosures and transact business electronically, and our agreement to do so, applies to any transactions to which such Disclosures relate.

*Consenting to Do Business Electronically.* Before you decide to do business electronically with us, you should consider whether you have the required hardware and software capabilities described below.

*Hardware and Software Requirements.* In order to access and retain Disclosures electronically, you must satisfy the following computer hardware and software requirements: access to the Internet; an email account and related software capable of receiving email through the Internet; a web browser which is SSL-compliant and supports secure sessions, and hardware capable of running this software.

*How to Contact Us regarding Electronic Disclosures.* You can contact us via email at [support@monthlyincome.com](mailto:support@monthlyincome.com) or in writing to Ault Alliance, Inc., 11411 Southern Highlands Parkway, Suite 240, Las Vegas, Nevada 89141.

You will keep us informed of any change in your email or home mailing address so that you can continue to receive all Disclosures in a timely fashion. If your registered email address changes, you must notify us of the change by sending an email to [support@monthlyincome.com](mailto:support@monthlyincome.com) or calling (949) 444-5464. You also agree to update your registered residence address and telephone number on the Ault Site if they change.

You will print a copy of this Agreement for your records. You agree and acknowledge that you can access, receive and retain all Disclosures electronically sent via email or posted on the Ault Site.

11. **NOTICES.** All notices, requests, demands, required disclosures and other communications to you from Ault will be transmitted to you only by email to the email address you have registered on the Ault Site or will be posted on the Ault Site, and shall be deemed to have been duly given and effective upon transmission or posting. If your registered email address changes, you must notify Ault promptly. You also agree to promptly update your registered residence/ mailing address on the Ault Site if you change your residence. You shall send all notices or other communications required to be given hereunder to Ault via email at [support@monthlyincome.com](mailto:support@monthlyincome.com) or in writing to Ault Alliance, Inc., 11411 Southern Highlands Parkway, Suite 240, Las Vegas, Nevada 89141.

12. **MISCELLANEOUS.** We reserve the right to make changes to this Agreement from time to time, and we will send or post electronic notice of such changes with ten (10) days of the change(s). You understand and agree that these terms are subject to change.

The terms of this Agreement shall survive until the Notes purchased by you are repaid by Ault. The parties stipulate that there are no third-party beneficiaries to this Agreement. You may not assign, transfer, sublicense or otherwise delegate your rights or responsibilities under this Agreement to any person without prior written consent from Ault. Any such assignment, transfer, sublicense or delegation in violation of this section shall be null and void. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to principles of conflicts of law that would require or permit the application of the laws of any other jurisdiction. Any waiver of a breach of any provision of this Agreement will not be a waiver of any subsequent breach. Failure or delay by Ault to enforce any term or condition of this Agreement will not constitute a waiver of such term or condition. If at any time subsequent to the date hereof, any of the provisions of this Agreement shall be held by any court of competent jurisdiction to be illegal, void, or unenforceable, such provision shall be of no force and effect, but the illegality and unenforceability of such provision shall have no effect upon and shall not impair the enforceability of any other provisions of this Agreement. The headings in this Agreement are for reference purposes only and shall not affect the interpretation of this Agreement in any way.

### 13. NOTICE OF DISPUTE RESOLUTION BY BINDING ARBITRATION AND CLASS ACTION/CLASS ARBITRATION WAIVER.

(a) IMPORTANT: PLEASE READ CAREFULLY. THE FOLLOWING PROVISION (“ARBITRATION PROVISION”) CONSTITUTES A BINDING AGREEMENT THAT LIMITS CERTAIN RIGHTS, INCLUDING YOUR RIGHT TO OBTAIN RELIEF OR DAMAGES THROUGH COURT ACTION OR AS A MEMBER OF A CLASS. THAT MEANS THAT, IN THE EVENT THAT YOU HAVE A COMPLAINT AGAINST AULT THAT THE AULT IS UNABLE TO RESOLVE TO YOUR SATISFACTION, YOU AND AULT AGREE TO RESOLVE YOUR DISPUTE THROUGH BINDING ARBITRATION OR SMALL CLAIMS COURT, INSTEAD OF THROUGH COURTS OF GENERAL JURISDICTION OR THROUGH A CLASS ACTION. BY ENTERING INTO THIS AGREEMENT, YOU AND AULT ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY AND TO PARTICIPATE IN ANY CLASS ACTION, EXCEPT IN CASES THAT INVOLVE PERSONAL INJURY. THE ARBITRATION PROVISION AND THE WAIVER OF THE RIGHT TO A JURY TRIAL AND CLASS ACTION IS NOT INTENDED TO BE DEEMED A WAIVER BY YOU OF OUR COMPLIANCE WITH THE EXCHANGE ACT AND SECURITIES ACT AND THE RULES AND REGULATIONS PROMULGATED THEREUNDER. THE ARBITRATION, CLASS ACTION WAIVER AND JURY WAIVER PROVISIONS DO NOT APPLY TO CLAIMS BROUGHT UNDER THE EXCHANGE ACT AND SECURITIES ACT.

(b) “Claim” shall mean any dispute or controversy arising out of or relating to this Agreement, your use of the Ault Site, and/or the transactions, activities, or relationships that involve, lead to, or result from any of the foregoing, (except for cases pending in Small Claims Court as provided in Section 13(h) below, or claims for personal injury). Claims include, but not limited to breach of contract, fraud, misrepresentation, express or implied warranty, and equitable, injunctive, or declaratory relief, as well as claims relating to loan servicing, credit/collections, and securities matters, regardless of the originating source (common law, statute, constitution, regulation, etc.). Claims include matters arising as initial claims, counter-claims, cross-claims, third-party claims, or otherwise and include those brought by or against your assigns, heirs or beneficiaries.

(c) Either party to this Agreement has the right to require binding arbitration as the sole and exclusive forum and remedy for resolution of a claim between you and Ault. The party initiating arbitration shall do so with the American Arbitration Association (the “AAA”). The procedure shall be governed by the AAA Commercial Rules, and the parties stipulate that the laws of the State of New York apply, without regard to conflicts-of-law principles. In the case of a conflict between the rules and policies of the administrator and this Arbitration Provision, this Arbitration Provision shall control, subject to controlling law, unless all parties to the arbitration consent to have the rules and policies of the administrator apply. Arbitration shall take place in New York County, New York, within the U.S. Southern District of New York, or in such location as agreed upon by the parties.

(d) Absent agreement among the parties, the presiding arbitrator shall determine how to allocate the fees and costs of arbitration among the parties according to the administrator’s rules or in accordance with controlling law if contrary to those rules. Each party shall bear the expense of that party’s attorneys, experts, and witnesses, regardless of which party prevails in the arbitration, unless controlling law provides a right for the prevailing party to recover fees and costs from the other party. Notwithstanding the foregoing, if the arbitrator determines that your claim is frivolous or brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)), we shall not be required to pay any fees or costs of the arbitration proceeding, and any previously paid fees or costs shall be reimbursed by you.

(e) If the amount in controversy exceeds \$50,000, any party may appeal the arbitrator's award to a three-arbitrator panel within thirty (30) days of the final award. Additionally, in the event of such an appeal, any opposing party may cross-appeal within thirty (30) days after notice of the appeal. The three-arbitrator panel may consider all of the evidence and issue a new award, and the panel does not have to adopt or give any weight to the first arbitrator's findings of fact or conclusion. This is called "*de novo*" review. Costs and conduct of any appeal shall be governed by this Arbitration Provision and the administrator's rules, in the same way as the initial arbitration proceeding. Any award by the individual arbitrator that is not subject to appeal, and any panel award on appeal, shall be final and binding, except for any appeal right under the Federal Arbitration Act (the "FAA"), and may be entered as a judgment in any court of competent jurisdiction.

(f) The parties agree that this Arbitration Provision is made pursuant to a transaction between you and Ault that involves and affects interstate commerce and therefore shall be governed by and enforceable under the FAA. The arbitrator will apply substantive law consistent with the FAA and applicable statutes of limitations. The arbitrator may award damages or other types of relief permitted by the law of the State of New York, subject to the limitations set forth in this Agreement. The arbitrator will not be bound by judicial rules of procedure and evidence that would apply in a court. The parties also agree that the proceedings shall be confidential to protect intellectual property rights.

(g) IF YOU DO NOT AGREE TO THE TERMS OF THIS ARBITRATION AGREEMENT, YOU MAY OPT OUT OF THIS ARBITRATION PROVISION BY SENDING AN ARBITRATION OPT-OUT NOTICE TO AULT ALLIANCE, INC., 11411 SOUTHERN HIGHLANDS PARKWAY, SUITE 240, LAS VEGAS, NEVADA 89141, THAT IS RECEIVED AT THIS ADDRESS WITHIN THIRTY (30) DAYS OF YOUR FIRST ELECTRONIC ACCEPTANCE OF THIS FORM. YOUR OPT-OUT NOTICE MUST CLEARLY STATE THAT YOU ARE REJECTING ARBITRATION; IDENTIFY THE AGREEMENT TO WHICH IT APPLIES BY DATE; PROVIDE YOUR NAME, ADDRESS, AND SOCIAL SECURITY NUMBER; AND BE SIGNED BY YOU. YOU MAY CONVEY THE OPT-OUT NOTICE BY U.S. MAIL OR ANY PRIVATE MAIL CARRIER (E.G., FEDERAL EXPRESS, UNITED PARCEL SERVICE, DHL EXPRESS, ETC.), SO LONG AS IT IS RECEIVED AT THE ABOVE MAILING ADDRESS WITHIN THIRTY (30) DAYS OF YOUR FIRST ELECTRONIC ACCEPTANCE OF THE TERMS OF THIS AGREEMENT. IF THE NOTICE IS SENT BY A THIRD PARTY, SUCH THIRD PARTY MUST INCLUDE EVIDENCE OF HIS OR HER LEGAL AUTHORITY TO SUBMIT THE OPT-OUT NOTICE ON YOUR BEHALF. IF YOUR OPT-OUT NOTICE IS NOT RECEIVED WITHIN THIRTY (30) DAYS, YOU WILL BE DEEMED TO HAVE ACCEPTED ALL TERMS OF THIS ARBITRATION AGREEMENT.

(h) Ault agrees not to invoke our right to arbitrate an individual Claim you may bring in Small Claims Court or an equivalent court, if any, so long as the Claim is pending only in that court. NO ARBITRATION SHALL PROCEED ON A CLASS, REPRESENTATIVE, OR COLLECTIVE BASIS (INCLUDING AS PRIVATE ATTORNEY GENERAL ON BEHALF OF OTHERS), EVEN IF THE CLAIM OR CLAIMS THAT ARE THE SUBJECT OF THE ARBITRATION HAD PREVIOUSLY BEEN ASSERTED (OR COULD HAVE BEEN ASSERTED) IN A COURT AS CLASS REPRESENTATIVE, OR COLLECTIVE ACTIONS IN A COURT. Unless consented to in writing by all parties to the arbitration, no party to the arbitration may join, consolidate, or otherwise bring claims for or on behalf of two or more individuals or unrelated corporate entities in the same arbitration.

(i) This Arbitration Provision shall survive (i) suspension, termination, revocation, closure, or amendments to this Agreement and the relationship of the parties; (ii) the bankruptcy or insolvency of any party or other person; and (iii) any transfer of any Note which you own, or any amounts owed on such Notes, to any other person or entity. If any portion of this Arbitration Provision other than the prohibitions on class arbitration in Sections 13(a) and 13(h) is deemed invalid or unenforceable under any law or statute consistent with the FAA, it shall not invalidate the other provisions of this Arbitration Provision or this Agreement; if the prohibition on class arbitration is deemed invalid, however, then this entire Arbitration Provision shall be null and void.

(j) THE PARTIES ACKNOWLEDGE THAT THEY HAVE A RIGHT TO LITIGATE CLAIMS THROUGH A COURT BEFORE A JUDGE, BUT WILL NOT HAVE THAT RIGHT IF ANY PARTY ELECTS ARBITRATION PURSUANT TO THIS ARBITRATION PROVISION. THE PARTIES HEREBY KNOWINGLY AND VOLUNTARILY WAIVE THEIR RIGHTS TO LITIGATE SUCH CLAIMS IN A COURT UPON ELECTION OF ARBITRATION BY ANY PARTY. THE PARTIES HERETO WAIVE A TRIAL BY JURY IN ANY LITIGATION RELATING TO THIS AGREEMENT, OR ANY OTHER AGREEMENTS RELATED THERETO.

14. **ENTIRE AGREEMENT.** EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THIS AGREEMENT REPRESENTS THE ENTIRE AGREEMENT BETWEEN YOU AND AULT REGARDING THE SUBJECT MATTER HEREOF AND SUPERSEDES ALL PRIOR OR CONTEMPORANEOUS COMMUNICATIONS, PROMISES AND PROPOSALS, WHETHER ORAL, WRITTEN OR ELECTRONIC, BETWEEN US. IF THERE IS A DISCREPANCY BETWEEN THE TERMS OF THIS AGREEMENT AND THE TERMS OF THE NOTE, THE TERMS OF THE NOTE SHALL PREVAIL.

15. **HEADINGS.** ALL SECTION HEADINGS HEREIN ARE INSERTED FOR CONVENIENCE ONLY AND DO NOT MODIFY OR AFFECT THE MEANING, CONSTRUCTION OR INTERPRETATION OF ANY OF THE PROVISIONS OF THIS AGREEMENT.

**IN WITNESS WHEREOF**, the Investor and Ault have caused this Agreement to be duly executed as of the date first above written.

**AULT:**

AULT ALLIANCE, INC.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**INVESTOR:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

**Exhibit A**

**[INSERT FORM OF NOTE]**