



## SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the Stewart Affidavit or the Second Stewart Affidavit, as applicable.

## APPLICATION

3. **THIS COURT ORDERS AND DECLARES** that the Applicant is a company to which the CCAA applies.

## PLAN OF ARRANGEMENT

4. **THIS COURT ORDERS** that the Applicant shall have the authority to file and may, subject to further Order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the “**Plan**”).

## POSSESSION OF PROPERTY AND OPERATIONS

5. **THIS COURT ORDERS** that the Applicant shall remain in possession and control of its current and future assets, licences, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the “**Business**”) and the Property. The Applicant is authorized and empowered to continue to retain and employ the employees, consultants, contractors, agents, experts, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.
6. **THIS COURT ORDERS** that the Applicant shall be entitled to continue to utilize the central cash management system currently in place as described in the Stewart Affidavit or, with the prior written consent of the Monitor and the DIP Lender, and on prior notice to the Consenting Stakeholders (as defined in the Transaction Support Agreement) replace it with another

substantially similar central cash management system (together with the Reserve Account and the related investment accounts, the “**Cash Management System**”), and that any present or future bank providing the Cash Management System can rely on instructions and representations provided by the Applicant and shall: (i) not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System; (ii) be entitled to provide the Cash Management System and rely on instructions provided by the Applicant in respect thereto without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System; and (iii) be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan (if any) with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

7. **THIS COURT ORDERS** that, subject to the terms of the Definitive Documents (as hereinafter defined), the Applicant shall be entitled but not required to pay the following expenses whether incurred prior to, on, or after the date of this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable prior to, on, or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
- (b) with the prior written consent of the Monitor, amounts owing for goods and services actually supplied to the Applicant, including, without limiting the foregoing, services provided by contractors, prior to the date of this Order, with the Monitor considering, among other factors, whether: (i) the supplier or service provider is essential to the Business and ongoing operations of the Applicant and the payment is required to ensure ongoing supply; (ii) making such payment will preserve, protect or enhance the value of the Property or the Business; and (iii) the supplier or service provider is required to continue to provide goods or services to the Applicant after the date of this Order, including pursuant to the terms of this Order;
- (c) the fees and disbursements of any Assistants retained or employed by the Applicant, at their standard rates and charges;

- (d) all outstanding and future amounts related to honouring Collector obligations, whether existing before or after the date of this Order, including customer loyalty and reward programs, incentives, offers and benefits, in each case incurred in the ordinary course of business and consistent with existing policies and procedures; and
- (e) any amounts required to comply with the terms of the Reserve Agreement.

8. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein and subject to the terms of the Definitive Documents, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course after the date of this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors' and officers' insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicant on or following the date of this Order.

9. **THIS COURT ORDERS** that the Applicant shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of: (i) employment insurance; (ii) Canada Pension Plan; (iii) Quebec Pension Plan; and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; and

- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.

10. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Applicant shall pay, without duplication, all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease, but for greater certainty, excluding accelerated rent or penalties, fees or other charges arising as a result of the insolvency of the Applicant or the making of this Order) or as otherwise may be negotiated between the Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, monthly in equal payments on the first day of each month, in advance (but not in arrears) or, with the prior written consent of the Monitor, at such other time intervals and dates as may be agreed to between the Applicant and landlord, in the amounts set out in the applicable lease. On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

11. **THIS COURT ORDERS** that, except as specifically permitted herein and subject to the Definitive Documents, the Applicant is hereby directed, until further Order of this Court: (i) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of this date; (ii) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of the Property; and (iii) to not grant credit or incur liabilities except in the ordinary course of the Business.

## **RESTRUCTURING**

12. **THIS COURT ORDERS** that the Applicant shall, subject to such requirements as are imposed by the CCAA and subject to the terms of the Definitive Documents, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding \$250,000 in any one transaction or \$1,000,000 in the aggregate;

- (b) in accordance with paragraphs 13 and 14 of this Order, vacate, abandon or quit any leased premises and/or disclaim any real property lease and any ancillary agreements relating to the leased premises in accordance with Section 32 of the CCAA;
- (c) disclaim such other arrangements or agreements of any nature whatsoever with whomever, whether oral or written, as the Applicant deems appropriate, in accordance with Section 32 of the CCAA;
- (d) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and
- (e) pursue all avenues of refinancing of its Business or the Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit the Applicant to proceed with an orderly restructuring of the Business.

13. **THIS COURT ORDERS** that the Applicant shall provide each relevant landlord with notice of its intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days' notice to such landlord and any such secured creditors. If the Applicant disclaims a lease governing a leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Subsection 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.

14. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then: (i) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice; and (ii) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against

the Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

### **TRANSACTION SUPPORT AGREEMENT**

15. **THIS COURT ORDERS** that the Transaction Support Agreement is hereby approved and the Applicant is authorized and empowered to enter into the Transaction Support Agreement, nunc pro tunc, subject to such minor amendments as may be consented to by the Monitor and as may be acceptable to each of the parties thereto, and is authorized, empowered and directed to take all steps and actions in respect of, and to comply with all of its obligations pursuant to, the Transaction Support Agreement.

16. **THIS COURT ORDERS** that, notwithstanding the Stay Period (as hereinafter defined), a counterparty to the Transaction Support Agreement may exercise any termination right that may become available to such counterparty pursuant to the Transaction Support Agreement, provided that such termination right must be exercised pursuant to and in accordance with the Transaction Support Agreement.

### **NO PROCEEDINGS AGAINST THE LOYALTYONE ENTITIES, THEIR BUSINESS OR THEIR PROPERTY**

17. **THIS COURT ORDERS** that until and including May 18, 2023 or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**", and collectively, "**Proceedings**") shall be commenced or continued against or in respect of the Applicant, its wholly owned subsidiary LoyaltyOne Travel Services Co./Cie Des Voyages LoyaltyOne ("**Travel Services**" and together with the Applicant, the "**LoyaltyOne Entities**") or the Monitor, or their respective employees and representatives acting in such capacities, or affecting the Business or the Property, or the business or property of Travel Services, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of any of the LoyaltyOne Entities or affecting the Business or the Property, or the business or property of Travel Services, are hereby stayed and suspended pending further Order of this Court or the prior written consent of the Applicant and the Monitor.

### **NO EXERCISE OF RIGHTS OR REMEDIES**

18. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, organization, governmental unit, body or agency, or any other entities

(all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of any of the LoyaltyOne Entities or the Monitor, or their respective employees and representatives acting in such capacities, or affecting the Business or the Property, or the business or property of Travel Services, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall: (i) empower any of the LoyaltyOne Entities to carry on any business which it is not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

### **NO INTERFERENCE WITH RIGHTS**

19. **THIS COURT ORDERS** that during the Stay Period, no Person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, rescind, terminate or cease to perform any right, renewal right, contract, agreement, lease, sublease, licence, authorization or permit in favour of or held by any of the LoyaltyOne Entities, except with the prior written consent of the Applicant and the Monitor, or leave of this Court.

### **CONTINUATION OF SERVICES**

20. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with any of the LoyaltyOne Entities or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll and benefit services, accounting services, insurance, transportation services, utility, or other services, to the Business or any of the LoyaltyOne Entities, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by any of the LoyaltyOne Entities or exercising any other remedy provided under the agreements or arrangements, and that any of the LoyaltyOne Entities shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the applicable LoyaltyOne Entities in accordance with the normal payment practices of the applicable LoyaltyOne Entities or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.



## **NON-DEROGATION OF RIGHTS**

21. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

## **NO PRE-FILING VS POST-FILING SET-OFF**

22. **THIS COURT ORDERS** that, no Person shall be entitled to set off any amounts that: (i) are or may become due to the Applicant in respect of obligations arising prior to the date hereof with any amounts that are or may become due from the Applicant in respect of obligations arising on or after the date of this Order; or (ii) are or may become due from the Applicant in respect of obligations arising prior to the date hereof with any amounts that are or may become due to the Applicant in respect of obligations arising on or after the date of this Order, each without the consent of the Applicant and the Monitor or further Order of this Court.

## **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

23. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by Subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of any of the LoyaltyOne Entities other than Joseph L. Motes III and any other person who, at any time after November 5, 2021, has served as a director, officer, or employee of (i) Bread Financial Holdings, Inc. f/k/a Alliance Data Systems Corporation ("**Bread**") or (ii) any other entity that, at any time after November 5, 2021, was or is a direct or indirect subsidiary of Bread) (the "**Directors and Officers**") with respect to any claim against the Directors and Officers that arose before the date hereof and that relates to any obligations of any of the LoyaltyOne Entities whereby the Directors and Officers are alleged under any law to be liable in their capacity as the Directors and Officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

## **DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE**

24. **THIS COURT ORDERS** that the Applicant shall indemnify the Directors and Officers against obligations and liabilities that they may incur as a director or officer of any of the

LoyaltyOne Entities after the commencement of the within proceedings, except to the extent that, with respect to any Director or Officer, the obligation or liability was incurred as a result of such Director's or Officer's gross negligence or wilful misconduct (the "**D&O Indemnity**").

25. **THIS COURT ORDERS** that the Directors and Officers shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$15,409,000, unless permitted by further Order of this Court, as security for the D&O Indemnity provided in paragraph 24 of this Order. The Directors' Charge shall have the priority set out in paragraphs 46 and 48 hereof.

26. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary: (i) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and (ii) the Directors and Officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 24 of this Order.

#### **APPOINTMENT OF MONITOR**

27. **THIS COURT ORDERS** that KSV is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

28. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicant's receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, the Definitive Documents, the U.S. Proceedings, and such other matters as may be relevant to the proceedings herein;

- (c) assist the Applicant, to the extent required by the Applicant, in its dissemination, to (i) Bank of Montreal in its capacity as interim lender (the “**DIP Lender**”) under the DIP Financing Facility (as hereinafter defined), and (ii) such parties as may be entitled to receive same pursuant to the Transaction Support Agreement, its counsel as and when required or permitted under the Definitive Documents or otherwise requested by the parties entitled to receive such information, acting reasonably, of financial and other information as agreed to between the Applicant and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;
- (d) advise the Applicant in its preparation of the Applicant’s cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel as and when required under the Definitive Documents, or as otherwise agreed to by the DIP Lender;
- (e) advise the Applicant in its development of the Plan and any amendments to the Plan;
- (f) assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors’ or shareholders’ meetings for voting on the Plan;
- (g) monitor all payments, obligations and transfers as between the Applicant and its affiliates or subsidiaries;
- (h) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicant, to the extent that is necessary to adequately assess the Applicant’s business and financial affairs or to perform its duties arising under this Order;
- (i) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (j) perform such other duties as are required by this Order or by this Court from time to time.

29. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the

Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or the Property, or any part thereof.

30. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

31. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicant, the DIP Lender and the Consenting Stakeholders with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.

32. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Monitor under the CCAA or as an officer of this Court, the Monitor, its directors, officers, employees, counsel and other representatives acting in such capacities shall incur no liability or obligation as a result of the Monitor's appointment or the carrying out by it of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded to the Monitor by the CCAA or any applicable legislation.

33. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, counsel to the Applicant, PJT Partners LP in its capacity as financial advisor to the Applicant (the “**Financial Advisor**”), and Alvarez & Marsal Inc. in its capacity as operational and restructuring advisor to the Applicant ( the “**Restructuring Advisor**”) shall be paid their reasonable fees and disbursements, whether incurred prior to, on or subsequent to the date of this Order, in each case at their standard rates and charges, by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor, counsel for the Applicant, the Financial Advisor, and the Restructuring Advisor on a bi-weekly basis.

34. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

#### **ADMINISTRATION CHARGE**

35. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, the Applicant’s counsel, the Financial Advisor and the Restructuring Advisor shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the Property, which charge shall not exceed an aggregate amount of \$3,000,000, unless permitted by further Order of this Court, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such advisors, both before and after the making of this Order, provided however that any Transaction Fee earned by the Financial Advisor shall not be secured by the Administration Charge. The Administration Charge shall have the priority set out in paragraphs 46 and 48 hereof.

#### **APPROVAL OF FINANCIAL ADVISOR AGREEMENT**

36. **THIS COURT ORDERS** that the Agreement dated as of July 11, 2022 engaging the Financial Advisor and attached as Exhibit “R” to the Stewart Affidavit (the “**Financial Advisor Agreement**”), and the retention of the Financial Advisor under the terms thereof, is hereby ratified and approved and the Applicant is authorized and directed *nunc pro tunc* to make the payments contemplated thereunder when earned and payable in accordance with the terms and conditions of the Financial Advisor Agreement.

37. **THIS COURT ORDERS** that the Financial Advisor shall be entitled to the benefit of and is hereby granted a charge (the “**Financial Advisor Charge**”) on the Property, which charge shall not exceed an aggregate amount of US\$6,000,000, as security solely for the Transaction Fee

earned and payable pursuant to the terms of the Financial Advisor Agreement. The Financial Advisor Charge shall have the priority set out in paragraphs 46 and 48 herein.

### **EMPLOYEE RETENTION PLANS**

38. **THIS COURT ORDERS** that the Employee Retention Plans, as described in the Stewart Affidavit and attached as Exhibit "Q" to the Stewart Affidavit, is hereby approved and the Applicant is authorized to make the payments contemplated thereunder in accordance with the terms and conditions of the Employee Retention Plans.

39. **THIS COURT ORDERS** that the employee beneficiaries under the Employee Retention Plans shall be entitled to the benefit of and are hereby granted a charge (the "**Employee Retention Plans Charge**") on the Property, which charge shall not exceed an aggregate amount of \$5,350,000, unless permitted by further Order of this Court, to secure any payments to the employee beneficiaries under the Employee Retention Plans. The Employee Retention Plans Charge shall have the priority set out in paragraphs 46 and 48 herein.

### **DIP FINANCING**

40. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to obtain and borrow under a credit facility from the DIP Lender (the "**DIP Financing Facility**") in order to finance the Applicant's working capital requirements, make intercompany loans to Loyalty Ventures Inc. and other general corporate purposes and capital expenditures, all in accordance with the Definitive Documents, provided that borrowings under the DIP Financing Facility shall not exceed the aggregate principal amount of US\$70,000,000, unless permitted by further Order of this Court. For the avoidance of doubt, no amounts owing by the Applicant to the DIP Lender or its affiliates, in any capacity, as of the date herein, shall be set off against any amounts available to the Applicant under the DIP Financing Facility.

41. **THIS COURT ORDERS** that the DIP Financing Facility shall be on the terms and subject to the conditions set forth in the term sheet entered into between the Applicant and the DIP Lender dated as of March 10, 2023 and attached as Exhibit "P" to the Stewart Affidavit (the "**DIP Term Sheet**").

42. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, with the DIP Term Sheet, the "**Definitive Documents**"), as are contemplated by the DIP Term Sheet or as may be

reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicant is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order. Notwithstanding any other provision in this Order, all payments and other expenditures to be made by the Applicant to any Person (except the Monitor and its counsel) shall be in accordance with the terms of the Definitive Documents.

43. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the “**DIP Lender’s Charge**”) on the Property up to the maximum amount of US\$70,000,000 (plus accrued and unpaid interest, fees and expenses) to secure amounts advanced under the DIP Financing Facility, which DIP Lender’s Charge shall not secure an obligation that exists before this Order is made. The DIP Lender’s Charge shall have the priority set out in paragraphs 46 and 48 hereof.

44. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender’s Charge or any of the Definitive Documents;
- (b) upon the occurrence and during the continuance of an Event of Default (as defined in the DIP Term Sheet), whether or not there is availability under the DIP Financing Facility and notwithstanding any stay imposed by this Order: (i) without any notice to the Applicant, the Applicant shall have no right to receive any additional advances thereunder or other accommodation of credit from the DIP Lender except in the sole discretion of the DIP Lender; and (ii) the DIP Lender may immediately terminate the DIP Financing Facility and demand immediate payment of all obligations owing thereunder by providing such a notice and demand to the Applicant, with a copy to the Monitor;
- (c) with the leave of the Court, sought on not less than three (3) business days’ notice to the Applicant, the Consenting Stakeholders and the Monitor after the occurrence and during the continuance of an Event of Default, the DIP Lender shall have the right to enforce the DIP Lender’s Charge and to exercise all other rights and remedies in respect of the obligations owing under the DIP Financing Facility and the DIP Lender’s Charge; and

- (d) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property.

45. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicant under the CCAA, or any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act* of Canada (the “**BIA**”), with respect to any advances made under the Definitive Documents.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

46. **THIS COURT ORDERS** that the priorities of the Administration Charge, the Directors’ Charge, the Employee Retention Plans Charge, the Financial Advisor Charge, and the DIP Lender’s Charge (collectively, the “**Charges**”), as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$3,000,000);

Second – Directors’ Charge (to the maximum amount of \$15,409,000);

Third – Employee Retention Plans Charge (to the maximum amount of \$5,350,000);

Fourth – Financial Advisor Charge (to the maximum amount of US\$6,000,000);  
and

Fifth – DIP Lender’s Charge (to the maximum amount of US\$70,000,000, plus accrued and unpaid interest, fees and expenses).

47. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

48. **THIS COURT ORDERS** that each of the Charges (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person notwithstanding the order of perfection or attachment; provided that the Charges shall rank behind Encumbrances in favour of (i) any Person with a properly perfected purchase money security interest under the



*Personal Property Security Act* (Ontario) or such other applicable legislation and (ii) the Reserve Trustee in respect of the Reserve Security.

49. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court on notice to parties in interest, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicant also obtains the prior written consent of the Monitor, the Initial Consenting Stakeholders (as defined in the Transaction Support Agreement), and the beneficiaries of each of the Administration Charge, the Directors' Charge, the Financial Advisor Charge and the DIP Lender's Charge, or further Order of this Court.

50. **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") and/or the DIP Lender thereunder shall not otherwise be limited or impaired in any way by: (i) the pendency of these proceedings and the declarations of insolvency made herein; (ii) any application(s) for bankruptcy order(s) or receivership order(s) issued pursuant to the BIA or otherwise, or any bankruptcy order or receivership order made pursuant to such applications; (iii) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (iv) the provisions of any federal or provincial statutes; or (v) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Definitive Documents shall create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicant pursuant to this Order, the Definitive Documents and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

51. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicant's interest in such real property lease.

### **SERVICE AND NOTICE**

52. **THIS COURT ORDERS** that, subject to paragraph 53, the Monitor shall: (i) without delay, publish in the *National Post (National Edition)*, a notice containing the information prescribed under the CCAA; and (ii) within five (5) days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a copy of the notice to every known creditor who has a claim against the Applicant of more than \$1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Subsection 23(1)(a) of the CCAA and the regulations made thereunder.

53. **THIS COURTS ORDERS** that, notwithstanding paragraph 52 of this Order, Subsection 23(1)(a) of the CCAA, and the regulations made thereunder, with respect to consumers enrolled in the AIR MILES® Reward Program holding reward miles balances that would entitle them to redeem for items with a value of at least \$1,000 (the “**Specified Collectors**”), the Monitor: (i) may satisfy the notice obligation in paragraph 52 (B) hereof by (A) causing the Applicant to email a copy of the notice to the Specified Collectors in the form attached as Exhibit “N” to the Stewart Affidavit (the “**Notice**”) at the current email address in the Applicant’s records, or, if the Applicant does not have a current email address, (B) publishing the Notice in the manner set out in paragraph 52 hereof and on the Case Website set out in paragraph 54 hereof; and (ii) subject to further Order of the Court, shall not publish information it receives about the Specified Collectors from the Applicant, shall treat such information as confidential, and shall exclude such information from the list of creditors set out in paragraph 52 hereof.

54. **THIS COURT ORDERS** that the E-Service Guide of the Commercial List (the “**Guide**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*, R.R.O. 1990. Reg. 194, as amended (the “**Rules of Civil Procedure**”). Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be

established in accordance with the Guide with the following URL:  
<https://www.ksvadvisory.com/experience/case/loyaltyone>.

55. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Guide or the CCAA and the regulations thereunder is not practicable, the Applicant, the Monitor and their respective counsel and agents are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile transmission or electronic message to the Applicant's creditors or other interested parties at their respective addresses (including e-mail addresses) as last shown in the books and records of the Applicant and that any such service or distribution shall be deemed to be received on the earlier of (i) the date of forwarding thereof, if sent by electronic message on or prior to 5:00 p.m. Eastern Time (or on the next business day following the date of forwarding thereof if sent on a non-business day); (ii) the next business day following the date of forwarding thereof, if sent by courier, personal delivery, facsimile transmission or electronic message sent after 5:00 p.m. Eastern Time; or (iii) on the third business day following the date of forwarding thereof, if sent by ordinary mail.

56. **THIS COURT ORDERS** that the Applicant, the Monitor and each of their respective counsel are at liberty to serve or distribute this Order, and any other materials and orders as may be reasonably required in these proceedings, including any notices or other correspondence, by forwarding true copies thereof by electronic message (including by e-mail) to the Applicant's creditors or other interested parties and their advisors, as applicable. For greater certainty, any such service or distribution shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of Subsection 3(c) of the *Electronic Commerce Protection Regulations* (SOR/2013-221).

57. **THIS COURT ORDERS** that subject to further Order of this Court in respect of urgent motions, any interested party wishing to object to the relief sought in a motion brought by the Applicant or the Monitor in these CCAA proceedings shall, subject to further order of this Court, provide the service list in these proceedings (the "**Service List**") with responding motion materials or a written notice (including by e-mail) stating its objection to the motion and the grounds for such objection by no later than 5:00 p.m. (Eastern Time) on the date that is two (2) days prior to the date such motion is returnable (the "**Objection Deadline**"). The Monitor shall have the ability to extend the Objection Deadline after consultation with the Applicant.

## GENERAL

58. **THIS COURT ORDERS** that any interested party that wishes to amend or vary this Order shall be entitled to appear or bring a motion before this Court on not less than five (5) business days' notice to the Service List and any other party or parties likely to be affected by the Order sought; provided, however, that the Chargees and the DIP Lender shall be entitled to rely on this Order as granted and on the Charges and priorities set forth in paragraphs 46 and 48 hereof with respect to any fees, expenses and disbursements incurred and in respect of advances made under the Definitive Documents, as applicable, until the date this Order may be amended, varied or stayed.

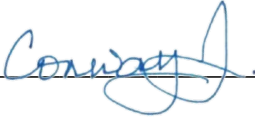
59. **THIS COURT ORDERS** that notwithstanding paragraph 58 of this Order, the Applicant or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of its powers and duties hereunder or in the interpretation of this Order.

60. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, the Business or the Property.

61. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

62. **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

63. **THIS COURT ORDERS** that the Initial Order of this Court dated March 10, 2023 is hereby amended and restated pursuant to this Order, and this Order and all of its provisions are effective as of 12:01 a.m. (Eastern Time) on the date of this Order without the need for entry or filing.

  
\_\_\_\_\_

IN THE MATTER OF THE COMPANIES CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF LOYALTYONE, CO.

Court File No. CV-23-00696017-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

**AMENDED AND RESTATED INITIAL ORDER  
(Amending Initial Order Dated March 10, 2023)**

**Cassels Brock & Blackwell LLP**

2100 Scotia Plaza  
40 King Street West  
Toronto, ON M5H 3C2

**Ryan Jacobs LSO#: 59510J**

Tel: 416.860.6465  
rjacobs@cassels.com

**Jane Dietrich LSO#: 49302U**

Tel: 416.860.5223  
jdietrich@cassels.com

**Natalie E. Levine LSO#: 64908K**

Tel: 416.860.6568  
nlevine@cassels.com

Lawyers for the Applicant