



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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) MONDAY, THE 20th
)
JUSTICE CONWAY) DAY OF MARCH, 2023
)

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.

(the "**Applicant**")

SISP APPROVAL ORDER

THIS MOTION, made by the Applicant pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, for an order, *inter alia*, approving the Sale and Investment Solicitation Process in respect of the business and assets of the Applicant and its affiliate, LoyaltyOne Travel Services Co./Cie Des Voyages LoyaltyOne, in the form attached hereto as **Schedule "A"** (the "**SISP**") and certain related relief, was heard this day by judicial videoconference via Zoom in Toronto, Ontario.

ON READING the affidavit of Shawn Stewart sworn March 10, 2023 and the Exhibits thereto (the "**Stewart Affidavit**"), the pre-filing report of KSV Restructuring Inc. ("**KSV**") as the proposed Monitor dated March 10, 2023, the affidavit of Shawn Stewart sworn March 13, 2023 and the Exhibits thereto (the "**Second Stewart Affidavit**"), the first report of KSV as the Court-appointed monitor of the Applicant (in such capacity, the "**Monitor**") dated March 16, 2023 and the affidavit of Alec Hoy sworn March 18, 2023 and the Exhibits thereto, and on being advised that the secured creditors who are likely to be affected by the charge created herein were given notice, and on hearing the submissions of counsel for the Applicant, the Monitor, Bank of Montreal (the "**Stalking Horse Purchaser**"), and the other parties listed on the counsel slip, no one appearing for any other party although duly served as appears from the affidavits of service of Alec Hoy sworn March 10, March 13, March 17 and March 18, 2023,

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 SISP, the Amended and Restated Initial Order of this Court dated March 20, 2023 (the “**ARIO**”), the Stewart Affidavit or the Second Stewart Affidavit, as applicable.

SALE AND INVESTMENT SOLICITATION PROCESS

3. **THIS COURT ORDERS** that the SISP is hereby approved and the Applicant is hereby authorized and directed to implement the SISP pursuant to the terms thereof. The Applicant, the Monitor and the Financial Advisor are hereby authorized and directed to perform their respective obligations and to do all things reasonably necessary to perform their obligations thereunder, subject to prior approval of the Court being obtained before completion of any transaction(s) under the SISP.

4. **THIS COURT ORDERS** that the Applicant, the Monitor and the Financial Advisor and their respective affiliates, partners, directors, officers, employees, legal advisors, representatives, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liabilities of any nature or kind to any person in connection with or as a result of the SISP, except to the extent of losses, claims, damages or liabilities that arise or result from the gross negligence or wilful misconduct of the Applicant, the Monitor or the Financial Advisor, as applicable, in performing their obligations under the SISP, as determined by this Court in a final order that is not subject to appeal or other review.

5. **THIS COURT ORDERS** that in overseeing the SISP, the Monitor shall have all of the benefits and protections granted to it under the CCAA, the ARIO and any other Order of this Court in the within proceeding.

STALKING HORSE PURCHASE AGREEMENT

6. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to enter into the purchase agreement dated March 9, 2023 (the “**Stalking Horse Purchase Agreement**”) between the Applicant and the Stalking Horse Purchaser attached as Exhibit “O” to the Stewart Affidavit, *nunc pro tunc*, and such minor amendments as may be acceptable to each of the parties thereto, in consultation with the Consenting Stakeholders (solely in the case of the Applicant) and with the approval of the Monitor; provided that, nothing herein approves the sale and the vesting of any Property to the Stalking Horse Purchaser (or any of its designees) pursuant to the Stalking Horse Purchase Agreement and that the approval of any sale and vesting of any such Property shall be considered by this Court on a subsequent motion made to this Court if the transaction set out in the Stalking Horse Purchase Agreement is the Successful Bid pursuant to the SISP.

7. **THIS COURT ORDERS** that, as soon as reasonably practicable following the Applicant and the Stalking Horse Purchaser agreeing to any amendment to the Stalking Horse Purchase Agreement permitted pursuant to the terms of this Order, the Applicant shall: (a) file a copy thereof with this Court; (b) serve a copy thereof on the Service List; and (c) provide a copy thereof to each SISP Participant (as hereinafter defined), excluding from the public record any confidential information that the Applicant and the Stalking Horse Purchaser, with the consent of the Monitor, agree should be redacted.

BID PROTECTONS

8. **THIS COURT ORDERS** that the Bid Protections are hereby approved and the Applicant is hereby authorized and directed to pay the Bid Protections to the Stalking Horse Purchaser (or

to such other person as it may direct) in the manner and circumstances described in the Stalking Horse Purchase Agreement.

9. **THIS COURT ORDERS** that the Stalking Horse Purchaser shall be entitled to the benefit of and is hereby granted a charge (the “**Bid Protections Charge**”) on the Property, which charge shall not exceed US\$4,000,000, as security for payment of the Bid Protections in the manner and circumstances described in the Stalking Horse Purchase Agreement.

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

11. **THIS COURT ORDERS** that the Bid Protections Charge shall constitute a charge on the Property and the Bid Protections Charge shall rank in priority to all other Encumbrances in favour of any Person notwithstanding the order of perfection or attachment, other than (i) any Person with a properly perfected purchase money security interest under the *Personal Property Security Act* (Ontario) or such other applicable legislation; (ii) the Reserve Trustee in respect of the Reserve Security; and (iii) the Charges.

12. **THIS COURT ORDERS** that except for the Charges 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, the Bid Protections Charge, unless the Applicant also obtains the prior written consent of the Monitor and the Stalking Horse Purchaser, or further Order of this Court.

13. **THIS COURT ORDERS** that the Bid Protections Charge shall not be rendered invalid or unenforceable and the rights and remedies of the Stalking Horse Purchaser 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 *Bankruptcy and Insolvency Act* (Canada) (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 Bid Protections Charge nor the execution, delivery, perfection, registration or performance of the Stalking Horse Purchase Agreement shall create, cause or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;
- (b) the Stalking Horse Purchaser shall not 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 Bid Protections Charge or the execution, delivery or performance of the Stalking Horse Purchase Agreement; and
- (c) the payments made by the Applicant pursuant to this Order, the Stalking Horse Purchase Agreement and the granting of the Bid Protections Charge, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

14. **THIS COURT ORDERS** that the Bid Protections 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.

15. **THIS COURT ORDERS AND DECLARES** that the Stalking Horse Purchaser, with respect to the Bid Protections Charge only, 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 BIA.

PIPEDA

16. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 and any similar legislation in any other applicable jurisdictions the Monitor, the Applicant, the Financial Advisor and their respective advisors are hereby authorized and permitted to disclose and transfer to prospective SISP participants that are party to a non-disclosure agreement with the Applicant (each, a "**SISP Participant**") and their respective advisors personal information of identifiable individuals, but only to the extent required to negotiate or attempt to complete a transaction pursuant to the SISP (a "**Transaction**"). Each SISP Participant to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation for the purpose of effecting a Transaction, and, if it does not complete a Transaction, shall return all such information to the Monitor, the Financial Advisor or the Applicant, or, in the alternative, destroy all such information and provide confirmation of its destruction if requested by the Monitor, the Financial Advisor or the Applicant. Any bidder with a Successful Bid shall maintain and protect the privacy of such information and, upon closing of the Transaction(s) contemplated in the Successful Bid(s), shall be entitled to use the personal information provided to it that is related to the Business and/or Property acquired pursuant to the SISP in a manner that is in all material respects identical to the prior use of such information by the Applicant, and shall return

all other personal information to the Monitor, the Financial Advisor or the Applicant, or ensure that all other personal information is destroyed and provide confirmation of its destruction if requested by the Monitor, the Financial Advisor or the Applicant.

GENERAL

17. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

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

19. **THIS COURT ORDERS** that 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.



SCHEDULE "A"
SALE AND INVESTMENT SOLICITATION PROCESS

Sale and Investment Solicitation Process

1. On March 10, 2023, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) granted an order (the “**Initial Order**”), among other things, granting LoyaltyOne, Co. (the “**Applicant**”) relief pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the “**CCAA**”).
2. On March 20, 2023, the Court granted (i) an order amending and restating the Initial Order (the “**ARIO**”), and (ii) an order (the “**SISP Approval Order**”) that, among other things: (a) authorized the Applicant to implement a sale and investment solicitation process (“**SISP**”) in accordance with the terms hereof; (b) authorized and empowered the Applicant to enter into the Stalking Horse Purchase Agreement; (c) approved the Bid Protections; and (d) granted the Bid Protections Charge. Capitalized terms that are not otherwise defined herein have the meanings ascribed to them in the ARIO or the SISP Approval Order, as applicable. Copies of the ARIO and the SISP Approval Order can be found at <https://www.ksvadvisory.com/experience/case/loyaltyone>.
3. This SISP sets out the manner in which: (a) binding bids for executable transaction alternatives that are superior to the sale transaction contemplated by the Stalking Horse Purchase Agreement involving the business and assets of the Applicant and its subsidiary, LoyaltyOne Travel Services Co./Cie Des Voyages (together with the Applicant, the “**LoyaltyOne Entities**”), will be solicited from interested parties; (b) any such bids received will be addressed; (c) any Successful Bid (as defined below) will be selected; and (d) Court approval of any Successful Bid will be sought. Such transaction alternatives may include, among other things, a sale of some or all of the Applicant’s assets and/or business and/or an investment in the Applicant, each of which shall be subject to all terms set forth herein.
4. The SISP shall be conducted by the Applicant with the assistance of PJT Partners LP (the “**Financial Advisor**”) under the oversight of KSV Restructuring Inc., in its capacity as Court-appointed monitor (the “**Monitor**”) of the Applicant and the Monitor shall be entitled to receive all information in relation to the SISP.
5. Parties who wish to have their bids considered must participate in the SISP as conducted by the Applicant with the assistance of the Financial Advisor.
6. The SISP will be conducted such that the Applicant and the Financial Advisor will (under the oversight of the Monitor):
 - a) disseminate marketing materials and a process letter to potentially interested parties identified by the Applicant and the Financial Advisor;
 - b) solicit interest from parties with a view to such interested parties entering into non-disclosure agreements (parties shall only obtain access to the data room and be permitted to participate in the SISP if they execute a non-disclosure agreement and agree to the additional measures that are required by the Applicant to protect competitively sensitive information, in form and substance satisfactory to the Applicant);
 - c) provide applicable parties with access to a data room containing diligence information; and
 - d) request that such parties (other than the Stalking Horse Purchaser or its designee) submit a binding offer meeting at least the requirements set forth in Section 8

below, as determined by the Applicant in consultation with the Monitor (a "**Qualified Bid**"), by the Qualified Bid Deadline (as defined below).

7. The SISP shall be conducted subject to the terms hereof and the following key milestones:

- a) the Court issues the SISP Approval Order approving the: (i) SISP and (ii) the Stalking Horse Purchase Agreement as the stalking horse in the SISP and the Applicant entering into same – by no later than March 20, 2023;¹
- b) the Applicant to commence solicitation process by no later than March 23, 2023;
- c) deadline to submit a Qualified Bid – 5:00 p.m. Eastern Time on April 27, 2023 (the "**Qualified Bid Deadline**");
- d) deadline to determine whether a bid is a Qualified Bid and, if applicable, to notify those parties who submitted a Qualified Bid of the Auction (as defined below) – by no later than 5:00 p.m. Eastern Time on May 1, 2023;
- e) the Applicant to hold an Auction (if applicable) and select a Successful Bid – by no later than 10:00 a.m. Eastern Time on May 4, 2023;
- f) Approval and Vesting Order (as defined below) hearing:
 - o (if there is no Auction) – by no later than May 15, 2023, subject to Court availability; or
 - o (if there is an Auction) – by no later than May 18, 2023, subject to Court availability; and
- g) closing of the Successful Bid as soon thereafter as possible and, in any event, by not later than June 30, 2023, provided that such date shall be extended by up to 90 days where regulatory approvals are the only material remaining conditions to closing (the "**Outside Date**").

8. In order to constitute a Qualified Bid, a bid must comply with the following:

- a) it provides for aggregate consideration, payable in full on closing, in an amount equal to or greater than US\$165 million (the "**Consideration Value**"), and provides a detailed sources schedule that identifies, with specificity, the composition of the Consideration Value and any assumptions that could reduce the net consideration payable including details of any material liabilities that are being assumed or being excluded;
- b) it includes an assumption of all obligations of the Applicant: (i) to consumers enrolled in the AIR MILES® Reward Program; and (ii) pursuant to the terms of that certain Amended and Restated Redemption Reserve Agreement dated December 31, 2001 and that certain Amended and Restated Security Agreement dated as of December 31, 2001, each such agreement between Loyalty Management Group Canada Inc. and Royal Trust Corporation of Canada;
- c) as part of the Consideration Value, it provides cash consideration sufficient to pay: (i) all outstanding obligations under the DIP Term Sheet; (ii) any obligations in priority to amounts owing under the DIP Term Sheet, including any applicable charges granted by the Court in the Applicant's CCAA proceeding; (iii) an amount of US\$5 million to fund a wind-up of the Applicant's CCAA proceeding and any further proceedings or wind-up costs; and (iv) an amount of US\$4 million to satisfy the Bid Protections;

¹ To the extent any dates would fall on a non-business day, they shall be deemed to be the first business day thereafter.

- d) closing of the transaction by not later than the Outside Date;
- e) it contains:
 - i. duly executed binding transaction document(s);
 - ii. the legal name and identity (including jurisdiction of existence) and contact information of the bidder, full disclosure of its direct and indirect principals, and the name(s) of its controlling equityholder(s);
 - iii. a redline to the Stalking Horse Purchase Agreement;
 - iv. evidence of authorization and approval from the bidder's board of directors (or comparable governing body) and, if necessary to complete the transaction, the bidder's equityholder(s);
 - v. disclosure of any connections or agreements with the LoyaltyOne Entities or any of their affiliates, any known, potential, prospective bidder, or any officer, manager, director, member or known equity security holder of the LoyaltyOne Entities or any of their affiliates; and
 - vi. such other information reasonably requested by the Applicant or the Monitor;
- f) it includes a letter stating that the bid is submitted in good faith, is binding and is irrevocable until closing of the Successful Bid; provided, that if such bid is not selected as the Successful Bid or as the next-highest or otherwise best Qualified Bid as compared to the Successful Bid (such bid, the "**Back-Up Bid**") it shall only remain irrevocable until selection of the Successful Bid;
- g) it provides that the bid will serve as a Back-Up Bid if it is not selected as the Successful Bid and if selected as the Back-Up Bid it will remain irrevocable until the earlier of (i) closing of the Successful Bid or (ii) closing of the Back-Up Bid;
- h) it provides written evidence of a bidder's ability to fully fund and consummate the transaction (including financing required, if any, prior to the closing of the transaction to finance the proceedings) and satisfy its obligations under the transaction documents, including binding equity/debt commitment letters and/or guarantees covering the full value of all cash consideration and the additional items (in scope and amount) covered by the guarantees provided by affiliates of the bidder in connection with the Successful Bid;
- i) it does not include any request for or entitlement to any break fee, expense reimbursement or similar type of payment;
- j) it is not conditional upon:
 - i. approval from the bidder's board of directors (or comparable governing body) or equityholder(s);
 - ii. the outcome of any due diligence by the bidder; or
 - iii. the bidder obtaining financing;
- k) it includes an acknowledgment and representation that the bidder (i) has had an opportunity to conduct any and all required due diligence prior to making its bid, and has relied solely upon its own independent review, investigation and inspection in making its bid, (ii) is not relying upon any written or oral statements, representations, promises, warranties, conditions, or guaranties whatsoever, whether express or implied (by operation of law or otherwise), made by any person or party, including the Applicant, the Financial Advisor, the Monitor and their respective employees, officers, directors, agents, advisors and other representatives, regarding the proposed transactions, this SISF, or any information (or the completeness of any information) provided in connection therewith, except as expressly stated in the proposed transaction documents; (iii) is making its bid on an "as is, where is" basis and without surviving representations or warranties of any kind, nature, or description by the Applicant, the Financial

Advisor, the Monitor or any of their respective employees, officers, directors, agents, advisors and other representatives, except to the extent set forth in the proposed transactions documents (iv) is bound by this SISP and the SISP Approval Order, and (v) is subject to the exclusive jurisdiction of the Court with respect to any disputes or other controversies arising under or in connection with the SISP or its bid;

- l) it specifies any regulatory or other third-party approvals the party anticipates would be required to complete the transaction (including the anticipated timing necessary to obtain such approvals);
 - m) it includes full details of the bidder's intended treatment of the LoyaltyOne Entities' employees under the proposed bid;
 - n) it is accompanied by a cash deposit (the "**Deposit**") by wire transfer of immediately available funds equal to 10% of the Consideration Value, which Deposit shall be retained by the Monitor in an interest bearing trust account in accordance with the terms hereof;
 - o) it includes a statement that the bidder will bear its own costs and expenses (including legal and advisor fees) in connection with the proposed transaction, and by submitting its bid is agreeing to refrain from and waive any assertion or request for reimbursement on any basis; and
 - p) it is received by the Applicant, with a copy to the Financial Advisor and the Monitor, by the Qualified Bid Deadline at the email addresses specified on Schedule "B" hereto.
9. The Qualified Bid Deadline may be extended by: (a) the Applicant for up to no longer than seven days with the consent of the Monitor; or (b) further order of the Court. In such circumstances, the milestones contained in Subsections 7 (d) to (f) shall be extended by the same amount of time.
10. The Applicant, in consultation with the Monitor, may waive compliance with any one or more of the requirements specified in Section 8 above and deem a non-compliant bid to be a Qualified Bid, provided that the Applicant shall not waive compliance with the requirements specified in Subsections 8 (a), (b), (c), (d), (e)(i), (e)(ii), (e)(iv), (f), (k) or (n) without the prior written consent of the Stalking Horse Purchaser, acting reasonably.
11. Notwithstanding the requirements specified in Section 8 above, the transaction contemplated by the Stalking Horse Purchase Agreement (the "**Stalking Horse Bid**"), is deemed to be a Qualified Bid, provided that, for greater certainty: (i) no Deposit shall be required to be submitted in connection with the Stalking Horse Bid; and (ii) the Stalking Horse Bid shall not serve as a Back-Up Bid.
12. If one or more Qualified Bids (other than the Stalking Horse Bid) has been received by the Applicant on or before the Qualified Bid Deadline, the Applicant shall proceed with an auction process to determine the successful bid(s) (the "**Auction**"), which Auction shall be administered in accordance with Schedule "A" hereto. The successful bid(s) selected pursuant to the Auction shall constitute the "**Successful Bid**". Forthwith upon determining to proceed with an Auction, the Applicant shall provide written notice to each party that submitted a Qualified Bid (including the Stalking Horse Bid) of which Qualified Bid is the highest or otherwise best bid (as determined by the Applicant, in consultation with the Monitor) along with a copy of such bid.

13. If by the Qualified Bid Deadline, no Qualified Bid (other than the Stalking Horse Bid) has been received by the Applicant, then the Stalking Horse Bid shall be deemed the Successful Bid and shall be consummated in accordance with and subject to the terms of the Stalking Horse Purchase Agreement.
14. Following selection of a Successful Bid, the Applicant, with the assistance of its advisors, shall seek to finalize any remaining necessary definitive agreement(s) with respect to the Successful Bid in accordance with the milestones set out in Section 7. Once the necessary definitive agreement(s) with respect to a Successful Bid have been finalized, as determined by the Applicant, in consultation with the Monitor, the Applicant shall apply to the Court for an order or orders approving such Successful Bid and/or the mechanics to authorize the Applicant to complete the transactions contemplated thereby, as applicable, and authorizing the Applicant to: (a) enter into any and all necessary agreements and related documentation with respect to the Successful Bid; (b) undertake such other actions as may be necessary to give effect to such Successful Bid; and (c) implement the transaction(s) contemplated in such Successful Bid (each, an **“Approval and Vesting Order”**). If the Successful Bid is not consummated in accordance with its terms, the Applicant shall be authorized, but not required, to elect that the Back-Up Bid (if any) is the Successful Bid.
15. If a Successful Bid is selected and an Approval and Vesting Order authorizing the consummation of the transaction contemplated thereunder is granted by the Court, any Deposit paid in connection with such Successful Bid will be non-refundable and shall, upon closing of the transaction contemplated by such Successful Bid, be applied to the cash consideration to be paid in connection with such Successful Bid or be dealt with as otherwise set out in the definitive agreement(s) entered into in connection with such Successful Bid. Any Deposit delivered with a Qualified Bid that is not selected as a Successful Bid will be returned to the applicable bidder as soon as reasonably practicable (but not later than ten (10) business days) after the date upon which the Successful Bid is approved pursuant to an Approval and Vesting Order or such earlier date as may be determined by the Applicant, in consultation with the Monitor; provided, the Deposit in respect of the Back-Up Bid shall not be returned to the applicable bidder until the closing of the Successful Bid.
16. The Applicant shall provide information in respect of the SISP to consenting stakeholders who are party to support agreements with the Applicant (the **“Consenting Stakeholders”**) on a confidential basis and who have agreed to not submit a bid in connection with the SISP, including (A) access to the data room, (B) copies (or if not provided to the Applicant in writing, a description) of any Qualified Bid, no later than one (1) calendar day following receipt thereof by the Applicant or its advisors and (C) such other information as reasonably requested by the Consenting Stakeholders or their respective legal counsel or financial advisors (including Piper Sandler Corp. and FTI Consulting Canada Inc. (collectively, the **“Lender FAs”**)) or as necessary to keep the Consenting Stakeholders informed no later than one (1) calendar day after any such request or any material change to the proposed terms of any bid received, including any Qualified Bid, as to the terms of any bid, including any Qualified Bid, (including any changes to the proposed terms thereof) and the status and substance of discussions related thereto. The Financial Advisor shall consult with the Lender FAs in respect of the Applicant’s conduct of the SISP and prior to the Applicant making decisions in respect of the SISP (and during an Auction include the Lender FAs in discussions with Qualified Bidders, where practicable).

17. The Applicant shall be permitted, in its discretion, to provide general updates and information in respect of the SISP to counsel to any creditor (each a “**Creditor**”) on a confidential basis, upon: (a) the irrevocable confirmation in writing from such counsel that the applicable Creditor will not submit any bid in the SISP; and (b) counsel to such Creditor executing confidentiality agreements with the Applicant, in form and substance satisfactory to the Applicant and the Monitor.
18. Any amendments to this SISP may only be made by the Applicant with the written consent of the Monitor, or by further order of the Court, provided that the Applicant shall not amend the requirements specified in Subsections 8(a), (b), (c), (d), (e)(i), (e)(ii), (e)(iv), (f), (k) or (n) without the prior written consent of the Stalking Horse Purchaser, acting reasonably.

SCHEDULE “A”: AUCTION PROCEDURES

1. **Auction.** If the Applicant receives at least one Qualified Bid (other than the Stalking Horse Bid), the Applicant will conduct and administer the Auction in accordance with the terms of the SISP. Instructions to participate in the Auction, which will take place via video conferencing, will be provided to Qualified Parties (as defined below) not less than 24 hours prior to the Auction.

2. **Participation.** Only parties that provided a Qualified Bid by the Qualified Bid Deadline, including, for greater certainty, the Stalking Horse Bid (collectively, the “**Qualified Parties**” and each a “**Qualified Party**”), shall be eligible to participate in the Auction. No later than 5:00 p.m. Eastern Time on the day prior to the Auction, each Qualified Party must inform the Applicant and the Monitor in writing whether it intends to participate in the Auction. The Applicant will promptly thereafter inform in writing each Qualified Party who has expressed its intent to participate in the Auction of the identity of all other Qualified Parties that have indicated their intent to participate in the Auction. If no Qualified Party (including the Stalking Horse Purchaser) provides such expression of intent, the highest or otherwise best Qualified Bid as determined by the Applicant, in consultation with the Monitor, shall be designated as the Successful Bid (as defined below).

3. **Auction Procedures.** The Auction shall be governed by the following procedures:

- a. **Attendance.** Only the Applicant, the Qualified Parties, the Monitor, and Consenting Stakeholders, and each of their respective advisors will be entitled to attend the Auction, and only the Qualified Parties will be entitled to make any Overbids (as defined below) at the Auction;
- b. **No Collusion.** Each Qualified Party participating at the Auction shall be required to confirm on the record at the Auction that: (a) it has not engaged in any collusion with respect to the Auction and the bid process; and (b) its bid is a good-faith *bona fide* offer, it is irrevocable and it intends to consummate the proposed transaction if selected as the Successful Party (as defined below);
- c. **Minimum Overbid and Back-Up Bid.** The Auction shall begin with the Qualified Bid that represents the highest or otherwise best Qualified Bid as determined by the Applicant, in consultation with the Monitor (the “**Initial Bid**”), and any bid made at the Auction by a Qualified Party subsequent to the Applicant’s announcement of the Initial Bid (each, an “**Overbid**”), must proceed in minimum additional cash increments of US\$1,000,000, and all such Overbids shall be irrevocable until closing of the Successful Bid; provided, that if such Overbid is not selected as the Successful Bid or as the Back-Up Bid (if any) it shall only remain irrevocable until selection of the Successful Bid;
- d. **Bidding Disclosure.** The Auction shall be conducted such that all bids will be made and received in one group video-conference, on an open basis, and all Qualified Parties will be entitled to be present for all bidding with the understanding that the true identity of each Qualified Party will be fully disclosed to all other Qualified Parties and that all material terms of each

subsequent Qualified Bid will be fully disclosed to all other Qualified Parties throughout the entire Auction; provided, however, that the Applicant, in its discretion, may establish separate video conference rooms to permit interim discussions among the Applicant, the Monitor and individual Qualified Parties with the understanding that all formal bids will be delivered in one group video conference, on an open basis;

- e. **Bidding Conclusion.** The Auction shall continue in one or more rounds and will conclude after each participating Qualified Party has had the opportunity to submit an Overbid with full knowledge and confirmation of the then-existing highest or otherwise best bid and no Qualified Party submits an Overbid; and
- f. **No Post-Auction Bids.** No bids will be considered for any purpose after the Successful Bid has been designated, and therefore the Auction has concluded.

Selection of Successful Bid

4. **Selection.** During the Auction, the Applicant, in consultation with the Monitor, will:
(a) review each subsequent Qualified Bid, considering the factors set out in Section 8 of the SISP and, among other things, (i) the amount of consideration being offered and, if applicable, the proposed form, composition and allocation of same, (ii) the value of any assumption of liabilities or waiver of liabilities not otherwise accounted for in (i) above, (iii) the likelihood of the Qualified Party's ability to close a transaction by not later than the Outside Date (including factors such as: the transaction structure and execution risk; conditions to, timing of, and certainty of closing; termination provisions; availability of financing and financial wherewithal to meet all commitments; and required governmental or other approvals), (iv) the likelihood of the Court's approval of the Successful Bid, (v) the net benefit to the Applicant and its stakeholders and (vi) any other factors the directors or officers of Applicant may, consistent with their fiduciary duties, reasonably deem relevant; and (b) identify the highest or otherwise best bid received at the Auction (the "**Successful Bid**") and the Qualified Party making such bid, the "**Successful Party**").

5. **Acknowledgement.** The Successful Party shall complete and execute all agreements, contracts, instruments or other documents evidencing and containing the terms and conditions upon which the Successful Bid was made within one business day of the Successful Bid being selected as such, unless extended by the Applicant in its sole discretion, subject to the milestones set forth in Section 7 of the SISP.

SCHEDULE "B": E-MAIL ADDRESSES FOR DELIVERY OF BIDS

To the counsel for the Applicant:

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with a copy to the Financial Advisor:

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and with a copy to the Monitor and counsel to the Monitor:

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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

SISP APPROVAL ORDER

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