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

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

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.

MOTION RECORD OF BREAD FINANCIAL HOLDINGS INC.
(Motions relating to Tax Matters Agreement returnable April 29-30, 2024)

February 14, 2024

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NOTICE OF MOTION
(Motion to Set Aside Disclaimer)

Bread Financial Holdings, Inc. ("**Bread**") will make a motion to a judge presiding over the Ontario Superior Court of Justice (Commercial List) (the "**CCAA Court**") on April 29-30, 2024 ~~a date to be scheduled~~ at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard,

- ☐ In writing under subrule 37.12.1(1);
- ☐ In writing as an opposed motion under subrule 37.12.1(4);
- ☒ In person;
- ☐ By telephone conference;
- ☐ By video conference.

THE MOTION IS FOR an order:

(a) if necessary, that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated and that further service thereof is dispensed with;

(b) in accordance with subsection 32(2) of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), that the Tax Matters Agreement (as defined and described below) is not disclaimed pursuant to the Notice of Disclaimer of LoyaltyOne, Co. ("**LoyaltyOne**") dated October 27, 2023;

(c) declaring that the Tax Matters Agreement binds LoyaltyOne and/or is otherwise enforceable against it; and

(d) such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

Background and LoyaltyOne's CCAA Proceedings

2. LoyaltyOne is an indirect subsidiary of Loyalty Ventures Inc. ("**LVI**") and operated the marketing program known as the AIR MILES® Reward Program (the "**AIR MILES® Reward Program**" or "**AIR MILES®**").

3. On March 10, 2023, LoyaltyOne was granted protection under the CCAA pursuant to an initial order (the "**Initial Order**") of the Ontario Superior Court of Justice (Commercial List) (the "**Court**"). Most recently, the stay of proceedings under the Initial Order was extended to June 28, 2024.

4. Also on March 10, 2023, LVI and three affiliated entities commenced proceedings (the "**Chapter 11 Proceedings**") by filing voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code in the United States Bankruptcy Court for the Southern District of Texas (the "**US Court**").

5. On April 27, 2023, the US Court entered an order confirming LVI's joint Chapter 11 plan (the "**US Plan**").

6. On June 2, 2023, the effective date of the US Plan, a Liquidating Trust (as defined in the US Plan) was established to, among other things, hold, investigate and pursue, as appropriate,

claims and causes of action against the Bread Parties (as defined in the US Plan) in connection with the Separation and Distribution Transaction (as defined below). Bread is not aware of any other alleged assets held or claims being pursued by the Liquidating Trust.

7. Within the CCAA proceedings, LoyaltyOne sold AIR MILES to Bank of Montreal ("**BMO**") for an approximate purchase price of US$160 million. Upon closing of the transaction with BMO, LoyaltyOne's existing directors and most officers resigned, LoyaltyOne discontinued its operations and substantially all LoyaltyOne's employees became employees of BMO. LoyaltyOne does not carry on any operations at this time.

8. LoyaltyOne's primary account receivable is a tax refund claim of approximately CAD$100 million (the "**Tax Refund**") which is disputed by the Canada Revenue Agency and, if unresolved, will proceed to trial before the Tax Court of Canada in the fall of 2024 (the "**CRA Litigation**"). As described below, pursuant to the Tax Matters Agreement, LoyaltyOne agreed to hold the Tax Refund as agent for Bread and to pay over to Bread the Tax Refund within 30 days of receipt.

9. LoyaltyOne has not sought approval of a claims process from the Court. Based on the reports of KSV Restructuring Inc. (the "**Monitor**"), LoyaltyOne's creditors include the Credit Agreement Lenders (as defined and described below), various contractors and other vendors in respect of goods and services provided to LoyaltyOne for which LoyaltyOne has been invoiced less than CAD$14 million, and Bread.

10. Bread has an estimated claim against LoyaltyOne in the approximate amount of CAD$146 million arising from a certain indemnity related to a lease disclaimed by LoyaltyOne, among other claims.

Separation and Distribution Transaction and the Distribution Agreements

11. AIR MILES® launched in Canada in 1992. From July 1998 until November 5, 2021, the ultimate parent of LoyaltyOne (or its corporate predecessors) was Alliance Data Systems

Corporation ("**ADS**"), now Bread. Bread's loyalty programs business line included both: (a) AIR MILES®; and (b) the "BrandLoyalty" business.

12. On October 13, 2021, the Board of Directors of ADS approved the previously announced separation (the "**Separation and Distribution Transaction**") of its LoyaltyOne segment, consisting of its Canadian AIR MILES® Reward Program and BrandLoyalty businesses, into an independent, publicly traded company, LVI. On November 3, 2021, in an initial step of the Separation and Distribution Transaction and in consideration for assets that ADS was conveying to LVI, LVI made a cash distribution of US$750 million to ADS. On November 5, 2021, the date the Separation was consummated, 81% of the outstanding shares of LVI were distributed pro rata based on the outstanding shares of ADS common stock at the close of business on the record date of October 27, 2021, with ADS retaining the remaining 19% of the outstanding shares of LVI. ADS stockholders of record that did not sell their rights to receive LVI stock before the close of business on November 5, 2021, received one share of LVI common stock for every two and one-half (2.5) shares of ADS common stock. The distribution qualified as a tax-free reorganization and a tax-free distribution to ADS and its stockholders for U.S. federal income tax purposes.

13. In connection with the Separation and Distribution Transaction, LVI on behalf of itself and the members of the LVI Group (as defined and described below) entered into several agreements with ADS and the ADS Group (as defined and described below) to govern the relationship of the parties following the Separation and Distribution Transaction (collectively, the "**Distribution Agreements**"), including:

(a) the Separation and Distribution Agreement dated November 3, 2021, by and between LVI and ADS (the "**Separation and Distribution Agreement**");

(b) the Tax Matters Agreement dated November 5, 2021, by and between LVI on behalf of itself and the members of the LVI Group and ADS and the ADS Group (the "**Tax Matters Agreement**");

(c) the Transition Services Agreement dated November 5, 2021, by and between LVI and ADS (the "**Transition Services Agreement**"); and

(d) the Employee Matters Agreement dated November 5, 2021, by and between LVI and ADS (the "**EMA**").

14. Notably, the Tax Matters Agreement was signed by:

(a) ADS on behalf of a group comprised of itself and its listed subsidiaries (the "**ADS Group**"); and

(b) LVI on behalf of the Loyalty Ventures Group, which is defined in the agreement as LVI and all of its subsidiaries listed in Schedule 1.01(i) to the Tax Matters Agreement (the "**LVI Group**"), which includes LoyaltyOne.

15. Pursuant to section 27 of the Tax Matters Agreement, each of ADS and LVI represented and warranted, among other things, that it had the power and authority to execute the Agreement on its behalf and on behalf of each member of its Group and that the Tax Matters Agreement created a legal, valid and binding obligation on each party and each member of its Group.

16. The Tax Matters Agreement was signed by Jeffrey Fair, the Senior Vice President of LVI and the Vice President of Taxation at LoyaltyOne. The Separation and Distribution Agreement, the Transition Services Agreement and the EMA were signed by Charles Horn, the President and Chief Executive Officer of LVI and the Treasurer of LoyaltyOne.

17. The Distribution Agreements are part of one integrated agreement and provide that the Separation and Distribution Agreement, the Tax Matters Agreement and the Transition Services Agreement constitute an entire agreement.

18. The Distribution Agreements are governed by, and shall be construed and enforced in accordance with, the laws of the State of Delaware.

Transition Services Agreement

19. Shortly prior to the commencement of the CCAA proceedings, LVI purported to assign a portion of the Transition Services Agreement to LoyaltyOne.

20. On July 14, 2023, LoyaltyOne delivered a Notice of Disclaimer to LVI and Bread seeking to disclaim the Transition Services Agreement.

21. Bread disagreed with LoyaltyOne's ability to disclaim all or a portion of the Transition Services Agreement. However, given that the obligations of the parties under the Transition Services Agreement had expired or been rendered largely inoperative through the sale of the LoyaltyOne business to BMO, Bread did not oppose the disclaimer, without prejudice to Bread's rights to assert Bread's rights with respect to the Tax Matters Agreement and any other agreements entered into in connection with the Separation and Distribution Transaction.

Tax Matters Agreement

22. The Tax Matters Agreement expressly contemplates the anticipated Tax Refund and provides that LoyaltyOne agrees to pay the Tax Refund over to Bread within 30 days of receipt thereof. In particular, pursuant to section 8(a) "[e]xcept as provided by Section 8(b) [which is inapplicable to the Tax Refund], ADS shall be entitled to all Tax Refunds received by any member of the ADS Group or any member of the Loyalty Ventures Group, including but not limited to Tax Refunds resulting from the matters set forth on Schedule C." The Tax Refund at issue on this motion is expressly listed on Schedule C. Pursuant to section 8(c), a Company receiving or realizing a Tax Refund to which another party is entitled shall pay over the amount of the Tax Refund within 30 days of receipt thereof. Section 12(b) of the Tax Matters Agreement further requires LoyaltyOne to hold the Tax Refund amount as agent for Bread, once received.

23. The Tax Matters Agreement also incorporates general administrative provisions related to, among other things: (a) the agreed upon allocation of taxes among and between the parties;

(b) filing tax returns; (c) the apportionment of earnings and profits and tax attributes; (d) the utilization of tax attributes; and (e) deductions and reporting for certain awards.

24. Prior to delivery of the Notice of Disclaimer to Bread, LoyaltyOne had performed its contractual obligations in accordance with the Tax Matters Agreement.

Loans in Connection with the Separation and Distribution Transaction

25. In the context of the Separation and Distribution Transaction, LVI, among other things, borrowed (and LoyaltyOne guaranteed) US$675 million from the Credit Agreement Lenders. LVI and certain affiliates (collectively, the "**Borrowers**"), a group of lenders (collectively, the "**Credit Agreement Lenders**") and Bank of America N.A., as administrative agent (the "**Credit Agreement Agent**"), entered into a credit agreement dated as of November 3, 2021 (as amended, the "**Credit Agreement**") whereby the Credit Agreement Lenders established credit facilities for the Borrowers. Certain of LVI's subsidiaries, including LoyaltyOne, are guarantors under the Credit Agreement (collectively, the "**Guarantors**").

26. The Credit Agreement contemplated that the funds borrowed by LVI thereunder would be used to effect the Separation and Distribution Transaction. Among other provisions: (a) pursuant to section 4.01(h), it was a condition precedent to the initial extension of credit that the Spinoff (as defined in the Credit Agreement) shall have been initiated prior to, or substantially simultaneously with, the Closing Date; and (b) pursuant to section 6.11, the proceeds of the Credit Extensions were to be used for, among other things, to finance a portion of the Spin Payment and the other Form 10 Transactions (as these terms are defined in the Credit Agreement).

27. The obligations under the Credit Agreement are secured by, among other things, a first priority security interest in all present and after-acquired personal property of the Borrowers and the Guarantors, including LoyaltyOne, but expressly excluding the Excluded Property. The Credit Agreement specifically lists the Tax Refund as one type of Excluded Property that is not part of the Credit Agreement Lenders' collateral.

28. As of March 9, 2023, there was approximately US$656 million of principal outstanding under the Credit Facilities. LoyaltyOne has made certain distributions to the Credit Agreement Agent during its CCAA proceedings; however, it appears that the Credit Agreement Lenders remain the largest creditor group in the estate of LoyaltyOne and are the directing minds of the proceeding at this time.

Contemplated Litigation by LoyaltyOne and LVI against Bread

29. On October 18, 2023, LoyaltyOne filed a statement of claim in the Ontario Superior Court of Justice against Bread and Joseph L. Motes III seeking damages in the amount of US$775 million (the "**Statement of Claim**"). In the Statement of Claim, LoyaltyOne, as directed by its largest stakeholder group, the Credit Agreement Lenders, is alleging that the Separation and Distribution Transaction was "simply a value-stripping scheme orchestrated and implemented by ADS and Motes for the benefit of ADS and to the corresponding detriment of LoyaltyOne."

30. LoyaltyOne has not taken steps to serve the Statement of Claim on Bread (despite Bread's solicitors offering to accept service) and appears to be delaying commencing the determination of its allegations in the Statement of Claim.

31. Despite the non-service of the Statement of Claim on Bread, on November 11, 2023, LoyaltyOne and the Monitor served motion materials seeking, among other things, a determination that the provisions in the Tax Matters Agreement requiring LoyaltyOne to pay Bread an amount equivalent to the Tax Refund are oppressive and a transfer at undervalue and are void and unenforceable by Bread against LoyaltyOne.

32. The motion materials further evidence that LoyaltyOne's attempted disclaimer of the Tax Matters Agreement is merely an improper attempt to litigate the same issue in more than one context and forum.

33. In addition, while Bread has not been served with a claim, LVI has established a liquidating trust in the Chapter 11 Proceedings to pursue claims against Bread and other parties to provide for potential recovery for the Credit Agreement Lenders.

Notice of Disclaimer or Resiliation of the Tax Matters Agreement

34. Despite closing the transaction with BMO in June 2023 and ceasing operations at that time, LoyaltyOne only delivered a Notice of Disclaimer to LVI and Bread seeking to disclaim the Tax Matters Agreement on October 27, 2023.

35. The disclaimer or resiliation of the Tax Matters Agreement will not enhance the prospects of a viable compromise or arrangement being made in respect of LoyaltyOne. As noted above, LoyaltyOne has already sold substantially all of its assets to BMO, has no ongoing operations, and has only relatively modest trade obligations.

36. In seeking to disclaim the Tax Matters Agreement, LoyaltyOne is attempting to improperly utilize the disclaimer provisions in the CCAA to unwind one aspect of the completed Separation and Distribution Transaction.

37. LoyaltyOne is improperly relying on the disclaimer provisions of the CCAA for the sole purpose of shifting value from Bread to LoyaltyOne's sophisticated secured lenders who explicitly agreed to the Credit Agreement, including that:

(a) the funds they advanced under the Credit Agreement would be utilized to fund the Separation and Distribution Transaction, which included the entering into of the Tax Matters Agreement;

(b) they were fully aware of and acknowledged that the Tax Refund is an asset that belongs to Bread (and not to LoyaltyOne or LVI) under the terms of the Tax Matters Agreement; and

(c) the Tax Refund forms part of the Excluded Property and does not form part of their collateral.

38. The effect of LoyaltyOne's purported disclaimer would be the effective conversion, for the primary benefit of LoyaltyOne's controlling minds, of funds that were intended to be held in escrow by LoyaltyOne and transferred to Bread in completion of obligations between those parties. The disclaimer would give effect to an effective breach of trust and appropriation of funds.

39. The disclaimer of the Tax Matters Agreement will cause significant financial hardship to Bread, particularly when compared to the effect of an order denying the disclaimer on the Credit Agreement Lenders.

40. It is not fair, appropriate or reasonable in the circumstances for LoyaltyOne to disclaim the Tax Matters Agreement.

General

41. The CCAA, including sections 11 and 32 thereof.

42. Rules 2.03, 3.02, 10.01, 12.07 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended.

43. Sections 95 and 96 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended.

44. Section 138 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended.

45. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

46. Affidavits to be filed.

47. Such further and other materials as counsel may advise and this Honourable Court may permit.

November 13, 2023

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Proceeding commenced at Toronto

NOTICE OF MOTION
(MOTION TO SET ASIDE DISCLAIMER)

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APPLICANT

AFFIDAVIT OF JOSEPH L. MOTES III
(affirmed February 9, 2024)

I, Joseph L. Motes III, of the City of Dallas in the State of Texas AFFIRM AND SAY:

1. I am the General Counsel, Executive Vice President, Chief Administrative Officer and Secretary of Bread Financial Holdings, Inc. ("**Bread**"). As such, I have knowledge of the matters contained in this affidavit. To the extent that I make statements on the basis of information and belief, in each case I state the source of my information and believe it to be true. In making this affidavit, I do not intend to and do not waive any applicable privilege.

2. I affirm this affidavit

(a) in support of Bread's motion for an order: (i) that in accordance with subsection 32(2) of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), the Tax Matters Agreement (as defined and described below) is not disclaimed or resiliated pursuant to the Notice of Disclaimer of LoyaltyOne, Co. ("**LoyaltyOne**") dated October 27, 2023; and (ii) declaring that the Tax Matters Agreement dated November 5, 2021 (the "**Tax Matters Agreement**") binds LoyaltyOne and/or is otherwise enforceable against it; and

(b) in response to the motion of LoyaltyOne and KSV Restructuring Inc. (as court monitor) that seeks a declaration that the Tax Matters Agreement is not and was never binding on LoyaltyOne, is unconscionable and void with respect to LoyaltyOne and/or constitutes a transfer at undervalue.

3. Prior to March 2022, Bread went by the name Alliance Data Systems ("**ADS**"). As the events I describe in this affidavit largely take place prior to the Bread rebrand, I will refer to the company as ADS throughout most this affidavit.

4. In this affidavit, I describe events surrounding the November 2021 spinoff of LoyaltyOne and BrandLoyalty (a second ADS loyalty rewards business) into Loyalty Ventures Inc. ("**LVI**"), an independent publicly traded company (the "**Spinoff Transaction**"). More specifically, I set out the background and particulars of the following:

(a) ADS's decision to divest its loyalty rewards businesses through the Spinoff Transaction;

(b) the factors ADS considered in structuring the Spinoff Transaction;

(c) the mechanics of the Spinoff Transaction and the Tax Matters Agreement's division of tax assets and obligations, particularly as it pertains to the ongoing tax appeal commenced by LoyaltyOne in 2020; and

(d) events arising in the lead-up to and following LVI and its subsidiary LoyaltyOne filing for creditor protection in the United States and Canada respectively.

5. As I will explain, at the time of the Spinoff Transaction, LVI, including its subsidiary LoyaltyOne, was sufficiently capitalized to succeed as a standalone company. The Spinoff Transaction was undertaken only after ADS received extensive financial advice on how the

transaction was structured, and a sophisticated lender syndicate, following their review of detailed financial statements, projections, modeling, transaction documents and disclosures, agreed to finance the new entity. It is this same lending syndicate that now seeks to benefit from the disclaimer of the Tax Matters Agreement, a key Spinoff Transaction document that they reviewed and required LVI to enter into prior to lending LVI US$675 million.

My Background

6. I am a lawyer licensed in the state of Texas. Prior to joining ADS, I worked in private practice for nearly twenty years at the firm of Akin Gump Strauss Hauer and Feld LLP where I served as lead outside counsel on substantially all of ADS's material acquisitions, dispositions, and debt financings.

7. I joined ADS in July 2015 as Senior Vice President and General Counsel and in this role was ultimately responsible for all major legal matters of the company. I worked closely with ADS's Assistant General Counsel, Cynthia Hageman, in carrying out my responsibilities. In June 2019, I was promoted to Executive Vice President and Chief Administrative Officer, while retaining my title as General Counsel. Additionally, I have been the corporate Secretary at ADS since joining the company in 2015**.**

8. In my roles at ADS, I helped oversee the Spinoff Transaction. I served as the sole director of LVI from its incorporation in June 2021 until November 4, 2021, immediately prior to its separation from ADS. LoyaltyOne was a subsidiary of ADS until the spinoff of LVI. I served as a director of LoyaltyOne from 2015 (and was its sole director beginning in 2019) until the completion of the Spinoff Transaction.

9. As an outcome of the Spinoff Transaction, ADS shareholders were distributed shares in LVI and I received 2,241 LVI shares in my personal capacity, the value of which was lost as a result of the insolvency of LVI and LoyaltyOne

I. Decision to Divest the Loyalty Rewards Businesses

10. In this section I provide the background for and explain ADS's decision to divest its loyalty rewards businesses by way of the Spinoff Transaction. ADS completed the Spinoff Transaction to maximize shareholder value and in the belief that its business segments would be more successful as separate, independently owned businesses.

The ADS Group of Businesses

11. ADS formed via merger in December 1996 and became a publicly traded company on the New York Stock Exchange in June 2001. Prior to 2019, ADS operated three distinct business units: 1) credit card and banking services; 2) consumer loyalty reward program services; and 3) data-driven marketing services.

12. Since its inception, ADS has been a leading provider of private label and co-brand credit card services, offering payment solutions for large consumer-based retailers and other businesses. Through ADS's services, retailers in the United States can offer consumers a credit card that enables and incentivizes customers to shop with the retailer. The credit card uses the retailer's branding and comes with store-specific perks, but is backed by ADS's banking operations. The card services business was the largest of ADS's three business units, accounting for well over half of the company's revenue and earnings.

13. In 1998, ADS entered the loyalty rewards business when it acquired the AIR MILES® Reward Program ("**AIR MILES**"), which since 1992 had offered "reward miles" to Canadian consumers who shopped at or used the services of participating retailers and businesses ("**Program Sponsors**"). Customers could redeem reward miles for flights with participating airlines or other benefits. ADS acquired AIR MILES through the acquisition of Loyalty Management Group Canada Inc., an Ontario corporation and a predecessor to LoyaltyOne (now

a Nova Scotia unlimited liability company). LoyaltyOne and its predecessors managed the AIR MILES program from offices in Toronto and reported to ADS's head office in Columbus, Ohio.

14. Between 2014 and 2016, ADS significantly invested in its loyalty rewards business through its acquisition of BrandLoyalty Group B.V. ("**BrandLoyalty**"). BrandLoyalty was based in the Netherlands and provided customer loyalty campaign services to retailers in Europe, Asia, and the Middle East. Pursuant to the terms of a 2013 share purchase agreement, ADS acquired 60% of BrandLoyalty in January 2014, 10% in January 2015, and 10% in January 2016. In April 2016, ADS acquired the remaining 20% and BrandLoyalty became a wholly-owned subsidiary of ADS. In total, ADS paid approximately US$1 billion for BrandLoyalty, financed in-part through long-term debt incurred by ADS. Attached as **Exhibit "A"** is a copy of an ADS press release dated November 5, 2013 announcing the BrandLoyalty acquisition.

15. Because ADS's ownership of LoyaltyOne predated the acquisition of BrandLoyalty, ADS's loyalty rewards business unit, which included both LoyaltyOne and BrandLoyalty, was often referred to as the "LoyaltyOne segment" in financial reporting and other documents. LoyaltyOne's management team assisted in the supervision of BrandLoyalty and the development of its post-acquisition growth strategy, but BrandLoyalty was not a subsidiary of LoyaltyOne. Rather, both entities were indirect subsidiaries of ADS. Also housed within the LoyaltyOne business unit was Precima®, a provider of retail strategy and customer data applications.

16. ADS's third business unit, marketing services, operated under the brand Epsilon and provided integrated direct marketing solutions through database marketing technology and analytics. In 2014, ADS significantly invested in its marketing business by acquiring the advertising technology company Conversant Inc. for approximately US$2.3 billion.

17. ADS provided support and resources to each of its three business units. This included not only a host of corporate overhead services on a cost-free basis but significant and ongoing

financial support. In respect of LoyaltyOne, ADS funded acquisitions and initiatives that aligned with LoyaltyOne's corporate strategy including BrandLoyalty and exploratory expansion efforts of the AIR MILES business to Brazil, India, and the United States. Additionally, in 2017, ADS made a cash infusion to LoyaltyOne of approximately US$170 million to assist the AIR MILES program. ADS also served as the parent guarantor of LoyaltyOne's lease of its corporate headquarters in Toronto, which Bread has now been obligated to assume.

Decision to Focus on Card Services

18. ADS had acquired and/or invested in all three of its business units in the belief that they would complement each other and provide synergies that maximized ADS's total corporate value. However, beginning in 2018, ADS's leadership assessed the company's performance and whether these business units benefitted from being under common ownership.

19. The card services and loyalty rewards business unit operated in different geographic markets. Card services operated in the United States while the loyalty programs operated primarily in Canadian, European, Asian, and Middle Eastern markets. Cross-sales and synergies were therefore limited, and separate management teams and offices were required.

20. In addition, the separate businesses posed managerial challenges. ADS's head office regularly had to decide how best to prioritize each business unit in its overall corporate strategy and allocate resources accordingly. Recruiting top talent was made more difficult as well. Few executive candidates had experience in all of ADS's industries and while ADS needed strong management for each business, qualified candidates were often seeking a top executive position and not just to lead one of several different lines of business.

21. The breadth of ADS's businesses also presented regulatory complications. The card services business operated in the highly regulated banking space subject to a wide range of laws,

rules, regulations, and guidance. ADS's non-bank lines of business posed additional and potentially distracting subjects of attention and diligence from its banking regulators. ADS management determined that keeping the different businesses under a single parent company could complicate the banking regulators' assessment of compliance and capital matters, and therefore was a potential impediment to the ongoing growth of the card services business. ADS's other business units could also be constrained, as ADS would need to consider the potential reaction of the banking regulators to potential mergers, acquisitions, and other transactions by those units and any concerns they might raise in the eyes of the banking regulators.

22. Finally, ADS's investment in its loyalty rewards and marketing businesses (i.e., the acquisitions of BrandLoyalty and Conversant Inc.) had been financed in part by debt incurred by ADS, and its existing leverage meant that the company was constrained in making additional capital expenditures and strategic investments. ADS's management was concerned that the card services business, which had historically experienced high growth rates and significant returns on equity, was falling behind competitors who were using new technologies to advance the financial services available to consumers. ADS's board and executives believed investment in finance technology or "fintech" and other strategic investments in technology and digital capabilities would unlock value from the card services business, but the ability of the company to invest in these new initiatives was limited by its investments in the other business units.

23. From ongoing assessment, ADS executives came to the determination that the market would respond favourably to a "pure play" strategy where ADS focused its efforts and resources on the card services business. Accordingly, between 2019 and 2022, ADS executed on a new corporate strategy as follows:

(a) In July 2019, ADS sold Epsilon (i.e., the marketing services business unit) to a leading global marketing company for US$4.4 billion.

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(b) In January 2020, ADS sold Precima to a leading market measurement firm for US$26.7 million.

(c) In February 2020, Ralph Andretta was appointed as the new CEO of ADS. Mr. Andretta was formerly the Head of U.S. Cards at Citigroup and had a strong background in the U.S. consumer finance industry.

(d) In December 2020, ADS acquired Lon Inc., a technology-driven digital payments "fintech" company operating under the trademark "Bread", for approximately US$450 million. Lon Inc. offered ADS and its card services business access to innovative platform and point-of-sale payment technologies.

(e) In July 2021, Perry Beberman was appointed the new CFO of ADS. Like Mr. Andretta, Mr. Beberman came from and had expertise in the consumer finance industry.

(f) In November 2021, ADS executed the Spinoff Transaction and LVI began trading on the NASDAQ stock exchange.

(g) In March 2022, ADS rebranded to Bread, the trademark it had acquired in its acquisition of Lon Inc.

24. After the Spinoff Transaction, ADS's three former business units were separately managed by executive teams who were able to focus on the strategic priorities specific to that business and allocate resources and deploy capital in a manner consistent with those priorities.

Decision to Pursue the LVI Spinoff Transaction

25. In 2019, ADS began considering the optimal divestment strategy in relation to the loyalty rewards businesses. Charles Horn was tasked to lead these efforts. Mr. Horn had been ADS's

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CFO from 2009 to 2019 and served as interim CEO from late 2019 to early 2020. Following his tenure as interim CEO, Mr. Horn held the position of Executive Vice President and Senior Advisor. Mr. Horn was retained as a senior advisor principally to oversee the loyalty rewards business, while Mr. Andretta and other ADS executives concentrated on the card services business.

26. In July 2019, Mr. Horn engaged Morgan Stanley & Co. LLC ("**Morgan Stanley**") to lead a sales process for the AIR MILES business. Morgan Stanley contacted 28 parties and, in the fall of 2020, received six preliminary offers for the businesses. Five of these preliminary offers presented minimum bids of at least US$940 million or equivalent Canadian funds, with four of the offers exceeding US$1 billion. Attached as **Exhibit "B**" are copies of two slides prepared for ADS's board, which summarize the round one bids received.

27. Despite receiving strong initial interest, a sale ultimately did not materialize. A major reason for this was that as a practical matter ADS needed the support and cooperation of the AIR MILES Program Sponsors to achieve a sale and the Program Sponsors were not cooperative. Ultimately, ADS received two second round offers in addition to an offer from one of the Program Sponsors. Mr. Horn expressed to me his opinion that these offers either included unacceptable conditions or did not appropriately value the AIR MILES business. In response, Mr. Horn and his team began to look into alternative options, including divesting the loyalty rewards businesses via a spinoff transaction in January 2021.

28. A spinoff transaction was an attractive option as it allowed ADS's shareholders (who would receive shares in the new entity) to continue to benefit from the loyalty rewards businesses. Furthermore, ADS could structure the spinoff so that it retained an interest in the new company. While ADS had determined that its business units made more sense as separate assets, its board and executives still believed the loyalty rewards businesses were reliable sources of revenue and saw financial benefit in retaining an equity interest. A final benefit of a spinoff transaction was that,

if structured correctly, the separation would be deemed a tax-free reorganization and come with a lower tax consequence than a sale.

29. Between February and May, Mr. Horn and his team engaged with internal stakeholders as well as tax specialists, accountants, regulators, bankers, and rating agencies to determine the feasibility of a spinoff transaction. On May 11, 2021, Mr. Horn, with assistance from Morgan Stanley, presented the results of his team's work to the ADS board and recommended that the loyalty rewards businesses be spun-out into a newly created U.S. publicly traded entity with ADS retaining an interest in the businesses via a 19% shareholding. The ADS board unanimously approved continued work on and public announcement of the proposed Spinoff Transaction. A press release was issued the following day announcing the intended separation of LoyaltyOne and BrandLoyalty from ADS. Attached as **Exhibit "C"** is a copy of an ADS press release dated May 12, 2021.

30. Throughout the planning of the Spinoff Transaction, it was the intention of ADS that post-separation LoyaltyOne executives would continue to advise on and be involved with BrandLoyalty and its growth strategy. While separate businesses, the two entities had shared resources and expertise since the acquisition of BrandLoyalty in 2014. The formation of LVI was the natural extension of prior practice and a step towards the consolidation of the two businesses into a cohesive loyalty rewards company.

The LVI Team

31. The obvious person to manage the separation and subsequently lead LVI as its CEO was Mr. Horn. Through his decade-plus experience as an ADS executive, Mr. Horn was trusted by the other ADS leadership team members and was viewed as someone who would set LVI up for success.

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32. After being selected and announced as the LVI CEO on May 12, 2021, it was left to Mr. Horn to fill the remaining executive positions. Mr. Horn was given permission to use the ADS workforce as his recruiting pool and solicit whomever he wanted for LVI positions. Other than those employed directly by LoyaltyOne and BrandLoyalty, no ADS employee was required to go to LVI. Rather, if invited by Mr. Horn, the employee had the option to keep their current ADS position or to leave with LVI post-separation.

33. Ultimately, Mr. Horn recruited some of ADS's top executives and senior management to the LVI team:

(a) Cynthia Hageman chose to leave her position as Senior Vice President and Assistant General Counsel at ADS to become Executive Vice President and General Counsel at LVI;

(b) Jeffrey Fair chose to leave his position as ADS's Senior Vice President, Tax to laterally transition to the same role at LVI;

(c) Jeffrey Chesnut chose to leave his position as ADS's Senior Vice President and Treasurer to become Executive Vice President at LVI and its CFO;

(d) Laura Santillan chose to leave her position as ADS's Senior Vice President and Chief Accounting Officer to laterally transition to the same role at LVI;

(e) Jeffrey Tusa chose to leave his position in corporate development at ADS to become LVI's Senior Vice President, Corporate Development and Treasurer; and

(f) Jack Taffe chose to leave his position in corporate development at ADS to become LVI's Senior Director, Treasury and Corporate Development.

(collectively, with Mr. Horn, the "**LVI Team**")

34. The LVI Team was a sizeable portion of ADS's executive talent and their departure was a loss to ADS's talent and institutional knowledge. However, the LVI Team expressed excitement about the prospect of managing the loyalty rewards businesses and their belief in the strength and growth prospects of LVI. ADS executives believed that the strong LVI management team would safeguard and grow the value of ADS's retained interest in LVI.

35. By June 2021, the LVI Team had elected to join LVI after the Spinoff Transaction but remained ADS employees until the separation in November 2021. The LVI Team was principally responsible for the implementation of the separation, with limited involvement from executives staying with ADS. Final executive sign-off on larger separation decisions was provided by Mr. Beberman (ADS CFO beginning in July 2021), Mr. Andretta (ADS CEO), and me.

36. In addition to the LVI Team, the new corporation also received the benefit of ADS's director expertise. Roger Ballou who has been a director on ADS's board since 2001 and its chair since 2020, assumed the role of chair of the LVI board concurrent with his ADS directorship. Given his long background overseeing ADS and its loyalty rewards businesses, Mr. Ballou was an ideal candidate to chair the LVI board upon completion of the Spinoff Transaction.

II. Arrangement of the Spinoff Transaction

37. In this section, I describe how ADS approached the Spinoff Transaction with the aim of creating two "winners" and with the input and review of professional advisors, rating agencies, and sophisticated lenders.

38. The details of the Spinoff Transaction were finalized between June and November 2021, including the division of assets and liabilities between ADS and LVI. Three considerations were paramount to ADS when evaluating how to divide its assets and liabilities between the two entities:

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(a) Post-separation, would both companies be in compliance with their debt covenants and able to service their respective debt obligations?

(b) How much liquidity did each company need to operate and continue to be financially strong, and which company had the greater opportunity to see higher returns from investment of available resources?

(c) Were the terms of the separation, financial position, and business plan satisfactory to the new creditors of LVI who would be financing its evolution to and future operations as an independent company?

Each of these considerations was critical to how ADS approached the Spinoff Transaction, and I will address each in turn.

Servicing of Debt Obligations

39. In 2021, ADS had approximately US$2.8 billion in long-term debt, comprised of US$1.45 billion in term loans and US$1.35 billion in senior notes. ADS's term loans had been entered into under a credit agreement dated June 14, 2017 (the "**ADS Credit Agreement**") that had replaced an earlier credit agreement entered into in 2013. The 2013 credit agreement had, in part, financed the acquisition of BrandLoyalty. Pursuant to the ADS Credit Agreement, ADS had to comply with certain financial covenants on an ongoing basis including not exceeding specified total leverage ratios (i.e., the ratio of consolidated debt to consolidated operating EBITDA (earnings before interest, tax, depreciation, and amortization)).

40. In 2020, the loyalty rewards businesses accounted for approximately 24% of ADS's adjusted EBITDA. If the loyalty rewards businesses were spun-out but ADS retained 100% of the long-term debt under the ADS Credit Agreement, the company would be in violation of its debt covenants. Accordingly, ADS's debt needed to be distributed between ADS and LVI along with

the distribution of the assets. The best way to achieve this distribution of debt was for LVI to enter into its own credit agreement and transfer the received funds to ADS. ADS would then use the proceeds to pay down its debt under the ADS Credit Agreement resulting, in effect, in a transfer of a portion of the total company debt to LVI.

41. Accordingly, in July 2021, ADS and its lenders amended the ADS Credit Agreement to permit ADS to divest its loyalty rewards businesses so long as the net cash proceeds were used to pay down debt under the ADS Credit Agreement. Ten of ADS's lenders subsequently became joint lead arrangers for LVI's credit facility (indicating their continued confidence in the loyalty rewards businesses) and in these cases the ultimate outcome of the Spinoff Transaction was that a portion of the debt formerly owed to the lenders by ADS was now owed by LVI (and guaranteed by LoyaltyOne and BrandLoyalty). The lenders received miscellaneous fees in connection with the origination of the LVI debt issuance and paydown of the ADS loan. The LVI Team was instrumental in formulating the structure of the spin, including the manner in which debt would be distributed between ADS and LVI, and managed the marketing of LVI's debt and lender relations.

42. As ADS was retaining a 19% interest in LVI, it was in the commercial interests of both entities that LVI not assume debt obligations beyond what it and its subsidiary businesses were reasonably capable of servicing. ADS retained Ernst & Young Capital Advisors, LLC ("**EY**") in August 2021 to provide advice and analysis on the appropriate debt load of LVI.

43. In completing its analysis, EY was given full access to all relevant financial documents and to members of the LVI Team. EY analysts also worked closely with ADS's CFO, Mr. Beberman, and others on the ADS team. On ADS's instruction, EY's objective was to ensure that ADS shareholders had two "winners" (ADS and LVI) at the completion of the spin transaction. EY prepared a slide deck of its findings and presented it to ADS's audit committee, the LVI Team,

and other ADS executives, me included, on August 30, 2021 (the "**EY Analysis**"). Attached as **Exhibit "D"** is a copy of the EY Analysis.

44. The EY Analysis concluded that a debt load in the range of US$650 to US$700 million (plus a cash dividend of US$100 to US$125 million, for a total distribution of US$750 million to US$825 million) was appropriate for LVI and would allow LVI to maintain the strength and flexibility needed to run its business and obtain at least a B1/B+ rating with credit agencies. EY reached this conclusion after considering not only the expected earnings of LVI but was also after stress testing its conclusion through a downside scenario that considered the effect of a significant decline in LVI (and LoyaltyOne) revenue.

45. EY's downside scenario simulated a 20% decline in LVI's adjusted EBITDA in 2022 followed by a further 10% decline in 2023. Such a significant drop in earnings was viewed as only a remote possibility. Since 2010, the 2020 year was the only one in which ADS's loyalty rewards businesses had reported adjusted EBITDA losses of 20% or greater (-24%), when the COVID-19 pandemic severely affected air travel and the loyalty rewards industry. In the 10 years prior to 2021, the loyalty rewards business unit had never reported two consecutive years of EBITDA losses of 10% or greater. Moreover, as the loyalty rewards business earnings were still down following the economic impact of COVID-19, the forecasts for the business unit were modest growth to pre-COVID revenue levels over an approximate three-to-four-year period. These forecasts came from models developed by the LVI Team with significant input from the executive teams at LoyaltyOne and BrandLoyalty.

46. Despite the remote possibility of such negative performance, ADS wanted LVI to be reasonably prepared for an unexpected downturn and the EY Analysis concluded that even with a significant 20% drop in revenue followed by an additional 10% the next year, LVI and LoyaltyOne would remain free cashflow positive and able to service their debt obligations.

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47. When EY was completing its analysis, the precise terms and structure of LVI's debt were unknown as the debt offering had not yet been taken to market. However, EY worked with the advisory division of Bank of America Corporation ("**Bank of America**") which was selected by the LVI Team to serve as the administrative agent and lead arranger for the new LVI credit facility. EY informed ADS's audit committee and executives, including me, at the August 30th presentation that Bank of America was in alignment with EY on the proposed debt load and cash dividend of LVI (i.e., debt in the range of US$650 to US$700 million, plus a cash dividend of US$100 to US$125 million). Later in September, when the terms of LVI's debt were specified, EY provided its agreement on the proposed structure. Attached as **Exhibit "E"** is a copy of an email without attachment sent by ADS's CFO, Mr. Beberman, to members of the ADS team (me included), LVI Team and EY team on September 24, 2021, where he confirms that EY is in agreement with Bank of America in regard to the proposed debt structure.

48. Accordingly, based on the internal assessment of the LVI Team and ADS executives in addition to the professional advice of EY, Bank of America, and Morgan Stanley (who served as ADS's financial advisor in respect of the Spinoff Transaction), ADS approached the Spinoff Transaction with the view that LVI could comfortably service a debt obligation up to US$700 million.

49. The original versions of the transaction documents for the Spinoff Transaction contemplated that a valuation advisory firm would deliver to ADS's board opinions on the post-separation solvency and capital adequacy of both ADS and LVI. Around September 2021, Ms. Hageman raised with me whether the solvency opinions contemplated by the draft separation agreement were necessary. Ms. Hageman informed me that the consensus of the LVI Team and professional advisors was that as both companies would clearly be solvent following the transaction the solvency opinions were an unnecessary cost and source of delay. Based off this assessment, I agreed that the requirement for solvency opinions could be removed.

Subsequently, Ms. Hageman prepared and sent an updated draft of the separation agreement to our outside legal counsel that did not require solvency opinions. Attached as **Exhibit "F"** is a copy of an email Ms. Hageman sent to me and ADS's legal counsel on September 13, 2021 with revisions to the draft separation agreement, without attachments. Attached as **Exhibit "G"** is a copy of the redline attached to Ms. Hageman's email which, on page 22, shows that the provision regarding solvency opinions was removed from the agreement.

Distribution of Cash Reserves

50. A related consideration to the level of debt both companies could reasonably manage was the amount of minimum cash reserves that the companies needed for their respective operations. As part of its engagement, EY was also asked to provide a recommendation for the cash reserves for LVI that would allow its subsidiary businesses to fund working capital, provide a cushion for weaker business conditions, and make investments towards future growth.

51. The EY Analysis concluded that a minimum cash balance of US$125 million was reasonable for LVI and, with a revolving credit facility of an additional US$125 million, would give LVI liquidity of US$250 million. EY arrived at this conclusion after considering LVI's operations, historical performance, and the financial models prepared by the LVI team. EY also compared LVI to other similar companies. The financial projections reviewed by EY were developed by the LVI Team working closely with the executive teams at LoyaltyOne and BrandLoyalty. EY noted that with access to US$250 million, LVI would have substantially more liquidity on a ratio basis than six of the seven public peers that EY identified as comparable.

52. The loyalty rewards industry is seasonal in nature owing largely to the holiday retail surge and November is a low point for the cash reserves of the businesses. To account for this, and for ease in financial reporting, ADS's CFO, Mr. Beberman, recommended that the Spinoff Transaction be structured to ensure that LVI had the minimum cash balance at year-end as

opposed to on day one of the separation (i.e., November 5, 2021). EY assented and ADS structured the Spinoff Transaction to ensure that LVI was comfortably over the minimum cash balance by December 31, 2021.

53. Ultimately, LVI had over US$167 million in cash and cash equivalents on December 31, 2021 and access to a US$150 million revolving credit facility, putting it well above both EY minimums with US$67 million more in liquidity than EY had determined was necessary. Attached as **Exhibit "H"** is a copy of LVI's 2021 annual report, which reports the company's year-end cash and cash equivalent balance on page F-2.

54. The loyalty rewards businesses had cash reserves in excess of what EY determined was needed to fund working capital, provide a cushion, and make investments. After careful consideration, ADS decided to transfer US$100 million of the excess cash from the loyalty rewards businesses to ADS via dividend. ADS chose to transfer the excess funds because its leadership believed that with the emerging advancements in fintech, the card services business had the opportunity to see significant growth from capital investment. Relatedly, the failure to meaningfully invest in the card services business risked serious financial loss.

55. While the LVI Team members were ADS employees during the arrangement of the Spinoff Transaction, they increasingly approached the transaction with the view of what was in the best interest of LVI (and its subsidiary businesses) and LVI only. This included not only ensuring that LVI had the resources to maintain its operations post-separation (a shared objective between the ADS and LVI teams) but also advocating for LVI to retain resources that would allow it to meaningfully invest in LVI's growth.

56. The positions raised by the LVI Team during the period leading up to the separation were always considered by ADS management when making final determinations. With respect to LVI's cash position, on August 28, 2021, Mr. Chesnut (incoming CFO for LVI) raised concerns that the

transfer of excess cash to ADS would jeopardize LVI's chances at receiving a B1/B+ rating with the rating agencies. Mr. Beberman relayed this concern to EY who advised that the size of the cash transfer was unlikely to affect LVI's assigned rating. As I will discuss, EY was correct in this assessment and LVI maintained its targeted rating. Attached as **Exhibit "I"** is a copy of the email exchange dated between August 29 and 30, 2021, where EY advised ADS executives (me included) that EY did not believe that the cash transfer would impair LVI's targeted rating.

Creditor and Rating Agency Review

57. Separating the loyalty rewards businesses from ADS via the Spinoff Transaction was entirely dependent on securing lenders who were prepared to extend credit to LVI based on their assessment of the creditworthiness of the LoyaltyOne and BrandLoyalty businesses. Mr. Horn and his team engaged Bank of America in early 2021 to explore financing options. In initial discussions, Bank of America estimated that LVI would be able to raise between US$575 million and US$775 million in long-term debt.

58. With the assistance of Bank of America and other professional advisors, the LVI Team began to prepare the necessary information for the debt and equity markets. The largest task was the development of LVI's registration statement on Form 10, which was needed to register LVI's shares with the Securities and Exchange Commission (the "**SEC**") in connection with the Spinoff Transaction. The SEC's Form 10 requires extensive disclosure, similar to the disclosure required by a company going public in a traditional IPO, and as a public document would be a key reference for any prospective lender.

59. In September and October 2021, ADS filed its Form 10 and corresponding exhibits with the SEC. Collectively, the Form 10 and exhibits included the following information among other things:

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(a) carved-out financial statements of LVI which showed the company's current balance sheet and its financial performance over the past three years. The balance sheet filed was current to June 30, 2021 and also showed the pro forma adjustments to account for the Spinoff Transaction;

(b) disclosure of the pertinent risks of LVI's business, including risks related to the separation, LVI's business strategy and operations, and LVI's indebtedness; and

(c) substantially final forms of all the transaction documents that LVI would be entering into as part of the separation.

60. ADS filed the carved-out financials and disclosure of risks via Exhibit 99.1 of Form 10, the Preliminary Information Statement. Attached as **Exhibit "J"** is a copy of the Preliminary Information Statement dated September 21, 2021, which the lenders to LVI had access to prior to participating in the company's debt issuance.

61. In addition to the Form 10 disclosure, the LVI Team prepared a lender presentation regarding the new company and its businesses, which included key financials on the new company such as its earnings and debt. The LVI Team provided this presentation to prospective lenders throughout September 2021. Through coordination by Bank of America, the LVI Team also made themselves available to answer the various questions that prospective lenders had about the loyalty rewards businesses. In the course of this marketing campaign, the LVI Team responded to well over a hundred questions raised by prospective lenders. Attached as **Exhibit "K"** is a copy of LVI's lender presentation used in September 2021.

62. Both the Form 10 disclosure and lender presentation clearly stated that LVI would be using all of its long-term debt financing to make payment to ADS.

63. The LVI Team had initially planned for the entirety of LVI's US$675 million long-term debt to be held by institutional investors and subject to a six-year term, in what is typically called a term loan B. However, Bank of America reported weaker demand among institutional investors in its pre-marketing calls and recommended that LVI's long-term debt be split into two different tranches: 1) US$500 million held by institutional investors with a six-year term ("**Term Loan B**"); and 2) US$175 million with a five-year term held by financial institutions ("**Term Loan A**") who would also be participating in LVI's revolving credit facility. With assistance from Bank of America, EY, and the LVI Team, ADS determined that LVI would be able to service its obligations under this proposed debt structure.

64. By late September, Bank of America had successfully marketed Term Loan A and a US$150 million revolving credit facility. The financing for the revolver and Term Loan A was provided by 13 extremely sophisticated financial institutions including Bank of America, City National Bank, Deutsche Bank, JPMorgan Chase, Morgan Stanley, and Wells Fargo. Attached as **Exhibit "L"** is a copy of an email dated October 12, 2021 from Bank of America announcing the revolver and Term Loan A syndicate.

65. While Bank of America had initially forecasted weaker demand for the term loan B financing, demand greatly exceeded its expectations. In total, LVI received commitments of US$851 million from investors wanting to fund Term Loan B. As Term Loan A financing was already underway, LVI only accepted US$500 million of these commitments and maintained the existing debt structure. In total, 38 of the most sophisticated institutional investors participated in Term Loan B including Bank of America, Blackstone, Fidelity Investments, Goldman Sachs, and T. Rowe Price. Attached as **Exhibit "M"** is a document that was provided to ADS by Bank of America on October 8, 2021 that summarizes the commitments of the institutional investors and their allocated funding in Term Loan B.

66. In deciding to lend funds to LVI, both the Term Loan A and Term Loan B lenders had access to the credit rating reports of Standard & Poor's ("**S&P**") and Moody's. Mr. Horn had begun to work with S&P and Moody's on an assessment of LVI's debt issuance in early 2021 and had received preliminary assessments in April and May that LVI would have B+ (S&P) and B1 (Moody's) ratings. The LVI Team provided further information to the rating agencies on an ongoing basis and once the structure of the debt was finalized in September 2021, S&P and Moody's published their final assessments of LVI and its debt financing.

67. S&P's final ratings assessment maintained a B+ rating for LVI with a stable outlook. S&P expected EBITDA to return to pre-COVID levels but determined that LVI had a sufficient liquidity cushion in the case of a 15% drop in EBITDA. Likewise, Moody's maintained its B1 rating in its final credit assessment, noting the company's very good liquidity that would provide the funds to service its debt obligations. Attached as **Exhibits "N"** and **"O"** respectively are copies of S&P's research update of LVI dated September 28, 2021 and Moody's credit opinion for LVI dated September 29, 2021.

68. In short, ADS provided extensive disclosure to prospective lenders and structured the Spinoff Transaction and the debt load of LVI based on what lenders were comfortable financing and in order to maintain a B+/B1 rating with the ratings agencies. All of the disclosure to the lenders in respect of LVI during the lead-up to the Spinoff Transaction was managed by the LVI Team. The over-subscribed interest in financing LVI's debt indicated to ADS that the market viewed the outlook of LVI as stable and provided further confidence in the outcome of the Spinoff Transaction.

III. <u>The Spinoff Transaction and the Division of Tax Items</u>

69. In this section, I explain the mechanics of the Spinoff Transaction and describe the Tax Matters Agreement as a key transaction document. The Tax Matters Agreement reflected a

balanced approach to the division of tax assets and liabilities between ADS and LVI, allocating both financial risk and reward to ADS.

The Separation

70. On October 13, 2021, the board of directors of ADS approved the Spinoff Transaction. Attached as **Exhibit "P"** is a copy of the resolution approved by ADS's board of directors on October 13, 2021, with exhibit omitted. The Spinoff Transaction proceeded as follows:

(a) On June 21, 2021, LVI was incorporated in Delaware as an indirect subsidiary of ADS. I was appointed its sole director.

(b) In late October, ADS caused corporate entities that were to be separated as part of the Spinoff Transaction to issue dividends totalling US$100 million. As part of this process, LoyaltyOne issued a US$68 million dividend, which was ultimately received by ADS. Attached as **Exhibit "Q"** is a copy of this resolution dated October 20, 2021, executed by me as sole director of LoyaltyOne.

(c) On November 3, 2021, ADS and LVI entered into a separation and distribution agreement (the "**Separation and Distribution Agreement**"). Attached as **Exhibit "R"** is an executed copy of the Separation and Distribution Agreement, without schedules, exhibits, and annex.

(d) Also, on November 3, 2021, LVI entered into a credit agreement with the Term Loan A lenders and Bank of America acting as administrative agent for the lenders of Term Loan B (the "**LVI Credit Agreement**"). LoyaltyOne and BrandLoyalty served as guarantors of LVI's debt. Pursuant to the LVI Credit Agreement, LVI received the funds of Term Loan A and Term Loan B as well as access to the revolving credit facility. The LVI Credit Agreement specified that LVI was to use

Term Loan A and Term Loan B to pay down ADS's indebtedness under the ADS Credit Agreement and pay related professional fees and expenses. Attached as **Exhibit "S"** is the copy of the LVI Credit Agreement filed with the SEC by LVI on November 4, 2021.

(e) Also on or about November 3, 2021, and pursuant to the Separation and Distribution Agreement, a U.S. subsidiary of ADS transferred the shares of a Luxembourg corporation that held an indirect 100% interest in LoyaltyOne and BrandLoyalty to LVI in exchange for US$650 million (i.e., the term loans less US$25 million in lender fees and original issue discounts). The funds received by the ADS subsidiary were subsequently distributed to ADS.

(f) On November 5, 2021, ADS distributed 81% of the shares of LVI pro rata based on the outstanding shares of ADS common stock as of October 27, 2021, with ADS retaining the remaining 19% of the outstanding shares of LVI. ADS shareholders that did not sell their rights to receive LVI stock received one share of LVI common stock for every 2.5 shares of ADS common stock.

(g) Also on November 5, 2021, parties to the Spinoff Transaction entered into four agreements ancillary to the Separation and Distribution Agreement, including the Tax Matters Agreement. Attached as **Exhibit "T"** is an executed copy of the of the Tax Matters Agreement.

(h) On or about November 8, 2021, ADS applied 100% of the US$750 million it received from the dividend and LVI payment to pay down the term loans under the ADS Credit Agreement, lowering its long-term debt from approximately US$2.8 billion to US$2.05 billion.

71. The Spinoff Transaction qualified as a tax-free reorganization and a tax-free distribution to ADS and its stockholders for United States federal income tax purposes.

72. As LVI remained a 100% subsidiary of ADS up until the point of the separation, the Spinoff Transaction documents were reviewed and approved by ADS's board. I was LVI's sole director until I resigned on November 4, 2021 when oversight transferred to a five-member board of directors who had been selected by the LVI Team. As part of the separation, I likewise resigned as director of LoyaltyOne and was replaced by Ms. Hageman, who had just become General Counsel for LVI.

73. The Tax Matters Agreement specified that it was being entered into not just by ADS and LVI but also by members of the ADS Group (as defined therein) and Loyalty Ventures Group (as defined therein and inclusive of LoyaltyOne). Mr. Beberman and Mr. Fair signed on behalf of ADS and members of the ADS Group and Mr. Fair signed for LVI and members of the Loyalty Ventures Group. As Mr. Fair was the Senior Vice President, Tax at both ADS and LVI and had been the executive who oversaw the structuring of the Tax Matters Agreement, he was the logical representative of both parties.

74. As mentioned above, through the LVI Credit Agreement, both LoyaltyOne and BrandLoyalty issued guarantees of LVI's debt. As LVI was, in effect, a holding company for the two loyalty reward businesses, guarantees from its subsidiaries were functionally required for LVI to obtain access to credit. As both loyalty reward businesses were 100% subsidiaries of LVI, the guarantees were for the entire amount of debt on a joint and several basis.

The Tax Matters Agreement

75. The Tax Matters Agreement sets out the agreed-upon tax-related terms of the separation and includes, among other things: (a) the allocation of taxes among and between the parties; (b)

the filing of tax returns; (c) the apportionment of earnings and profits and tax attributes; (d) the utilization of tax attributes; (e) deductions and reporting for certain awards; and (f) tax refunds.

76. In the course of developing the Tax Matters Agreement, the parties determined that ADS would retain responsibility for all pre-separation tax payables and tax reserves, and would correspondingly be entitled to receive all pre-separation tax receivables when realized. In other words, LVI and the Loyalty Ventures Group would be starting with a blank slate from a tax perspective and ADS would be left with both the liabilities and benefits of the past. ADS determined that this was a fair, middle-of-the-road approach that avoided leaving either of the companies with all of the tax liabilities and none of the tax assets.

77. Furthermore, as I will discuss, the substantial majority of the loyalty rewards businesses' tax receivable assets were contingent on success in tax litigation and years away from possible realization. They provided no benefit to the ongoing operation of the businesses. Because there was no certain or immediate benefit, EY advised ADS that LVI was unlikely to receive better debt terms if LoyaltyOne retained the right to contingent tax receivables. Attached as **Exhibit "U"** is a copy of an email from Mr. Beberman to me and other ADS executives dated September 1, 2021 that forwards the advice provided by EY in respect of the lack of consequences of the Tax Matters Agreement on the debt raise.

78. The division of tax items between ADS and LVI was public information prior to the completion of the Spinoff Transaction and reviewable by all prospective lenders or other interested parties. A substantially final form of the Tax Matters Agreement was filed with the SEC on September 24, 2021 as part of the Form 10 disclosure. Additionally, the financial statements of LVI that were filed as part of the Form 10 disclosure properly accounted for the division. A note in the financial statements explained the consequences of the Tax Matters Agreement and the adjustments made to LVI's balance sheet to reflect ADS's rights and obligations.

79. The terms of the LVI Credit Agreement were likewise consistent with the allocation of tax refunds as the definition of "Excluded Property" confirmed that the tax refunds received by LVI for ADS would not form part of the lending syndicate's security:

> "Excluded Property" means, with respect to any Loan Party, … (k) tax refund proceeds subject to rights of ADS under the Form 10 Transaction Documents…

Form 10 Transaction Documents is defined in the LVI Credit Agreement to include the Tax Matters Agreement. Moreover, failure to enter into the Tax Matters Agreement and complete other Form 10 Transactions (as defined in the LVI Credit Agreement) constituted a condition precedent and an event of default which could give rise to the termination of the lending syndicate's obligations. Therefore, all of the lenders that now stand to benefit from the motion to disclaim and/or invalidate the Tax Matters Agreement, (i) knew that the Tax Refund belonged to ADS (not LVI), (ii) knew that they would not be able to recover from the proceeds of the Tax Refund to repay their loans, and (iii) in fact required the loyalty rewards businesses to allocate its tax assets and liabilities in accordance with the Tax Matters Agreement.

80. Following the Spinoff Transaction, ADS, LVI, LoyaltyOne and other LVI subsidiaries operated in compliance with the Tax Matters Agreement. LoyaltyOne and BrandLoyalty have been reimbursed by ADS for pre-separation tax obligations and ADS has received tax refunds and other receivables from LoyaltyOne and BrandLoyalty that arose from the pre-separation period.

The Tax Refund and Tax Liability

81. The most significant pre-separation tax receivable of the Loyalty Ventures Group arose from a reassessment conducted by the Canada Revenue Agency (the "**CRA**") of LoyaltyOne's 2013 corporate tax return. The costs of administering reward miles issued through the AIR MILES

program stretch beyond the taxation year in which the revenue is received as it is common for customers not to redeem their reward miles for several years. Accordingly, LoyaltyOne had taken a reserve in 2013 to account for the future costs of administering the AIR MILES program.

82. In 2015, the CRA began an audit of LoyaltyOne's 2013 corporate income tax return, which lasted for nearly five years. On December 10, 2019, the CRA issued a Notice of Reassessment disallowing the reserve. The Notice of Reassessment directly impacted the federal income taxes LoyaltyOne owed to the CRA for the 2013 year. It also impacted provincial taxes LoyaltyOne owed in 2013 as provinces either rely on the CRA's assessment or conduct an independent assessment consistent with that of the CRA. Finally, the Notice of Reassessment impacted how the CRA and provincial tax authorities assessed LoyaltyOne's taxes in the years following 2013. At the time of the Spinoff Transaction, ADS estimated that the Notice of Reassessment resulted in LoyaltyOne being exposed to an additional CA$126 million in federal and provincial taxes and interest.

83. LoyaltyOne objected to the CRA's reassessment and on July 3, 2020, filed a Notice of Appeal with the Tax Court of Canada (the "**Tax Appeal**"). As the taxes owing from the reassessment were in controversy, LoyaltyOne was only required to pay a portion of the reassessed amount until a final judgment was reached in the Tax Appeal. At the time of the Spinoff Transaction, LoyaltyOne had paid approximately CA$96 million to both federal and provincial tax authorities that will be refunded if the Tax Appeal is successful (the "**Tax Refund**").

84. It is ADS's understanding that if LoyaltyOne is unsuccessful in the Tax Appeal, then further tax liabilities could be imposed on the company, potentially in excess of CA$30 million dollars in taxes (the "**Tax Liability**"), being the difference between LoyaltyOne's total pre-separation exposure from the reassessment and the Tax Refund.

85. Pursuant to the Tax Matters Agreement, ADS is entitled to the Tax Refund if LoyaltyOne is successful in the Tax Appeal and assumed indemnity obligations with respect of the Tax Liability

if LoyaltyOne is unsuccessful in the Tax Appeal. This outcome is consistent with the objective of providing LVI with a blank slate from a tax perspective.

86. In late December 2022, Ms. Hageman sent me an email requesting LVI be indemnified for expenses incurred in litigating the Tax Appeal, which remained ongoing. I responded on January 2, 2023 requesting further information and documents in connection with the indemnification request. Ms. Hageman subsequently provided this information. I never heard further from Ms. Hageman about this request, and Bread remained in the process of reviewing the request and supporting documentation when LVI and LoyaltyOne filed for creditor protection on March 10, 2023.

IV. Post-Separation Events

87. In this section, I describe the relevant events that occurred following the Spinoff Transaction. While there was initial optimism regarding the performance of LVI and LoyaltyOne, a confluence of factors led LVI and its subsidiaries to file for creditor protection in March 2023. Bread suffered material losses from the insolvencies of LVI and LoyaltyOne and will suffer further losses if the Tax Matters Agreement is disclaimed or is otherwise not enforced.

LVI Team's Confidence in LVI Post-Separation

88. The LVI Team was confident in LVI's long-term forecast in the months following the Spinoff Transaction. Mr. Horn, for instance, purchased over US$400,000 in LVI shares in the month following the Spinoff Transaction. Likewise, Mr. Ballou, chair of LVI's board and long-time director at ADS, purchased around US$100,000 worth of LVI shares on November 11, 2021. Attached as **Exhibit "V"** are five trading reports that disclose Mr. Horn's purchase of LVI shares between November 9, 2021 and November 29, 2021 and attached as **Exhibit "W"** is the November 11, 2021 trading report of Mr. Ballou.

89. Approximately three months after the Spinoff Transaction was completed, LVI announced an increase of US$40 to US$50 million towards LVI's strategic investments and capital expenditures for the 2022 year. As a main objective of the separation was to allow the respective executive teams to invest in their business without needing to prioritize between different business units, ADS was heartened by the announcement. LVI's decision to make additional strategic investments in 2022 indicated to me that its leadership had developed a corporate strategy and had the free cash flow to execute on it. Attached as **Exhibit "X"** is a copy of LVI's investor presentation filed on February 3, 2022, which discusses LVI's strategic investments at slide 10.

Insolvency of LVI and LoyaltyOne

90. As ADS retained an interest in LVI post-separation, I and other ADS executives kept tabs on its performance through LVI's public filings. I am aware that a confluence of subsequent, post-Spinoff Transaction events led to a loss of cashflow and increased expenditures at LVI. These events included the Russia-Ukraine conflict, new and unanticipated COVID variants, the loss of a key AIR MILES Program sponsor, inflationary and exchange rate pressures, and higher interest rates. Prior to the Spinoff Transaction, ADS had warned in its regular periodic filings of the risks that events and developments of these kinds could have on the loyalty rewards businesses. All of these potential risks were also identified in the Form 10 disclosure and many were discussed with prospective lenders during the marketing of LVI's debt.

91. ADS and the LVI Team identified and disclosed these risks but at the time of separation determined that there was only a remote possibility that they would materialize to a degree that would cause LVI to become insolvent. Notably, despite ADS and the LVI Team identifying and disclosing that LVI's global operations could be impacted by war or other military actions, ADS executives and the LVI Team did not foresee Russia's invasion of Ukraine in early 2022. Approximately 8% of BrandLoyalty's revenue came from Russia in 2021, and LVI's decision to

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wind down its Russian operations and contracts in February 2022 had a material impact on the company's revenue and forecast, which were also negatively affected by the conflict's effect on inflation and exchange rates. Likewise, ADS had regularly disclosed that a loss of a key Program Sponsor was a risk to LoyaltyOne's future earnings and financial condition, but at the time of the separation, its board and executives and the LVI Team reasonably believed that any contractual or relationship issues with Program Sponsors at the time could be renegotiated in the ordinary course.

92. On March 10, 2023, LVI and three affiliated entities commenced proceedings by filing voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code ("**Chapter 11**") in the United States Bankruptcy Court for the Southern District of Texas. Also on March 10, 2023, LoyaltyOne was granted protection under the CCAA pursuant to an initial order of the Ontario Superior Court of Justice (Commercial List).

93. On July 14, 2023, Bread received a Notice of Disclaimer from LoyaltyOne seeking to disclaim a transition services agreement entered into on November 5, 2021 as one of the ancillary agreements to the Spinoff Transaction. Attached as **Exhibit "Y"** is a copy of the Notice of Disclaimer received by Bread on July 14, 2023.

94. On July 27, 2023, Bread responded to the Notice of Disclaimer through its Canadian counsel. Bread stated that it disagreed with LoyaltyOne's ability to disclaim all or a portion of the transition services agreement, However, given that the agreement's obligations had expired or been rendered inoperative through the sale of the AIR MILES business, Bread did not oppose the disclaimer. Bread emphasized that the fact it was not opposing the disclaimer was without prejudice to Bread's ability to assert its rights with respect to any other agreements entered into in connection with the Spinoff Transaction. Attached as **Exhibit "Z"** is a copy of Bread's response to the Notice of Disclaimer dated July 27, 2023

95. On October 18, 2023, LoyaltyOne filed a Statement of Claim in the Ontario Superior Court of Justice against Bread and me (as a former director of LoyaltyOne) seeking damages in the amount of US$775 million on the basis that the Spinoff Transaction was structured as a value-stripping scheme to the detriment of LoyaltyOne. I have been advised by Bread's Canadian counsel, Maria Konyukhova of Stikeman Elliott LLP, that Stikeman Elliott LLP offered to accept service of the Statement of Claim on behalf of Bread but that LoyaltyOne has not served the claim. Attached as **Exhibit "AA"** is a copy of the Statement of Claim filed by LoyaltyOne on October 18, 2023.

96. On October 27, 2023, LoyaltyOne delivered a Notice of Disclaimer to LVI and Bread seeking to disclaim the Tax Matters Agreement. Attached as **Exhibit "BB"** is a copy of the Notice of Disclaimer in respect of the Tax Matters Agreement. Bread objected to the disclaimer of the Tax Matters Agreement and filed a Notice of Motion on November 13, 2023 to have the matter judicially determined.

97. The bankruptcy cases of LVI remain open in the United States. On April 27, 2023, the Chapter 11 plan of LVI and certain of its affiliates (the "**Plan**") was confirmed. As of June 2, 2023 the Plan specifically vested all causes of action preserved thereunder in a liquidating trust, including all causes of action related to the Spinoff Transaction and any causes of action against ADS, ADS-related parties and me. The Plan provides that LVI, though the liquidating trust, intends to have a liquidating trustee pursue any such causes of action in accordance with the terms of the Plan and the liquidating trust agreement. In connection with the liquidating trustee's ongoing investigation of these claims, ADS voluntarily agreed to provide the liquidating trustee with pre-litigation discovery in connection with the U.S. bankruptcy proceedings. Pre-litigation discovery completed in December 2023.

Hardship Arising from Insolvency of LVI and LoyaltyOne

98. Bread has suffered loss and hardship arising from the insolvency of LVI and LoyaltyOne. Bread never sold its 19% stake in LVI and had intended to use its retained interest as a source of income through a sale of that stake in public markets. As a result of the insolvency, Bread lost the entire value of its retained asset. As an aside, I too never sold my shares of LVI and suffered personal loss from the insolvencies of LVI and LoyaltyOne.

99. Additionally, post-separation, Bread remained the guarantor of LoyaltyOne's lease of corporate offices in Toronto. As part of the CCAA process, LoyaltyOne disclaimed the lease and the landlord subsequently demanded that Bread fulfill its obligations as guarantor. Bread honoured its contractual obligations and entered into a direct lease with the landlord (although Bread has no operations in Canada or use for commercial office space). Bread has spent considerable time and expense seeking to mitigate its losses through sub-lease arrangements for the leased space, but will continue to be ultimately liable for approximately CA$13 million a year in rent until the lease expires in 2033.

100. The disclaimer or resiliation of the Tax Matters Agreement will result in further financial hardship to Bread. Bread divested the loyalty rewards businesses (and lost a substantial portion of its revenue) on the basis that the transaction would be effected as set out in the transaction documents, including the Tax Matters Agreement.

AFFIRMED remotely by Joseph L. Motes III of the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, this 9th day of February, 2024 in accordance with O.Reg. 431/20, Administering Oath or Declaration Remotely

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Robert J Reid LSO#88760P
Commissioner for Taking Affidavits

DocuSigned by:
Joseph Motes
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Joseph L. Motes III

This is Exhibit “A” referred to in the Affidavit of Joseph L. Motes III affirmed by Joseph L. Motes III of the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on February 9, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DS

Commissioner for Taking Affidavits (or as may be)

RJ REID

Alliance Data to Scale-Up Loyalty Presence in Europe and Asia via Acquiring a Majority Stake in European-based BrandLoyalty

NEWS PROVIDED BY
Alliance Data Systems Corporation →
05 Nov, 2013, 04:01 ET

DALLAS, Nov. 5, 2013 /PRNewswire/ -- Alliance Data Systems Corporation (NYSE: ADS), a leading provider of loyalty and marketing solutions derived from transaction-rich data, today announced that it has reached an agreement, subject to customary closing conditions, for its LoyaltyOne business to take a 60% ownership stake in Netherlands-based BrandLoyalty. Headquartered near Amsterdam in's-Hertogenbosch, BrandLoyalty is one of the largest and most successful data-driven loyalty marketers outside of the Americas.

(Logo: http://photos.prnewswire.com/prnh/20051024/ADSLOGO)

About BrandLoyalty: Founded in 1995, privately-held BrandLoyalty has grown from a small presence in loyalty marketing to a firm with 400 associates in 14 offices generating more than US$400 million in annual revenues. Its traditional core loyalty offerings were further expanded into the digital space through its 2012 acquisition of Ice Mobile, a leading mobile applications player. BrandLoyalty generates more than half of its sales from Germany, France and Italy in Europe, as well as key markets in Asia. Additional new markets are being developed, including

Russia and China. Alliance Data believes that BrandLoyalty's organic growth rates of 8% top line and 10% EBITDA are sustainable for the long-term and consistent with Alliance Data's model.

Product Offering: BrandLoyalty is a leader in transactional and emotional loyalty creating immediate changes in consumer behavior through promotional campaign-driven loyalty programs. These programs are offered through leading grocers across Europe and Asia, and more than 2,000 individual programs have been executed since its founding.

For each program, the first step requires an understanding of the spending trends around the client's trade area. BrandLoyalty begins by identifying spend patterns among local market consumers by using demographic information that it obtains from leading data firms. The market data is then combined with the grocer's data to establish a current market share benchmark for the grocer and to identify specific target segments within the grocer's customer base most likely to respond.

A tailored promotional loyalty program is then created, designed to reward key customer segments based on their spending levels during a 12-20 week campaign period. Each visit will result in a real-time award in some form of currency, such as points, which are collected and then redeemed for highly attractive merchandise that customers pick up from each store. Also, when consumers enroll in the program, a mobile app can be downloaded with which consumers can collect the points digitally. The app saves a consumer's points balance and tracks the consumer's interaction with the program. This 1 to 1 communication channel allows for personal messaging that drives engagement and encourages further consumer spend. During the promotional period, refinements to the program can be made based on behavioral data from BrandLoyalty's 2,000+ previous programs.

The finite life of the program enables ROI results to be measured immediately, such as which household segments increased spend to meet the reward threshold for merchandise redemption. Following the completion of each program, BrandLoyalty analyzes spending data to determine the grocer's lift in market share and the program's ROI.

BrandLoyalty's Strategic Fit Supports:

1. Alignment with Alliance Data's business model to use data and marketing to create, implement and measure loyalty programs across both traditional as well as digital channels;
2. Geographic expansion. BrandLoyalty will be housed within the LoyaltyOne business segment. A global thought leader in loyalty marketing, LoyaltyOne owns and operates the Canadian coalition loyalty program, the AIR MILES® Reward Program, and owns an approximately 37% stake in the Brazilian coalition loyalty program, dotz. With this acquisition, LoyaltyOne expands its footprint beyond the Americas into Europe and Asia;
3. Product expansion. While most of Alliance Data's products have focused on a longer-term approach to creating customer loyalty, BrandLoyalty's suite of products focuses on shorter-term promotional loyalty programs. These products generate immediate customer engagement and lift in market share over a specific time frame. When added to Alliance Data's existing base of products, clients will have even more options across the enterprise from which to choose;
4. Compelling financial benefits. The acquisition fits with Alliance Data's growth model of high single-digit organic topline along with about 10% annual growth in EBITDA. Additionally, valuation was reasonable at 10x LTM EBITDA, which allows the deal to be immediately accretive on a core EPS basis.

Structure: The terms of the transaction provide for a 60% majority ownership stake for Alliance Data upfront as well as a pathway toward 100% ownership. As importantly, the structure "de-risks" Alliance Data's investment, while providing a very strong incentive for BrandLoyalty's current owners and management to continue to achieve significant growth goals.

Alliance Data will acquire 60% of BrandLoyalty for approximately US$360 million (cash plus assumed debt), and the amount can be increased via an earn-out payment based upon 2014 actual results. This "top-off" payment is a one-time event related exclusively to the initial 60% ownership stake. Alliance Data also has the ability to acquire the remaining 40% ownership stake over a four-year period, 10% per year, based upon a predetermined valuation multiple. If specified annual earnings targets are met, Alliance Data is required to take the additional 10% ownership for the year achieved. Overall, the structure enables Alliance Data to secure an attractive asset at a reasonable valuation and moderate risk levels, while also providing BrandLoyalty's current management (owners) the ability to realize significant upside as they grow BrandLoyalty's business.

Commentary:

Bryan Pearson, president of LoyaltyOne, stated "This transaction provides LoyaltyOne a significant opportunity to expand its footprint beyond the Americas and into the European and Asian markets. Additionally, BrandLoyalty's market leadership and broad depth of campaign-driven promotional loyalty programs for leading European and Asian grocery retailers aligns nicely with LoyaltyOne's focused strategy to create lasting consumer engagement."

Robert van der Wallen, founder and chief executive officer of BrandLoyalty, noted, "Our track record speaks volumes about the loyalty opportunity across the globe. Having access to the analytic, marketing and digital platforms at Alliance Data will allow us to compete even more effectively in both our core European markets as well as new markets. My team and I are believers in our approach and our ability to deliver strong, sustainable growth."

Ed Heffernan, president and chief executive officer of Alliance Data, commented, "BrandLoyalty is a strong strategic fit and good management fit, and it offers a reasonable valuation. Additionally, it will both expand our global footprint and product offerings, while providing incremental earnings to benefit shareholders."

About Alliance Data

Alliance Data® (NYSE: ADS) and its combined businesses is North America's largest and most comprehensive provider of transaction-based, data-driven marketing and loyalty solutions serving large, consumer-based industries. The Company creates and deploys customized solutions, enhancing the critical customer marketing experience; the result is measurably changing consumer behavior while driving business growth and profitability for some of today's most recognizable brands. Alliance Data helps its clients create and increase customer loyalty through solutions that engage millions of customers each day across multiple touch points using traditional, digital, mobile and other emerging technologies. Headquartered in Dallas, Alliance Data and its three businesses employ approximately 11,000 associates at more than 70 locations worldwide.

Alliance Data consists of three businesses: Alliance Data Retail Services, a leading provider of marketing-driven credit solutions; Epsilon®, a leading provider of multichannel, data-driven technologies and marketing services; and LoyaltyOne®, which owns and operates the AIR

MILES® Reward Program, Canada's premier coalition loyalty program. For more information about the company, visit our website, www.alliancedata.com, or follow us on Twitter via @AllianceData.

About LoyaltyOne

LoyaltyOne is a global leader in the design and implementation of coalition loyalty programs, customer analytics and loyalty services for Fortune 1000 clients around the world. LoyaltyOne's unparalleled track record delivering sustained business performance improvement for clients stems from its unique combination of hands-on practitioner experience and continuous thought leadership. LoyaltyOne has over 20 years history leveraging data-driven insights to develop and operate some of the world's most effective loyalty programs and customer-centric solutions. These include the AIR MILES Reward Program, North America's premier coalition loyalty program and a working partnership with Latin America's leading coalition program, dotz. LoyaltyOne is also the owner of COLLOQUY, a group dedicated to research, publishing and education for the global loyalty industry.

LoyaltyOne is an Alliance Data company. For more information, visit www.loyalty.com.

Alliance Data's Safe Harbor Statement/Forward Looking Statements

This release may contain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Such statements may use words such as "anticipate," "believe," "continue, " "could," "estimate," "expect," "intend, " "may, " "predict," "project," "would," and similar expressions as they relate to us or our management. When we make forward-looking statements, we are basing them on our management's beliefs and assumptions, using information currently available to us. Although we believe that the expectations reflected in the forward-looking statements are reasonable, these forward-looking statements are subject to risks, uncertainties and assumptions, including those discussed in our filings with the Securities and Exchange Commission.

If one or more of these or other risks or uncertainties materialize, or if our underlying assumptions prove to be incorrect, actual results may vary materially from what we projected. Any forward-looking statements contained in this presentation reflect our current views with respect to future events and are subject to these and other risks, uncertainties and assumptions

relating to our operations, results of operations, growth strategy and liquidity. We have no intention, and disclaim any obligation, to update or revise any forward-looking statements, whether as a result of new information, future results or otherwise, except as required by law.

"Safe Harbor" Statement under the Private Securities Litigation Reform Act of 1995: Statements in this presentation regarding Alliance Data Systems Corporation's business which are not historical facts are "forward-looking statements" that involve risks and uncertainties. For a discussion of such risks and uncertainties, which could cause actual results to differ from those contained in the forward-looking statements, see "Risk Factors" in the Company's Annual Report on Form 10-K for the most recently ended fiscal year. Risk factors may be updated in Item 1A in each of the Company's Quarterly Reports on Form 10-Q for each quarterly period subsequent to the Company's most recent Form 10-K.

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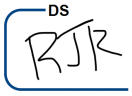
This is Exhibit “B” referred to in the Affidavit of Joseph L. Motes III affirmed by Joseph L. Motes III of the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on February 9, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

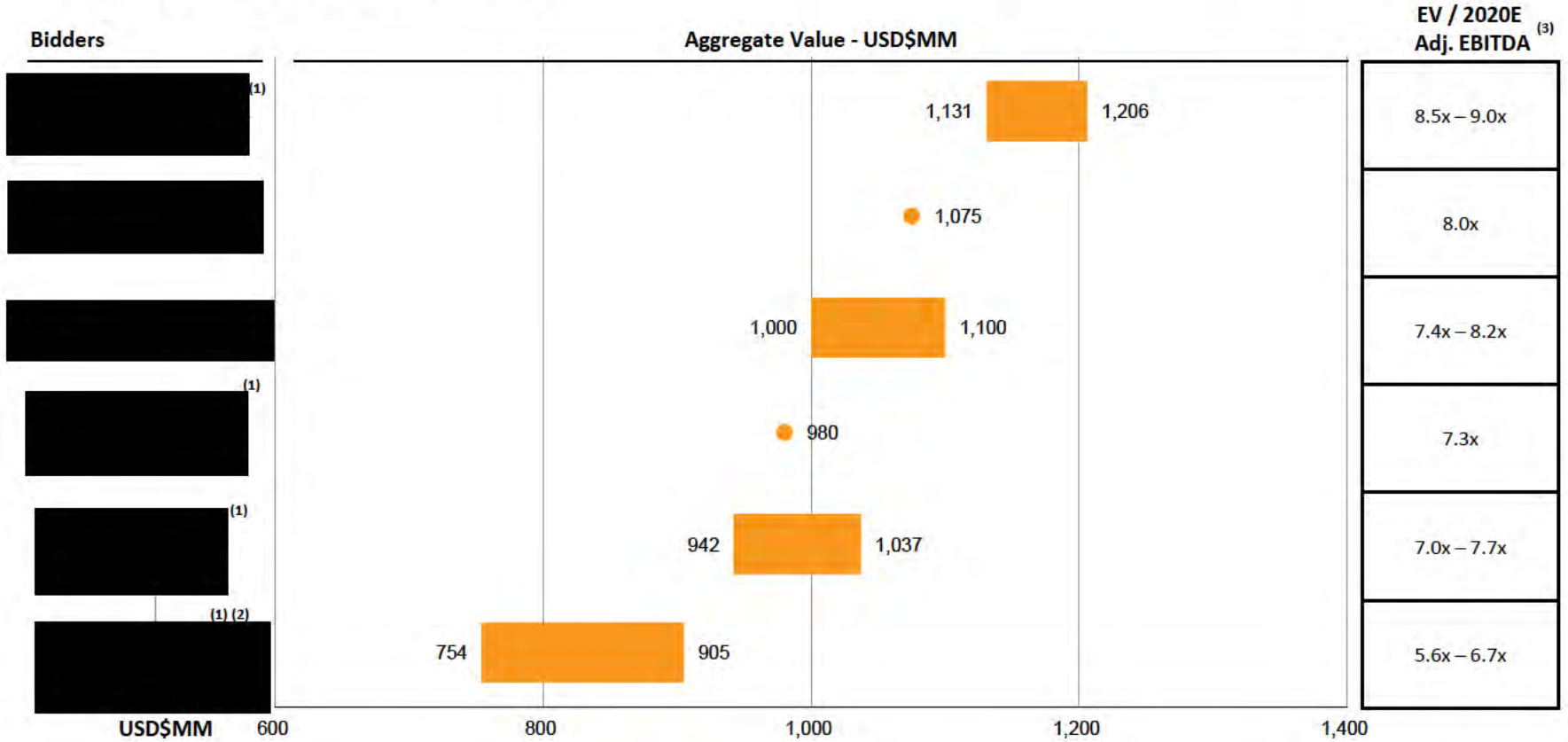


Commissioner for Taking Affidavits (or as may be)

RJ REID

Angus update

Highlights: 28 parties contacted (21 sponsors, 7 pension funds), 21 NDAs signed, 14 fireside chats, 6 submitted indications of interest



Participation in Epsilon Process

IOI: $4.75 - $5.25B
Final offer: $4.0B(4)

Contacted but did not make any offers

IOI: $4.5 - $5.0B
Did not make final offer

Notes:

1. [redacted] Capital provided bid values in CAD$MM; Assumes USD/CAD conversion rate of 0.754x as of 11/2/2020
2. [redacted] provided implied bid values in USD$MM
3. Assumes 2020E Adj. GAAP EBITDA of USD$134MM (CAD$178MM), burdened by QoE and Standalone costs; Assumes USD/CAD conversion rate of 0.754x as of 11/2/2020
4. Adjusted purchase price of ~$3.7B after adjustments, which included a proposal for ADS to roll over a 20% stake with a 2x liquidation preference

Angus: Next steps

- Five parties ([redacted]) have been moved into the second round
- Transaction agreements will be posted to the data room on November 16th
- Management presentations will be held during the weeks of November 16th and 23rd
- The final bid date will be on or during the week of December 14th, allowing for 4-5 weeks of second round diligence
- Targeting signing and announcement during the week of December 21st

November 2020

S	M	T	W	Th	F	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

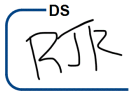
December 2020

S	M	T	W	Th	F	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

Important Date

Holiday

This is Exhibit “C” referred to in the Affidavit of Joseph L. Motes III affirmed by Joseph L. Motes III of the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on February 9, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

RJ REID

Alliance Data to Separate Card Services and Loyalty Businesses

- The Company concludes comprehensive review of strategic alternatives; announces plan for tax-free spinoff of LoyaltyOne® segment with separation expected by year-end 2021

- Transaction expected to strengthen Alliance Data's balance sheet and improve key ratios

- Separation consistent with Alliance Data's strategic focus as a leading payment and lending solutions business

- Planned spinoff expected to unlock growth potential for LoyaltyOne segment as a standalone data-driven, tech-enabled global loyalty solutions provider

NEWS PROVIDED BY
Alliance Data Systems Corporation →
12 May, 2021, 07:30 ET

COLUMBUS, Ohio, May 12, 2021 /PRNewswire/ -- Alliance Data Systems Corporation (NYSE: ADS), a leading provider of data-driven marketing, loyalty and payment solutions, today announced its intention to spin off its LoyaltyOne segment, comprising its Canadian AIR MILES® Reward Program and Netherlands-based BrandLoyalty business. The spinoff is expected to be tax-free, resulting in two independent, U.S.-based, publicly traded companies, Alliance Data and "Spinco," positioned to pursue their respective unique growth opportunities and build long-term value. Immediately following the transaction, Alliance Data stockholders will own shares of both companies, with Alliance Data retaining a minority stake in Spinco. At the time of the spinoff, Spinco expects to complete a debt financing and dividend the net proceeds to Alliance Data. Alliance Data will use all of the net proceeds to retire a portion of its corporate debt. Alliance Data expects the spinoff to be completed by the end of the year.

"Alliance Data is committed to continuing our strategic transformation to deliver long-term, sustainable value for our stockholders as well as our associates, partners, customers and other stakeholders. Our plan to spin off our LoyaltyOne segment is a logical next step in our transformation journey and will position both entities for future growth," said Ralph Andretta, president and CEO of Alliance Data. "We are confident that this transaction, once completed, will provide distinct benefits to each company, enhancing the businesses' ability to execute against their respective strategic priorities."

Alliance Data: Card Services Segment

Alliance Data continues to execute successfully on its multi-year transformation strategy to streamline its operations, while strategically investing in the Card Services business and leadership talent, as well as outsourcing its core processing platform to drive greater scale, efficiencies and flexibility to add more payment products and capabilities. The business offers a robust suite of digital-first payment solutions, including private label, co-brand, general purpose and business credit card programs, digital payments, including Bread® buy now, pay later and installment products, and Comenity-branded financial services. Card Services continues to maintain its disciplined approach to risk and operational management as it broadens its product suite to offer more direct-to-consumer options.

Key standalone Card Services segment metrics for the year ended December 31, 2020 include:

- $3.8 billion in revenue
- $24.7 billion in credit sales
- $16.4 billion in average credit card and loan receivables
- Over 6,450 associates
- Alliance Data Card Services, including Bread, has 630+ merchant partners

Spinco: LoyaltyOne Segment

Upon completion of the spinoff, Charles Horn, currently executive vice president and senior advisor, Alliance Data, will be named chief executive officer of Spinco. Blair Cameron and Claudia Mennen will continue to lead AIR MILES and BrandLoyalty, respectively. The remainder

of the Spinco leadership team and board of directors will be announced over the next several months.

As a standalone company, https://www.loyalty.com/Spinco will own and operate the AIR MILES Reward Program, Canada's most recognized loyalty program, and Netherlands-based BrandLoyalty, a global provider of tailor-made campaign-based loyalty solutions for high frequency retailers.

The AIR MILES Reward Program provides its clients, called Sponsors, with a full-service coalition loyalty platform designed to deliver actionable insights and drive business outcomes. AIR MILES' proprietary data and analytics capabilities distribute targeted and personalized marketing communications across AIR MILES, Sponsor and off-network digital channels. Sponsors pay a fee per AIR MILES reward mile issued when their customers, referred to as Collectors, shop across a broad range of retailers, financial services and other providers. Collectors then redeem AIR MILES for travel, merchandise, cash-back and other rewards, generating greater engagement and loyalty to AIR MILES Sponsors.

BrandLoyalty, a worldwide leader in campaign-based loyalty solutions, designs, implements, conducts and evaluates innovative and tailor-made loyalty programs to connect high frequency retailers, partners and consumers in ways that positively impact consumer behavior.

These programs are tailored for the specific client and are designed to reward key customer segments based on their spending levels during defined campaign periods.

Key standalone LoyaltyOne segment metrics for the year ended December 31, 2020 include:

- $765 million in revenue
- $186 million in adjusted EBITDA
- Over 1,400 associates worldwide
- Loyalty programs in over 50 countries

Transaction Details

The transaction will be in the form of a distribution to Alliance Data stockholders of approximately 81% of the shares of Spinco, a new entity holding the LoyaltyOne segment, which is intended to qualify as tax-free to Alliance Data and its stockholders for U.S. federal income tax purposes. Immediately following the transaction, Alliance Data stockholders will own shares of both Alliance Data and Spinco. At the time of the spinoff, Spinco expects to complete a debt financing and pay a dividend to Alliance Data of the net proceeds of the debt issuance. These net proceeds will be used for corporate debt reduction at Alliance Data. Alliance Data will retain approximately 19% of the shares of Spinco at the time of the distribution, with the intent to monetize that stake as appropriate to provide for incremental corporate debt reduction at Alliance Data.

The proposed spinoff is subject to customary conditions, including final approval by Alliance Data's Board of Directors, receipt of a favorable tax ruling from the Internal Revenue Service, the filing and effectiveness of a Form 10 registration statement with the U.S. Securities and Exchange Commission, approval for listing of Spinco's common stock on a national securities exchange and completion of any necessary financings. Additional details of the spinoff are expected to be announced in the coming months, including additional detail regarding the Board and executive leadership of Spinco. No assurance can be given regarding the form that a spinoff transaction may take or the specific terms or timing thereof, or that a spinoff will in fact occur.

Advisors

Morgan Stanley is serving as financial advisor for the transaction. Davis Polk is serving as legal advisor.

About Alliance Data

Alliance Data® (NYSE: ADS) is a leading provider of data-driven marketing, loyalty and payment solutions serving large, consumer-based industries. The Company creates and deploys customized solutions that measurably change consumer behavior while driving business growth and profitability for some of today's most recognizable brands. Alliance Data helps its partners create and increase customer loyalty across multiple touch points using traditional,

digital, mobile and emerging technologies. A FORTUNE 500 and S&P MidCap 400 company headquartered in Columbus, Ohio, Alliance Data consists of businesses that together employ nearly 8,000 associates at 45 locations worldwide.

Alliance Data's Card Services business is a comprehensive provider of market-leading private label, co-brand, general purpose and business credit card programs, digital payments, including Bread®, and Comenity-branded financial services. LoyaltyOne® owns and operates the AIR MILES® Reward Program, Canada's most recognized loyalty program, and Netherlands-based BrandLoyalty, a global provider of tailor-made loyalty programs for grocers. More information about Alliance Data can be found at www.AllianceData.com.

Follow Alliance Data on Twitter, Facebook, LinkedIn, Instagram and YouTube.

About the AIR MILES Reward Program

The AIR MILES Reward Program is Canada's most recognized loyalty program, with an active Collector base representing approximately two-thirds of all Canadian households. AIR MILES Collectors get Miles at more than 300 leading Canadian, global and online brands and at thousands of retail and service locations across the country. It is the only loyalty program of its kind to give Collectors the flexibility and choice to use Miles on aspirational Rewards such as merchandise, travel, events or attractions or, instantly, in-store or online, through AIR MILES Cash at participating Partner locations. For more information, visit: www.airmiles.ca.

About BrandLoyalty

BrandLoyalty is the leading global loyalty platform, providing campaign-based loyalty solutions that positively impact consumer behaviour on a mass scale. We provide purpose-driven, digitally enhanced, tailor-made solutions which improve performance - on a transactional and emotional level - by changing consumers' behaviour.

We pride ourselves on being a business with purpose by connecting high-frequency retailers, partners & consumers to create sustainable solutions for today's challenges. Our concepts can create impact by addressing global issues, from childhood obesity to food waste.

Follow BrandLoyalty on LinkedIn and YouTube.

Forward-Looking Statements

This release contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. Forward-looking statements give our expectations or forecasts of future events and can generally be identified by the use of words such as "believe," "expect," "anticipate," "estimate," "intend," "project," "plan," "likely," "may," "should" or other words or phrases of similar import. Similarly, statements that describe our business strategy, outlook, objectives, plans, intentions or goals also are forward-looking statements. Examples of forward-looking statements include, but are not limited to, statements we make regarding, and the guidance we give with respect to, our anticipated operating or financial results, initiation or completion of strategic initiatives including this proposed spinoff, future dividend declarations, and future economic conditions, including, but not limited to, fluctuation in currency exchange rates, market conditions and COVID-19 impacts related to relief measures for impacted borrowers and depositors, labor shortages due to quarantine, reduction in demand from clients, supply chain disruption for our reward suppliers and disruptions in the airline or travel industries.

We believe that our expectations are based on reasonable assumptions. Forward-looking statements, however, are subject to a number of risks and uncertainties that could cause actual results to differ materially from the projections, anticipated results or other expectations expressed in this release, and no assurances can be given that our expectations will prove to have been correct. These risks and uncertainties include, but are not limited to, factors set forth in the Risk Factors section in our Annual Report on Form 10-K for the most recently ended fiscal year, which may be updated in Item 1A of, or elsewhere in, our Quarterly Reports on Form 10-Q filed for periods subsequent to such Form 10-K. Our forward-looking statements speak only as of the date made, and we undertake no obligation, other than as required by applicable law, to update or revise any forward-looking statements, whether as a result of new information, subsequent events, anticipated or unanticipated circumstances or otherwise.

Reconciliation of Non-GAAP Financial Measure

Adjusted EBITDA presented herein is consistent with the Company's historical financial reporting practices. The non-GAAP financial measure presented herein may not be comparable to similarly titled measures presented by other companies, or identical to corresponding

measures used in other various agreements or public filings. Reconciliations to the comparable GAAP financial measure is available in the Company's Form 10-K, which is posted on the Company's website: www.AllianceData.com.

Alliance Data

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SOURCE Alliance Data Systems Corporation

Related Links

http://www.alliancedata.com

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This is Exhibit “D” referred to in the Affidavit of Joseph L. Motes III affirmed by Joseph L. Motes III of the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on February 9, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits (or as may be)

RJ REID

Ernst & Young Capital Advisors, LLC

Debt Capital Markets Advisory

ALLIANCE DATA SYSTEMS

SpinCo Financing Discussion

August 2021

EY
Building a better working world

Contributing factors in our analysis

- Our assumption is that the goal for ADS shareholders is to have two “winners” upon the completion of the spin transaction. Accordingly, a level of balance must be exercised to address the needs of both RemainCo and SpinCo.

- The capital structure and financial policies of SpinCo should ideally result in an initial ratings no lower than B1 / B+ (with stable outlooks) from Moody’s and S&P.

- SpinCo should have sufficient liquidity at the onset to (a) fund working capital, (b) provide cushion for weaker business conditions, including sponsor exits, and (c) finance future growth.

- It is important that SpinCo’s debut in the capital markets is a success and it attains the financial flexibility required to both execute on management’s growth strategy and garner strong market support in the equity and debt markets.

1. SpinCo's strong business history and unique market position allow it to sustain a reasonable amount of leverage. However, certain aspects of the business such as customer concentration and reliance on travel and economic activity warrant some level of conservatism in the leverage profile. Lastly, given the capital markets have less experience with this business model there may be a difference in the amount of debt the company can sustain versus what is marketable to investors.

2. Our observation is the amount of total liquidity (consisting of initial cash balance + available Revolver capacity) that SpinCo needs to service the business is approximately $225-250mm based on comparable company analysis, downside financial modeling and prospective inorganic growth strategy.

3. We believe that the law of diminishing marginal returns is relevant with respect to the size of the dividend back to RemainCo. A point is reached where the additional risk to SpinCo from added leverage is materially greater than the TCE/TA improvement at RemainCo.

LoyaltyOne

- Complementary business models that offer comprehensive solutions
- Data-driven approach with lengthy historical databases to drive campaigns that fit retailers' goals
- Ability to invest combined cash flows in future growth opportunities
- Experienced and well-regarded management teams at corporate and brand level

- #1 loyalty program in Canada with ~8,300 locations to earn rewards
- Over 300 sponsors and rewards suppliers
- Sponsor base covers 80% of household spend categories in Canada
- Differentiated by diversity of spend and scale
- Broadly recognized and awarded brand

brandloyalty

- World's leading provider of campaign-based loyalty solutions
- Stable client base generates recurring campaign demand
- Long-term, exclusive relationships with high desirable brands
- Unmatched scale and global presence valued by large grocery retailers

Project Fusion

1 SpinCo can support a reasonable amount of leverage

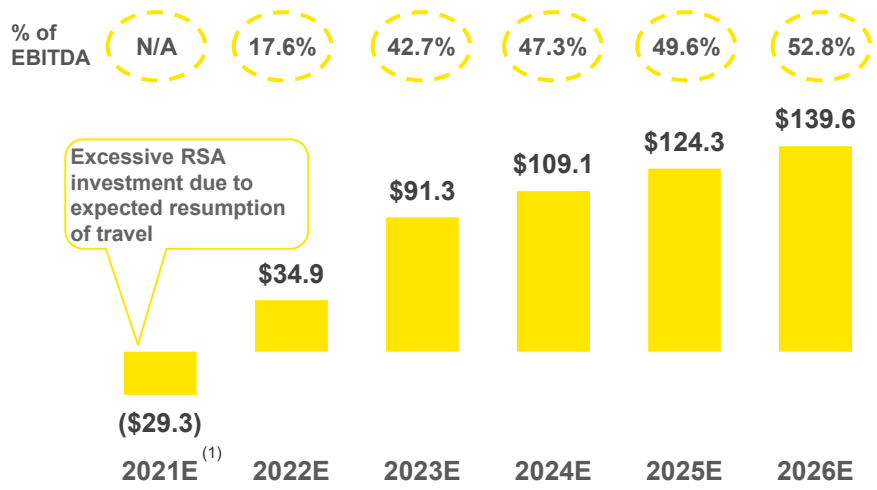
Attractive Financial Profile

- Global Footprint
- Diverse Revenue Stream
- Good Margin Profile
- Multiple Growth Levers
- Low Capital Intensity
- Long-term Growth Profile

Conservative Financial Policy

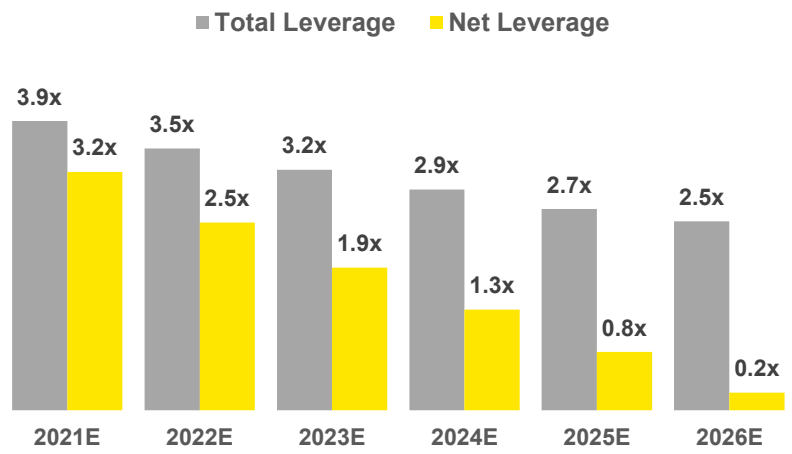
- ✓ Maintain adequate liquidity
- ✓ Prioritize cash flows to repay debt and re-invest in business
- ✓ No dividends or share repurchases
- ✓ Conservative public leverage target
- ✓ Fully funded settlement trust
- ✓ Future M&A aligned with business and capital structure strategy

Significant Free Cash Flow Generation



Note: Free cash flow = Adj. EBITDA – (Capex + Interest Expense + Taxes + RSA), $ in millions
(1) 2021E FCF doubles Q3 + Q4 forecast for Capex and Interest expense for indicative 2021E

Deleveraging Positions L1 For Future Growth



Note: Expected cash amounts derived from separate cash flow analysis

1 A leverage level above 4x may increase the chance of receiving a B2 corporate rating

- Leverage levels above 4x could present the risk of receiving a B2 corporate credit rating
- Depending on Moody's final adjustments, SpinCo's EBITA margin is on the cusp of the Ba rating, which could also reduce the overall rating to B1 before any notching

Rating Factor	Baa	Ba	B	Caa	Ca	2021E Adjusted Calculated Metric	Factor Score	Factor Weighting	Weighted Score
Point Value	**9**	**12**	**15**	**18**	**20**				
(1) Scale (20%)									
a) Total Revenue (20%)	$5.0B - $10.0B	$1.5.B - $5.0B	$0.5B - $1.5B	$0.2B - $0.5B	< $0.2B	**$0.8B**	15.0	20.0%	3.0
(2) Business Profile (20%)									
a) Demand Characteristics (15%)		Ba				--	12.0	15.0%	1.8
b) Competitive profile (5%)		Ba				--	12.0	5.0%	0.6
(3) Profitability (10%)									
a) EBITA Margin (10%)	20 - 25%	15 - 20%	10 - 15%	5 - 10%	< 5%	**20.9%**	9.0	10.0%	0.9
(4) Leverage & Coverage (40%)									
a) Debt / EBITDA (15%)	2.0x - 3.0x	3.0x - 4.5x	4.5x - 6.5x	6.5x - 9.0x	≥ 9.0x	**4.6x**	15.0	15.0%	2.3
b) EBITA / Interest (15%)	6.0x - 10.0x	3.0x - 6.0x	1.0x - 3.0x	0.0x - 1.0x	< 0.0x	**5.0x**	12.0	15.0%	1.8
c) RCF / Net Debt (10%)	25% - 40%	15% - 25%	7.5% - 15%	2.5% - 7.5%	< 2.5%	**22.0%**	12.0	10.0%	1.2
(5) Financial Policy (10%)									
a) Financial Policy (10%)			B				15.0	10.0%	1.5
							Total	**100.0%**	**13.1**

Score-Indicated Rating: Ba3 / B1
Actual Rating Assigned: B1 / B2

Sources: Business and Consumer Industry Moody's ratings methodology dated October 3, 2016; LoyaltyOne indicative rating letter

Project Fusion

1 Business and market risks warrant some conservativism on capital structure

Credit Strengths

- Good free cash flow profile with ~30% of EBITDA converted to free cash[1]
- Unique market position
- Good competitive profile
- Long business history

Considerations

- Customer Concentration
- Market familiarity with/acceptance of the business model
- Upcoming contract renewals
- Structuring to a B2 rating

A debt level in the $650mm to $700mm range we believe can accomplish the following:

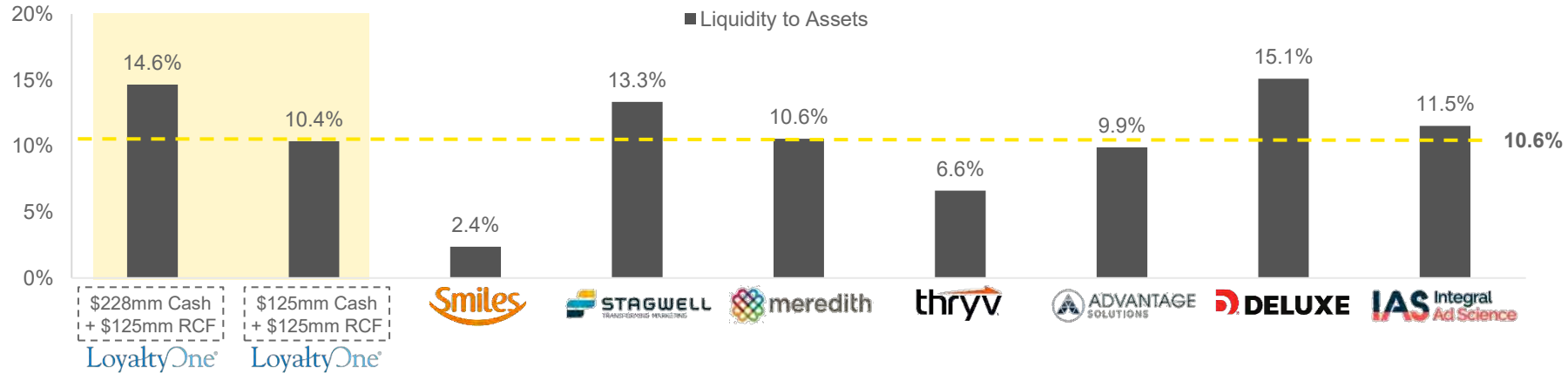
- ✓ Maintain flexibility to run the business
- ✓ Obtain at least a B1 rating
- ✓ Successful debut in the debt markets
- ✓ Ample free cash flow for strategic initiatives or debt paydown
- ✓ Provide an acceptable total dividend amount to RemainCo

(1) Assumes $650mm-$700mm of debt priced in the 5.5% range

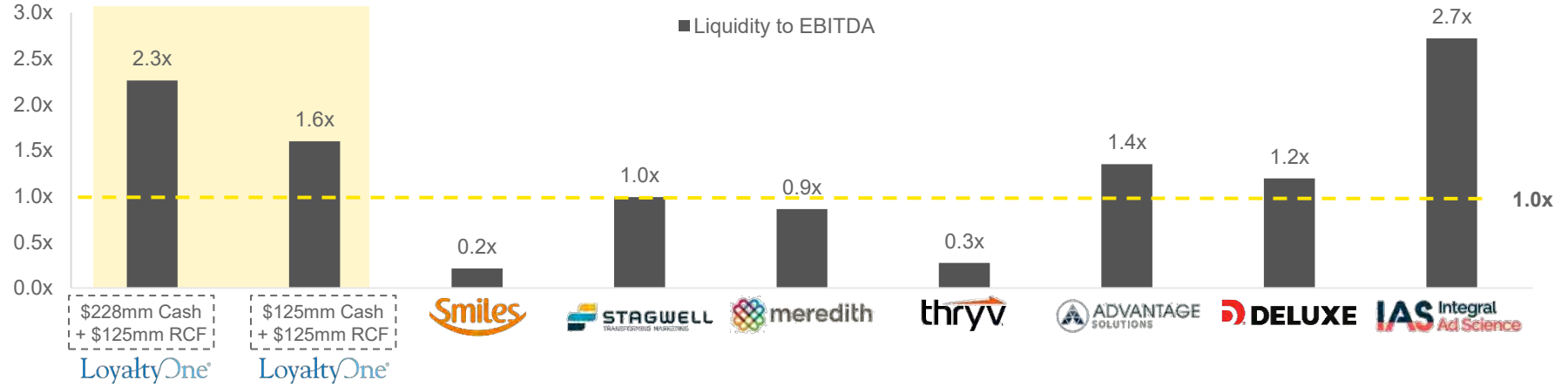
2 SpinCo's liquidity Is comparable to public peers at $125mm of opening cash

- Compared to its public peer, Smiles Fidelidade, SpinCo has substantially more liquidity at either $228mm or $125mm of initial cash
- Assuming $125mm of initial cash, SpinCo's liquidity would not be materially out of line with the broader peer set either

Liquidity to Assets



Liquidity to EBITDA



LoyaltyOne data as of 9/30/21, assumes a $125mm undrawn revolver
Liquidity defined as Cash + Revolver Availability

2 In a simulated downside scenario in FY22 and FY23, SpinCo continues to generate cash

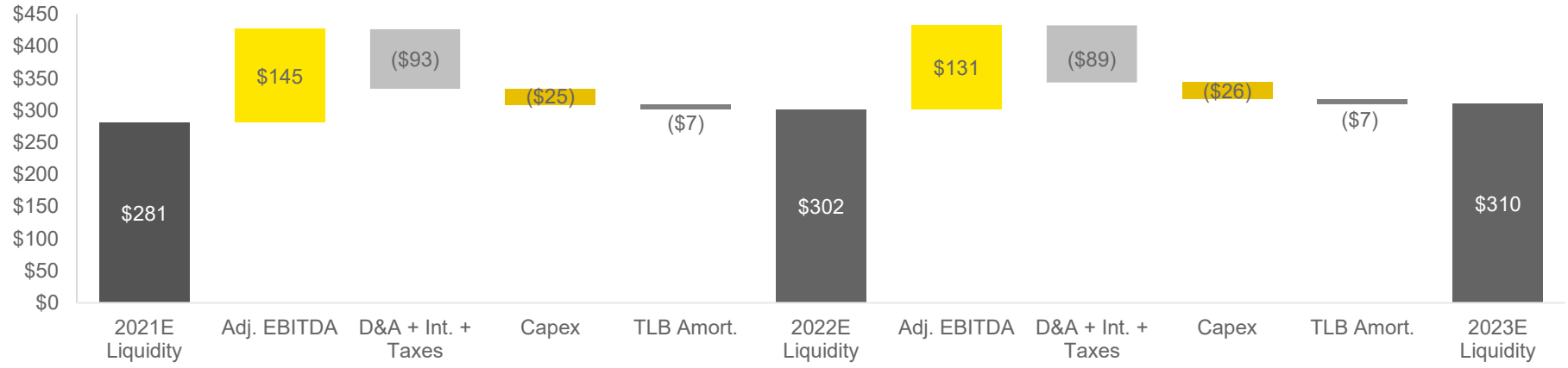
Downside Case Assumptions:

- Adjusted EBITDA drops 20% YoY in 2022E followed by a further 10% decline YoY in 2023E
- Interest expense consistent with base case and tax rate remains 27%
- Change in operating assets and deferred revenues plus non-cash adjustments offset by funding to RSA
- Capital expenditures and Term Loan B amortization remain constant with base case

Takeaways:

- A significant decline in Revenue and Adjusted EBITDA would have an impact on LoyaltyOne's cash flow, although the company would remain FCF-positive and continue building liquidity
- A lower initial cash balance would leave less firepower for acquisitions, however other forms of financing could be accessed as well (in addition to ongoing cash generation)

SpinCo Liquidity Build During Downside Case



With a strong and resilient cash flow generation profile, an initial total liquidity (opening cash balance + Revolver availability) for SpinCo of $225 – 250mm appears reasonable and achievable

SpinCo data as of 2021E, assumes $125mm in cash + $125mm undrawn revolver + $31mm of cash generated during 4Q21 per model
Liquidity defined as Cash + Revolver Availability

$ in millions

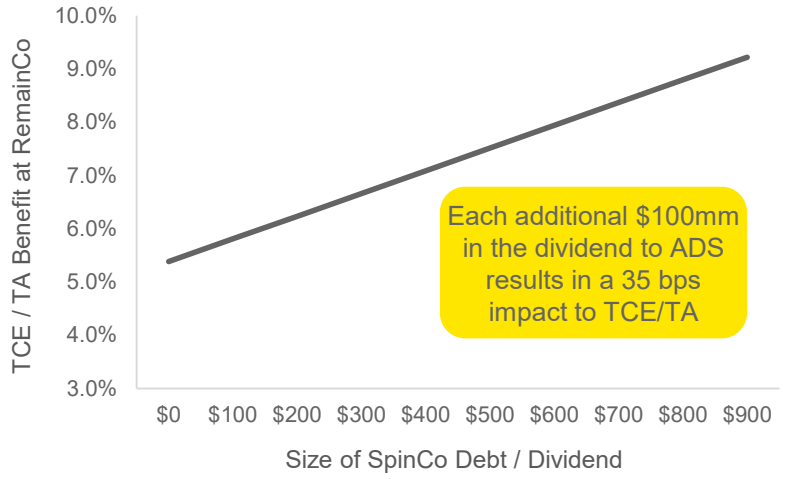
Project Fusion

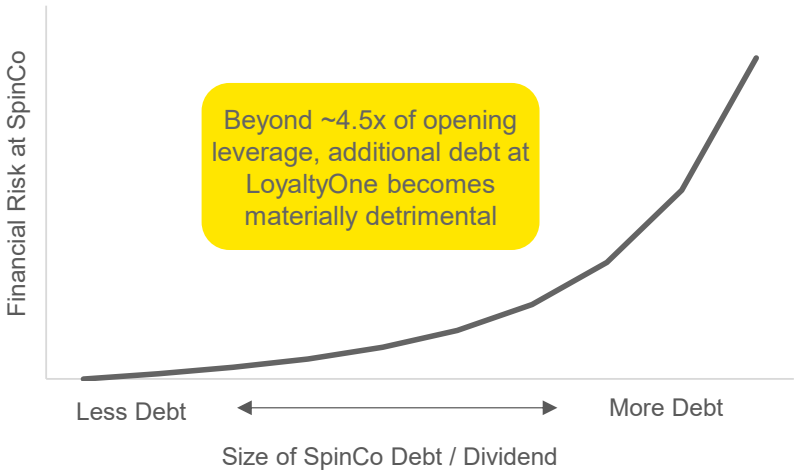
3 Overlevering SpinCo initially adds financial risk with minimal upside to RemainCo

- The law of diminishing returns is relevant with respect to the size of SpinCo's dividend back to RemainCo
- An inflection point is reached where the additional risk to SpinCo from added leverage is materially greater than the TCE / TA ratio improvement at RemainCo

	6/30 Pro Forma Balance Sheet			YE22E (August LRP)	
	ADS	Spin Impact	PF ADS	Organic	PF ADS
Total Equity	$2,048	($174)	$1,873	$754	$2,628
Less: Goodwill	(1,359)	726	(634)	0	(634)
Less: Intangibles	(70)	4	(65)	32	(33)
Tangible Common Equity	$619	$555	$1,174	$787	$1,961
Total Assets	$21,812	($2,279)	$19,534	$4,561	$24,095
Less: Goodwill	(1,359)	726	(634)	0	(634)
Less: Intangibles	(70)	4	(65)	32	(33)
Tangible Assets	$20,383	($1,549)	$18,834	$4,593	$23,428
TCE / TA Ratio	3.0%		6.2%		8.4%

w/ SpinCo at 7.0x EBITDA	
$600mm div.	8.0%
$700mm div.	8.4%
$800mm div.	8.7%





$ in millions

Source: Company presentation

- With an initial term loan launch size of $650mm and cash usage of $100mm, total dividend back to RemainCo could be $750mm
- If market demand for the term loan is strong, an opportunity may exist to upsize the tranche while in market – we have shown a $50mm upsize for illustrative purposes - resulting in a dividend of between $800mm and $825mm depending on amount of cash used towards the dividend

Dividend Ranges

	Base Assumption	Upside
Term Loan Amount	$650.00	$700.00
SpinCo Cash Usage	$100.00	$125.00
Dividend Amount	**$750.00**	**$825.00**

The enclosed materials were prepared based on limited information obtained from the Company.

Neither Ernst & Young Capital Advisors, LLC ("EYCA" or "we") nor any of its affiliates assumes any responsibility for information contained herein. Such information was furnished by or on behalf of others (including management) and is assumed to be reliable. We did not evaluate the reliability or completeness of the information provided to us.

The information contained herein and any analysis thereof is not, and under no circumstances is to be construed as, a valuation opinion, fairness opinion, legal advice or investment advice, or otherwise endorsed or approved by EYCA.

Ranges of value contained herein are not intended to represent the values of Company, but rather are benchmarks to be utilized for discussion and planning purposes only. Additional information or changes in market conditions could result in ranges of value substantially different than those presented as of the date of this discussion document.

This preliminary analysis is intended for use solely by the Company, including its board of directors and its financial and legal advisors in connection with their evaluation of the situation. No copies of all or any portion hereof may be made, nor may this analysis (or abstracts thereof) be distributed to others without the prior written consent of EYCA and otherwise in accordance with the terms of the agreement between EYCA and the Company.

Decisions to pursue specific courses of action will require further detailed analysis and review.

This analysis does not take into consideration: (1) matters of a legal nature, including issues of legal title and compliance with federal, state and local laws and ordinances; (2) the adequacy of funding for employee benefits, such as pension and / or health care liabilities; (3) balance sheet reserves and / or other liabilities; (4) tax matters; or (5) litigation and contingent liabilities not recorded on the balance sheet.

This analysis is not intended to be used, and no taxpayer may use it, to avoid penalties that may be imposed under the Internal Revenue Code or applicable state or local tax laws.

Neither EYCA nor any of its affiliates performed an audit of the Company's historical financial statements in accordance with generally accepted auditing standards, or an examination of prospective financial statements in accordance with standards established by the American Institute of Certified Public Accountants. Accordingly, we express no opinion or any other form of assurance on the historical or prospective financial statements, management representations or other data of the Company included in or underlying the accompanying information. In addition, we have no responsibility to update this preliminary analysis for events or circumstances occurring after the date of this preliminary analysis.

The estimates of cash flow data included herein are solely for use in your valuation analysis and are not intended for use as forecasts or projections of future operations. Neither EYCA nor any of its affiliates performed an examination or compilation, or an agreed-upon procedures engagement, with respect to the cash flow data in accordance with standards prescribed by the American Institute of Certified Public Accountants. Accordingly, we express no opinion or any other form of assurance as to that data or their underlying assumptions. Furthermore, estimated and actual results will usually differ because events and circumstances frequently do not occur as expected, and those differences may be material.

EY

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About EY

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

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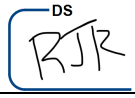
This is Exhibit “E” referred to in the Affidavit of Joseph L. Motes III affirmed by Joseph L. Motes III of the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on February 9, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

RJ REID

RJ Reid

From: Beberman, Perry
Sent: Friday, September 24, 2021 6:33 PM
To: Roger Ballou; John Gerspach; Tim Theriault; Andretta, Ralph
Cc: Motes, Joseph; Vereb, Brian; McLaughlin, Julie; Chesnut, Jeff; Tusa, Jeffrey; Horn, Charles; Geoff Ellis; K.C. Brechnitz; Hughes, Allison G.; Morgan, Ben
Subject: AC Spin Update
Attachments: SpinCo PMO AC Transaction Update_92421_Final.pdf

Good evening. Please find below an update on the progress of the spin transaction, with a focus on the debt raise and the timing implications. **In short, BofA sees a path to achieve the dividend despite a new approach for the debt capital.**

Ratings Update

- Good news, verbal comments received from ratings agencies (Moody's and S&P) with written comments received from S&P, comments are as expected **and in line with what was provided in the spring**. Written comments expected from Moody's by EOD Monday, 9/27/21.

Debt Update

- TLB: Original target of $675mm Term Loan B has been adjusted by BofA to $500mm
  - Last week, BofA arranged pre-marketing calls with 20 top institutional TLB investors (BlackRock, Blackstone, T Rowe, etc).
  - BofA's goal was to secure pre-orders of 50% of the TLB prior to launching the deal publicly, which was slated for yesterday 9/23.
  - Based on the feedback, investors were concerned about the customer concentration in Canada (BMO, Sobey's), the near-term contract maturities and the lingering impact of Covid. Several sizable investors declined to participate.
  - BofA cautiously projects that with more aggressive terms (levers include coupon, required amortization, OID, excess cash sweep), the market will absorb $500mm of TLB.

- Revolver: Original target of $150mm from the bank group lenders, with new target of $325mm (split $150mm revolver with $175mm Term Loan A)
  - The original mix of the $750mm dividend was anticipated to be ($675mm TLB + $100mm cash - $25mm deal fees).
  - The updated $750mm dividend mix is expected to be ($500mm TLB + $175mm TLA + $100mm cash - $25mm deal fees).
  - Despite the change in the mix, the overall deal fees are expected to remain flat.
- BofA will know by EOD Monday with other commitments from lenders.

Timing Update

- The **TLB launch was pushed from 9/23 to 9/28 or 9/29**.
- **This means the board vote will likely be moved from 10/8 to 10/13 or 10/14 (projected),** with a drop-dead date of 10/15 for Computershare and stale numbers considerations.
- We are still on track to complete the spin though the 11/1 completion date may move later as the details come together.

EYCA Perspective

- EYCA reach out to BofA. BofA shared the current situation.
- EYCA agrees with BofA approach to revise the debt structure and to continue forward.

84

Other Key Updates

- 2nd public filing of Form 10 and proformas completed on 9/21/21; additional agreements: EMA, TSA, TMA, Separation Agreement, and Registration Rights have all been filed with the SEC as of 9/24/21. TSA and Exhibit A schedules remain under review and are expected to be finalized by EOM.
- Investor Communications are planned and expected to be launched in line with the declaration of the dividend
- Internal/External Communications back in green status this week due to progress made in defining communications plan

Attached for your review is our weekly PMO report as well.

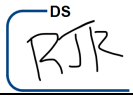
Early next week will be critical in determining if there is a clear path forward with the revised debt structure. Will update you as we know more.

I am available at your convenience to discuss.

Best,
Perry

Perry Beberman
EVP, Chief Financial Officer
Alliance Data
5 Hillman Drive | Chadds Ford, PA 19317
(C) (302) 584-7762
perry.beberman@alliancedata.com
www.AllianceData.com

This is Exhibit “F” referred to in the Affidavit of Joseph L. Motes III affirmed by Joseph L. Motes III of the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on February 9, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

RJ REID

To: Pittell, Joshua B.[joshua.pittell@davispolk.com]; Motes, Joseph[joseph.motes@alliancedata.com]; Morgan, Ben[Ben.Morgan@alliancedata.com]
Cc: Goldberg, Louis L.[louis.goldberg@davispolk.com]; Chesnut, Jeff[Jeff.Chesnut@alliancedata.com]; Santillan, Laura[Laura.Santillan@alliancedata.com]; Tusa, Jeffrey[jeffrey.tusa@alliancedata.com]; Fair, Jeffrey[Jeffrey.Fair@alliancedata.com]; McLaughlin, Julie[Julie.McLaughlin@alliancedata.com]
From: Hageman, Cynthia[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0B391963577A477D83323A4ED7D51293-HAGEMAN, CY]
Sent: Mon 9/13/2021 2:31:57 AM (UTC)
Subject: RE: Project Legacy - Draft Separation and Distribution Agreement
Separation and Distribution Agreement-94579784-v10 - Separation and Distribution Agreement-94579784-v10 LS CH.pdf
Separation and Distribution Agreement-94579784-v10 LS CH.docx
Schedules to Separation & Distribution Agreement v3.docx

Josh -

Attached please find a clean and marked version of the Separation Agreement, including comments and questions, as well as a beginning draft of the schedules that various personnel are working to populate.

We should discuss.

Thanks, Cindy

Cynthia Hageman
SVP, Asst. General Counsel

214.494.3834 (office)
972.898.1530 (mobile)

AllianceData

From: Pittell, Joshua B. <joshua.pittell@davispolk.com>
Sent: Friday, September 10, 2021 9:25 AM
To: Hageman, Cynthia <Cynthia.Hageman@alliancedata.com>; Motes, Joseph <joseph.motes@alliancedata.com>; Morgan, Ben <Ben.Morgan@alliancedata.com>
Cc: Goldberg, Louis L. <louis.goldberg@davispolk.com>; Chesnut, Jeff <Jeff.Chesnut@alliancedata.com>; Santillan, Laura <Laura.Santillan@alliancedata.com>; Tusa, Jeffrey <jeffrey.tusa@alliancedata.com>; Fair, Jeffrey <Jeffrey.Fair@alliancedata.com>; McLaughlin, Julie <Julie.McLaughlin@alliancedata.com>
Subject: RE: Project Legacy - Draft Separation and Distribution Agreement

⚠ **External Email** ⚠

All – Please reference the attached version instead. Substantially the same as the one from this morning. Just a couple tweaks to conform to our language in the Form 10.

Thanks,
Josh

Joshua B. Pittell

+1 212 450 4660 office
+1 561 699 6081 mobile
joshua.pittell@davispolk.com

From: Pittell, Joshua B.

Sent: Friday, September 10, 2021 2:00 AM
To: 'Hageman, Cynthia' <Cynthia.Hageman@alliancedata.com>; Motes, Joseph <joseph.motes@alliancedata.com>; Morgan, Ben <Ben.Morgan@alliancedata.com>
Cc: Goldberg, Louis L. <louis.goldberg@davispolk.com>; Chesnut, Jeff <Jeff.Chesnut@alliancedata.com>; Santillan, Laura <Laura.Santillan@alliancedata.com>; Tusa, Jeffrey <jeffrey.tusa@alliancedata.com>; Fair, Jeffrey <Jeffrey.Fair@alliancedata.com>; McLaughlin, Julie <Julie.McLaughlin@alliancedata.com>
Subject: RE: Project Legacy - Draft Separation and Distribution Agreement

Yes, see attached for the current version of the Separation and Distribution Agreement. This is marked against the version you previously sent with your changes and comments. To the extent your comment was addressed in the body of the agreement or through other correspondence, I marked it as "Done" in the word doc. If there was still anything open to run down or discuss, I left it as is for the time being.

Joshua B. Pittell

+1 212 450 4660 office
+1 561 699 6081 mobile
joshua.pittell@davispolk.com

From: Hageman, Cynthia <Cynthia.Hageman@alliancedata.com>
Sent: Thursday, September 9, 2021 8:14 PM
To: Pittell, Joshua B. <joshua.pittell@davispolk.com>; Motes, Joseph <joseph.motes@alliancedata.com>; Morgan, Ben <Ben.Morgan@alliancedata.com>
Cc: Goldberg, Louis L. <louis.goldberg@davispolk.com>; Chesnut, Jeff <Jeff.Chesnut@alliancedata.com>; Santillan, Laura <Laura.Santillan@alliancedata.com>; Tusa, Jeffrey <jeffrey.tusa@alliancedata.com>; Fair, Jeffrey <Jeffrey.Fair@alliancedata.com>; McLaughlin, Julie <Julie.McLaughlin@alliancedata.com>
Subject: RE: Project Legacy - Draft Separation and Distribution Agreement

Sorry for the repeat – forgot to include Ben – and we need Ben!

Louis – thank you for your call this morning to touch base about the status of this agreement and the work to integrate the registration rights that we included in the July 14th Form 10 filing as well as other governance points reviewed by the ADS executive management team.

Josh – I think you are the correct person from whom to **request the current version of the Separation and Distribution Agreement so that the ADS teams can work to completion**.

ADS team(s) –

1. Kudos to Joe as he is the only person to respond to my July 29th email asking everyone to begin populating these schedules. I have not included Joe's changes here as the litigation matters will be held to the side and not be widely shared with everyone.
2. **We need attention on completing these schedules**. I think we need the Separation and Distribution Agreement to be able to best understand what is required – but it does not make sense to me to re-distribute the June 24 version. While we await a new version, **please take a look at the topics of each schedule and be thinking about who needs to be recruited to assist**.

As soon as we receive the most recent version of the Separation and Distribution Agreement, **we need to put our heads together and make a plan to ensure we reach the "finish line" on time** with both the agreement and the accompanying schedules. I believe we need to file the "form of" agreement in as nearly complete fashion as possible with the next Form 10. That filing should occur in the next week to 2 weeks at the most to stay on track.

Thank you for indulging my Thursday anxiety attack.

Cindy **88**

Cynthia Hageman
SVP, Asst. General Counsel

214.494.3834 (office)
972.898.1530 (mobile)

AllianceData

From: Che, Erica <erica.che@davispolk.com>
Sent: Tuesday, June 29, 2021 3:47 PM
To: Hageman, Cynthia <Cynthia.Hageman@alliancedata.com>; Motes, Joseph <joseph.motes@alliancedata.com>
Cc: Goldberg, Louis L. <louis.goldberg@davispolk.com>; Chesnut, Jeff <Jeff.Chesnut@alliancedata.com>; Santillan, Laura <Laura.Santillan@alliancedata.com>; Tusa, Jeffrey <jeffrey.tusa@alliancedata.com>; Fair, Jeffrey <Jeffrey.Fair@alliancedata.com>; McLaughlin, Julie <Julie.McLaughlin@alliancedata.com>
Subject: RE: Project Legacy - Draft Separation and Distribution Agreement

⚠ **External Email** ⚠

Received, thanks very much. Our team will review, and we will come back to you on a time to discuss.

Thanks,
Erica

Erica Che

+1 212 450 3310 office
+1 646 413 5465 mobile
erica.che@davispolk.com

From: Hageman, Cynthia <Cynthia.Hageman@alliancedata.com>
Sent: Tuesday, June 29, 2021 4:42 PM
To: Che, Erica <erica.che@davispolk.com>; Motes, Joseph <joseph.motes@alliancedata.com>
Cc: Goldberg, Louis L. <louis.goldberg@davispolk.com>; Chesnut, Jeff <Jeff.Chesnut@alliancedata.com>; Santillan, Laura <Laura.Santillan@alliancedata.com>; Tusa, Jeffrey <jeffrey.tusa@alliancedata.com>; Fair, Jeffrey <Jeffrey.Fair@alliancedata.com>; McLaughlin, Julie <Julie.McLaughlin@alliancedata.com>
Subject: RE: Project Legacy - Draft Separation and Distribution Agreement

Erica –

A few comments, and several questions included in a marked to show changes version (Word and .pdf are the same).

I have copied the individuals who will be instrumental in populating the schedules.

Let us know when you would like to discuss.

Thanks, Cindy

Cynthia Hageman

SVP, Asst. General Counsel

214.494.3834 (office) **89**
972.898.1530 (mobile)

From: Che, Erica <erica.che@davispolk.com>
Sent: Thursday, June 24, 2021 3:12 PM
To: Motes, Joseph <joseph.motes@alliancedata.com>; Hageman, Cynthia <Cynthia.Hageman@alliancedata.com>
Cc: Goldberg, Louis L. <louis.goldberg@davispolk.com>
Subject: Project Legacy - Draft Separation and Distribution Agreement

⚠ **External Email** ⚠

Joe, Cindy,

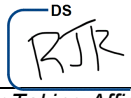
Please find an initial draft of the separation and distribution agreement attached here. We note that we have included some footnotes with comments and questions for review. Please let us know of any comments, and we are happy to discuss.

Thanks,
Erica

Erica Che

+1 212 450 3310 office
+1 646 413 5465 mobile
erica.che@davispolk.com

This is Exhibit “G” referred to in the Affidavit of Joseph L. Motes III affirmed by Joseph L. Motes III of the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on February 9, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

RJ REID

DPW Draft 9/10/21

SEPARATION AND DISTRIBUTION AGREEMENT

by and between

ALLIANCE DATA SYSTEMS CORPORATION

and

LOYALTY VENTURES INC.

Dated as of [●], 2021

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ARTICLE 6
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Exhibit B	Tax Matters Agreement
Exhibit C	Transition Services Agreement
Exhibit D	Amended and Restated Certificate of Incorporation
Exhibit E	Amended and Restated Bylaws

ANNEXES

Annex A	Restructuring Plan

SEPARATION AND DISTRIBUTION AGREEMENT

SEPARATION AND DISTRIBUTION AGREEMENT dated as of [•], 2021 (as the same may be amended from time to time in accordance with its terms and together with the schedules and exhibits hereto, this "**Agreement**") between Alliance Data Systems Corporation, a Delaware corporation ("**ADS**"), and Loyalty Ventures Inc., a Delaware corporation ("**Loyalty Ventures**").

W I T N E S S E T H:

WHEREAS, the Board of Directors of ADS has determined that it is in the best interests of ADS and its stockholders to separate the LoyaltyOne Business and the Loyalty Ventures Group formed by the Contribution from the ADS Business;

WHEREAS, Loyalty Ventures is a wholly owned Subsidiary of ADS that has been incorporated for the sole purpose of, and has not engaged in activities except in preparation for, the Distribution and the transactions contemplated by this Agreement;

WHEREAS, in furtherance of the foregoing, the Board of Directors of ADS has determined that it is in the best interests of ADS and its stockholders to distribute to the holders of the issued and outstanding shares of common stock, par value $0.01 per share, of ADS (the "**ADS Common Stock**") as of the Record Date, by means of a *pro rata* dividend, [81]% of the issued and outstanding shares of common stock, par value $0.01 per share, of Loyalty Ventures (the "**Loyalty Ventures Common Stock**") and [19]% of the Loyalty Ventures Common Stock retained by ADS, the "**Retained Loyalty Ventures Common Stock**"), on the basis of one share of Loyalty Ventures Common Stock for every [•][1] then issued and outstanding share of ADS Common Stock (the "**Distribution**");

[HC1]: PLEASE EXPLAIN TIMING; WHEN IS THIS CHOSEN; IF BY THE NEXT FORM 10 FILING, WE NEED TO BE WORKING ON THIS NOW?

WHEREAS, ADS and Loyalty Ventures have prepared, and Loyalty Ventures has filed with the Commission, the Form 10, which includes the Information Statement, and which sets forth appropriate disclosure concerning Loyalty Ventures and the Distribution, and the Form 10 has become effective under the Exchange Act;

WHEREAS, the Distribution will be preceded by, among other things, the Restructuring, pursuant to which, among other things, (a) Loyalty Ventures will enter into the Loyalty Ventures Financing Arrangements and (b) all of the stock of the Loyalty Ventures First-Tier Subsidiaries will be contributed by Alliance Data International, LLC ("**ADILC**"), a Subsidiary of ADS, to Loyalty Ventures in exchange for Loyalty Ventures Common Stock and the proceeds of the Loyalty Ventures Financing Arrangements (such proceeds, together with all future amounts payable by Loyalty Ventures to ADS under this Agreement and the Tax

[1] **Note to Draft**: Distribution ratio to be determined.

Matters Agreement, the "**Cash Proceeds**," and such contribution, (the "**Contribution**");

WHEREAS, ADS may transfer up to 1019% of the Loyalty Ventures Common Stock to one or more of ADS's' creditors in exchange for ADS's indebtedness (the "**Equity-for-Debt Exchange**");

WHEREAS, in which case ADS would transfer thewill utilize all Cash Proceeds to one or more ADS Creditorspay its creditors (the "**Boot Purge**"), in each case, in connection with the Contribution and Distribution and upon future receipts thereafter;

WHEREAS, for United States federal and state income tax purposes, it is intended that (i) the Contribution and the Distribution, taken together, qualify as a "reorganization" within the meaning of Section 368(a)(1)(D) of the Internal Revenue Code of 1986, as amended (the "**Code**"), (ii) the Distribution qualify as a tax-free transaction under Sections 355(a) and 361(c) of the Code (in each case, qualifying for such treatment under the corresponding provisions of state law), (iii) the Equity-for-Debt Exchange qualify as a transfer of "qualified property" to ADS's' creditors in connection with the reorganization described in clause (i) for purposes of Section 361(c) of the Code, and (iv) the Boot Purge qualify as money distributed to ADS's creditors in connection with the reorganization described in clause (i) for purposes of Section 361(b) of the Code, and it is a condition to the Distribution that ADS will have obtained the PLR and the Tax Opinion to such effect as contemplated by Section 3.01(a)(ix);

WHEREAS, this Agreement, together with the Ancillary Agreements and other documents implementing the Contribution and Distribution, is intended to be, and is hereby adopted as, a "plan of reorganization" within the meaning of Treas. Reg. Section 1.368-2(g); and

WHEREAS, the parties hereto have determined to set forth the principal actions required to effect the Distribution and to set forth certain agreements that will govern the relationship between those parties following the Distribution.

ACCORDINGLY, in consideration of the mutual covenants contained in this Agreement, the parties hereby agree as follows:

ARTICLE 1
DEFINITIONS

Section 1.01. *Definitions.* (i) As used in this Agreement, the following terms have the following meanings:

"**Action**" means any demand, claim, suit, action, arbitration, inquiry, investigation or other proceeding by or before any Governmental Authority or any arbitration or mediation tribunal.

"**ADS Assets**" means all assets, of whatever sort, nature or description, of ADS or any of its Subsidiaries (including any member of the Loyalty Ventures Group) other than the Loyalty Ventures Assets, including, for the avoidance of doubt, the assets set forth on Schedule 1.01~~[•]~~(a), *provided* that, notwithstanding the foregoing, the ADS Assets shall not include any Tax assets, which shall be governed by the Tax Matters Agreement.

"**ADS Business**" means all of the businesses conducted by ADS and its Subsidiaries from time to time, whether before, on or after the Distribution, other than the LoyaltyOne Business, the Loyalty Ventures Group formed by the Contribution and any Loyalty Ventures Former Business. For the avoidance of doubt, the Loyalty Ventures Assets (and all assets and properties owned, directly or indirectly, by entities forming all or part of such assets) will not be considered part of the ADS Business.

"**ADS Former Business**" means the Former Businesses previously owned, in whole or in part, or previously operated, in whole or in part, by ADS or any of its Subsidiaries and[, as determined by ADS in its sole discretion,] primarily related to the ADS Business or that would have comprised part of the ADS Business had they not been terminated, divested or discontinued prior to the Distribution Time, including the Former Business set forth on Schedule 1.01~~[•]~~(b), but excluding, for the avoidance of doubt, the Loyalty Ventures Former Businesses.[2]

"**ADS Group**" means ADS and its Subsidiaries (other than any member of the Loyalty Ventures Group) and, where applicable, the ADS Former Businesses, including all predecessors and successors to such Persons (excluding, for the avoidance of doubt, all Loyalty Ventures Former Businesses).

"**ADS Liabilities**" means (without duplication) all of the following [(as determined by ADS in its sole discretion)]:

(a) all Liabilities solely to the extent relating to, arising out of or in connection with or resulting from the ADS Business or the business and operation of the ADS Assets, as currently or formerly operated (including as conducted or operated by any predecessor of any member of the ADS Group [or the Loyalty Ventures Group)], including those Liabilities set forth on Schedule 1.01~~[•]~~(c);

(b) all Liabilities of the ADS Group and/or the Loyalty Ventures Group to the extent relating to, arising out of or in connection with or resulting from any ADS Former Business or any disposition thereof;[3] and

[HC2]: ~~Julie McLaughlin – we need to know if there is anything that requires a specific call out on the ADS side AFTER reviewing the specificity listed in the definition of Loyalty Ventures Assets below.~~

[HC3]: ~~Santillan/McLaughlin – need a list for a schedule; this is used in separating liabilities – see ADS Liabilities immediately below.~~

[HC4]: ~~Chesnut/Santillan/McLaughlin – please review; see also "Loyalty Ventures Liabilities" and "Liabilities" below.~~

[2] **Note to Draft**: Relevant to allocation of liabilities for former businesses.
[3] **Note to Draft**: ADS to consider.

(c) all Liabilities that are expressly contemplated by this Agreement or any other Ancillary Agreement as Liabilities to be retained or assumed by ADS or any other member of the ADS Group, and all agreements, obligations and other Liabilities of ADS or any member of the ADS Group under this Agreement or any of the other Ancillary Agreements;

provided that, notwithstanding the foregoing, the ADS Liabilities shall not include (i) any Liabilities for Taxes, which shall be governed by the Tax Matters Agreement or (ii) any Liabilities for the employment, employee benefits and employee compensation matters expressly covered by the Employee Matters Agreement, all of which shall be governed by the Employee Matters Agreement.

"**ADS Names and Marks**" means any and all Trademarks of ADS or any of its Affiliates (other than any Trademark included in the Loyalty Ventures Assets), including, for the avoidance of doubt, any that use, contain or include "ADS" or "Alliance Data", in each case either alone or in combination with other words, phrases or logos, and any and all Trademarks derived therefrom or confusingly similar thereto.

"**ADS Participants**" has the meaning set forth in the Employee Matters Agreement.

"**Affiliate**" means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with, such other Person. For the purposes of this definition, "**control**" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities or other interests, by Contract or otherwise, and the terms "**controlling**" and "**controlled**" have meanings correlative to the foregoing. Notwithstanding any provision of this Agreement to the contrary (except where the relevant provision states explicitly to the contrary), no member of the ADS Group, on the one hand, and no member of the Loyalty Ventures Group, on the other hand, shall be deemed to be an Affiliate of the other.

"**Ancillary Agreement**" means each of the [Tax Matters Agreement, the Transition Services Agreement, the Employee Matters Agreement, the Restructuring Agreements and any other agreements, instruments, or certificates related thereto or to the transactions contemplated by this Agreement (in each case, together with the schedules, exhibits, annexes and other attachments thereto).][4]

"**Applicable Law**" means, with respect to any Person, any federal, state, local or foreign law (statutory, common or otherwise), constitution, treaty,

[4] **Note to Draft**: Ancillary Agreements subject to ongoing review. To discuss whether there are any ongoing contractual or commercial relationships that should be the subject of separate agreements, in addition to those listed here.

convention, ordinance, code, rule, regulation, order, injunction, judgment, decree, ruling, directive, guidance, instruction, direction, permission, waiver, notice, condition, limitation, restriction or prohibition or other similar requirement enacted, adopted, promulgated, imposed, issued or applied by a Governmental Authority that is binding upon or applicable to such Person, its properties or assets or its business or operations.

"**Business**" means, with respect to the ADS Group, the ADS Business and, with respect to the Loyalty Ventures Group, the LoyaltyOne Business together with those additional assets included in the Contribution.

"**Business Day**" means any day, other than Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by Applicable Law to close.

"**Cash and Cash Equivalents**" means cash or cash equivalents, certificates of deposit, banker's acceptances and other investment securities of any form ~~or~~with an original maturity of three months or less.

"**Commercial Data**" means any and all data and information relating to an identified or identifiable Person (whether the information is accurate or not), alone or in combination with other information, which Person is or was an actual or prospective customer of, or consumer of products or services offered by, the LoyaltyOne and/or ADS Business, as applicable.[5]

[HC5]: ~~Joe: Without Mike Britton - who can respond to this?~~

"**Commission**" means the United States Securities and Exchange Commission.

"**Confidential Information**" means, with respect to a Group, (i) any proprietary information that is competitively sensitive, material or otherwise of value to the members of such Group and not generally known to the public, including business plan or product planning information, strategies, financial information, information regarding operations, consumer and/or customer relationships, consumer and/or customer profiles, sales estimates, internal performance results relating to the past, present or future business activities of the members of such Group and the consumers, customers, clients and suppliers of the members of such Group, and information relating to filings, plans, correspondence or relationships with regulators, (ii) any proprietary scientific or technical information, design, invention, process, procedure, formula, or improvement that is commercially valuable and secret in the sense that its confidentiality affords any member of such Group a competitive advantage over its competitors and (iii) all confidential or proprietary concepts, documentation, reports, data, specifications, computer software, source code, object code, flow charts, databases, inventions, information, and trade secrets, in the case of each of clauses (i), (ii) and (iii) of this definition, that are related primarily to such Group's Business; *provided* that to the extent both the ADS Business and the

[5] **Note to Draft**: ADS to confirm whether there are other types of data.

LoyaltyOne Business use or rely upon any of the information described in any of the foregoing clauses (i), (ii) and/or (iii), subject to Section 4.07, such information shall be deemed the Confidential Information of both the ADS Group and the Loyalty Ventures Group.

"**Contract**" means any written or oral commitment, contract, subcontract, agreement, lease, sublease, license, sublicense, understanding, sales order, purchase order, instrument, indenture, note or any other legally binding commitment or undertaking.

"**Distribution Agent**" means Computershare Trust Company, N.A.

"**Distribution Date**" means [•], 2021.

"**Distribution Documents**" means this Agreement and the Ancillary Agreements.

"**Distribution Time**" means the time at which the Distribution is effective on the Distribution Date, which shall be deemed to be 11:59 p.m., Eastern Daylight Time, on the Distribution Date.

[HC6]: Please explain. From an accounting perspective, would prefer 12:01 a.m.

"**Employee Matters Agreement**" means the Employee Matters Agreement dated as of the date hereof between ADS and Loyalty Ventures substantially in the form of Exhibit A, as such agreement may be amended from time to time in accordance with its terms.

"**Equity Compensation Registration Statement**" means the Registration Statement on Form S-8 or such other form or forms as may be appropriate, as amended and supplemented, including all documents incorporated by reference therein, to effect the registration under the Securities Act of Loyalty Ventures Common Stock subject to certain equity awards granted to current and former officers, employees, directors and consultants of the ADS Group to be assumed or replaced by Loyalty Ventures pursuant to the Employee Matters Agreement.

"**Escheat Payment**" means any payment required to be made to a Governmental Authority pursuant to an abandoned property, escheat or similar law.

"**Exchange Act**" means the Securities Exchange Act of 1934.

"**Form 10**" means the registration statement on Form 10 filed by Loyalty Ventures with the Commission to effect the registration of Loyalty Ventures Common Stock pursuant to the Exchange Act in connection with the Distribution, as such registration statement may be amended or supplemented from time to time.

"**Former Business**" means any corporation, partnership, entity, division, business unit, business or set of business operations that has been sold, conveyed,

assigned, transferred or otherwise disposed of or divested (other than solely in connection with the Restructuring), in whole or in part, or the operations, activities or production of which has been discontinued, abandoned, liquidated, completed or otherwise terminated, in whole or in part, in each case, by either Group prior to the Distribution Time.

"**Governmental Authority**" means any multinational, foreign, federal, state, local or other governmental, statutory or administrative authority, regulatory body or commission or any court, tribunal or judicial or arbitral authority which has any jurisdiction or control over either party (or any of their Affiliates).

"**Group**" means, as the context requires, the Loyalty Ventures Group, the ADS Group or either or both of them.

"**Indemnitees**" means, as the context requires, the ADS Indemnitees or the Loyalty Ventures Indemnitees.

"**Information Statement**" means the Information Statement to be sent to each holder of ADS Common Stock in connection with the Distribution.

"**Intellectual Property**" means any and all intellectual property throughout the world, including any and all U.S. and foreign (i) patents, invention disclosures, and all related continuations, continuations-in-part, divisionals, provisionals, renewals, reissues, re-examinations, additions, extensions (including all supplementary protection certificates), and all applications and registrations therefor (collectively, "**Patent Rights**"), (ii) trademarks, service marks, names, corporate names, trade names, domain names, social media identifiers, logos, slogans, trade dress, design rights, and other similar business identifiers or designations of source or origin and all applications and registrations therefor, together with the goodwill symbolized by any of the foregoing (collectively, "**Trademarks**"), (iii) copyrights, works of authorship and copyrightable subject matter and all applications and registrations therefor, (iv) trade secrets, know-how, confidential data and information, technical information, including practices, techniques, methods, processes, inventions, developments, specifications, formulations, structures, analytical and quality control information and procedures, studies and procedures and regulatory information, (v) computer software (including source code, object code, firmware, operating systems and specifications), (vi) databases and data collections and (vii) all rights to sue or recover and retain damages and costs and attorneys' fees for the past, present or future infringement, misappropriation or other violation of any of the foregoing.

"**Intended Tax Treatment**" has the meaning set forth in the Tax Matters Agreement.

"**IRS**" means the Internal Revenue Service.

"**IT Assets**" means computers, software, firmware, middleware, servers, workstations, routers, hubs, switches, data communications lines, and all other information technology assets or other equipment storing or processing information, including all associated documentation related to any of the foregoing.

"**LoyaltyOne Business**" means the businesses and operations of the ADS LoyaltyOne segment, in each case as more fully described in the Form 10 and the Information Statement.

"**Loyalty Ventures Assets**" means, except as expressly otherwise contemplated in this Agreement or any Ancillary Agreement, the following assets of ADS and its Subsidiaries [(as determined by ADS in its sole discretion)]:[6]

(a) all interests of whatever nature in the real property[7] listed on Schedule 1.01~~[•]~~(d), together with all buildings, fixtures and improvements erected thereon (the "**Loyalty Ventures Facilities**");

(b) all interests in personal property, fixtures, [machinery,] furniture, office equipment, automobiles, motor vehicles and other transportation equipment, [special and general tools, test devices, prototypes and models,] and other tangible personal property (other than any Intellectual Property) located at the Loyalty Ventures Facilities ~~[~~or primarily used or primarily held for use ~~in connection with~~by the ~~LoyaltyOne Business]~~Loyalty Ventures Group;

(c) all inventories of materials, supplies, goods in transit, customer returns, and work-in-process and finished goods and products, in each case of whatever kind, nature or description, in each case solely to the extent primarily related to or primarily used or primarily held for use ~~in connection with~~by the Loyalty Ventures ~~Business~~Group;

(d) all interests in any capital stock or other equity securities or interests of or in any member of the Loyalty Ventures Group;

(e) all deposits, letters of credit, and performance and surety bonds, in each case solely to the extent primarily related to or primarily used or primarily held for use ~~in connection with~~by the ~~LoyaltyOne Business~~Loyalty Ventures Group;

(f) all prepaid expenses, trade accounts, and other accounts and notes receivable, in each case solely to the extent primarily related to or primarily used or primarily held for use ~~in connection with~~by the ~~LoyaltyOne Business~~Loyalty Ventures Group;

[HC7]: ~~Davis Polk: is this intended to include leases? No owned real property.~~

[SL8]: Does this include Right of use assets for the leases - should we include here or separately?

[HC9]: ~~Davis Polk: Given the WFH model and the corporate orphans in the U.S. where there is no facility identified at this point, how do we better define this to capture all of the office equipment and files not at Loyalty Venture Facilities?~~

[6] **Note to Draft**: To confirm treatment of each category of assets and standard for separating the LoyaltyOne Business from the ADS Business (e.g., (i) primarily used by the LoyaltyOne Business, (ii) exclusively used by the LoyaltyOne Business or (iii) assets set forth on a schedule).

[7] **DPW Response**: Confirmed – leases are intended to be included.

(g) the Patent Rights ~~listed on Schedule 1.01[•]~~ and all other Intellectual Property (other than Patent Rights) owned by ~~ADS or any of its Subsidiaries~~ ~~solely to the extent~~the Loyalty Ventures Group and primarily used ~~or primarily held for use~~ in connection with the LoyaltyOne Business (other than any Trademarks that use, contain or include "ADS" or "Alliance Data", either alone or in combination with other words, phrases or logos), including, for the avoidance of doubt, such other Intellectual Property listed on Schedule 1.01~~[•]~~(e);

(h) all IT Assets solely to the extent exclusively related to or exclusively used or exclusively held for use ~~in connection with~~by the ~~LoyaltyOne Business~~Loyalty Ventures Group (other than the IT Assets set forth on Schedule 1.01~~[•]~~(f));

(i) all Contracts (including Contracts related to Intellectual Property and IT Assets) and any rights thereunder, in each case solely to the extent primarily related to or primarily used or primarily held for use ~~in connection with~~by the ~~LoyaltyOne Business~~Loyalty Ventures Group, including, for the avoidance of doubt, the Contracts set forth on Schedule 1.01~~[•]~~(g);

(j) all claims, causes of action and similar rights, whether accrued or contingent, in each case solely to the extent primarily related to the LoyaltyOne Business or the Loyalty Ventures Group;

(k) all employee Contracts with any Loyalty Ventures Participants, including the right thereunder to restrict any Loyalty Ventures Participant from competing in certain respects;

(l) all Permits primarily related to or primarily used or primarily held for use by the Loyalty Ventures Group or in connection with the LoyaltyOne Business;

(m) Cash and Cash Equivalents solely to the extent (i) located at the Loyalty Ventures Facilities or (ii) primarily related to or primarily used or primarily held for use by the Loyalty Ventures Group or in connection with the LoyaltyOne Business;

(n) subject to the foregoing clause (m), all bank accounts, lock boxes and other deposit arrangements, and all brokerage accounts, in each case solely to the extent (i) located at the Loyalty Ventures Facilities or (ii) primarily related to or primarily used or primarily held for use by the Loyalty Ventures Group or in connection with the LoyaltyOne Business, including, for the avoidance of doubt the redemption settlement assets, restricted;

(o) all accounting and other legal and business books, records, minute books, corporate documents, ledgers and files and all personnel records, in each case, whether printed, electronic, contained on storage media or written, or in any other form, in each case solely to the extent primarily related to or primarily used

[HC10]: ~~If these are in the names of subsidiaries in the Loyalty Ventures Group, do we need to list all of this stuff? None owned by ADS Group to my knowledge - with the exception of the new domain names picked up by ADS on Loyalty Ventures behalf, which we will transfer prior to Separation.~~

[HC11]: ~~This does not seem like it would be a useful exercise given the separate nature of the business. I would not schedule EVERY contract, nor do I think we have the capability to do so.~~

[PJB12]: Any risk of overlap between the two businesses? If we're certain the answer is no, then we can all likely get comfortable with the "primarily" standard. If there are a certain subset of contracts that may be on the fence, and it is agreed they will transfer to the Loyalty Ventures, then it may be helpful to add a "for the avoidance of doubt" schedule and call out those particular contracts.

[HC13]: ~~Chesnut - Believe there are no issues here as bank accounts are in the name of a specific legal entity.~~

or primarily held for use by the Loyalty Ventures Group or in connection with the LoyaltyOne Business;

[HC14]: ~~Laura - think about how this information can be segregated and be in the possession of Loyalty Ventures; part of TSA scope?~~

(p) (x) all Confidential Information, except for any confidential supervisory information (including confidential supervisory information as identified in 12 C.F.R. § 309.5(g)(8)) of a U.S. federal or state Governmental Authority or any information the disclosure of which by ADS is prohibited by Applicable Law (y) all cost information, sales and pricing data, supplier records, supplier lists, vendor data, customer data, correspondence and lists, and (z) all product data and literature, brochures, marketing and sales literature, advertising catalogues, photographs, display materials, media materials, packaging materials, artwork, designs, formulations and specifications, quality records and reports (other than any Intellectual Property in any of the foregoing and excluding any Commercial Data), in each case solely to the extent primarily related to or primarily used or primarily held for use by the Loyalty Ventures Group or in connection with the LoyaltyOne Business;

(q) all Commercial Data to the extent exclusively related to or exclusively used or exclusively held for use by the Loyalty Ventures Group or in connection with the LoyaltyOne Business;

(r) all intangible assets and goodwill associated with the LoyaltyOne Business, the Loyalty Venture Group or the Loyalty Ventures Assets; and

(s) any other assets, of whatever sort, nature or description, that are exclusively related to or exclusively used or exclusively held for use by the Loyalty Ventures Group or in connection with the LoyaltyOne Business and any assets on the books and records of any member of the Loyalty Ventures Group, including, but not limited to, the assets set forth on Schedule 1.01~~[•]~~(h);

[HC15]: ~~Does this schedule negate the generality and inclusiveness of the "other" catch all concept intended here; if yes, delete or add a "but not limited to."~~

Provided that, notwithstanding the foregoing, the Loyalty Venures Assets shall not include any Tax assets, which shall be governed by the Tax Matters Agreement.

"**Loyalty Ventures Credit Facility**" means [•].

[HC16]: ~~Jeff Fair please confirm.~~

"**Loyalty Ventures Financing Arrangements**" means (i) the Loyalty Ventures Credit Facility and (ii) [•].

[HC17]: ~~Laura - please list (LoyaltyOne Participacoes (dotz)), Precima, consulting business, the JV, the sports management minority interest, L1 India, L1 China - let me know if I should check with Mitchell or if you are checking with Lynette.~~

"**Loyalty Ventures First-Tier Subsidiaries**" means each of ADI Crown Helix Limited and Alliance Data Lux Holdings S.àr.l.

"**Loyalty Ventures Former Business**" means each Former Business previously owned, in whole or in part, or previously operated, in whole or in part, by ADS or any of its Subsidiaries and[, as determined by ADS and in its sole discretion,] primarily related to the LoyaltyOne Business or that would have comprised part of the Loyalty Ventures Group or the LoyaltyOne Business had

such Former Business not been terminated, divested or discontinued prior to the Distribution Time, including the Former Businesses set forth on Schedule 1.01~~[•]~~(b), but excluding, for the avoidance of doubt, all ADS Former Businesses.

"**Loyalty Ventures Group**" means Loyalty Ventures and its Subsidiaries as set forth on Schedule 1.01~~[•]~~(i), including all predecessors and successors to such Persons.

[HC18]: ~~Chesnut / Santillan / McLaughlin – see also ADS Liabilities above and "Liabilities" below.~~

"**Loyalty Ventures Liabilities**" means (without duplication) all of the following [(as determined by ADS in its sole discretion)]:

(a) any and all Liabilities to the extent relating to, arising out of or in connection with or resulting from the LoyaltyOne Business, the business and operation of the Loyalty Ventures Assets, as currently or formerly operated (including as conducted or operated by any predecessor of any member of the ADS Group or the Loyalty Ventures Group), including the following Liabilities:

(i) all Liabilities relating to, arising out of or in connection with or resulting from the Loyalty Ventures Financing Arrangements;

(ii) [•][8];

(iii) all Liabilities set forth on Schedule 1.01~~[•]~~(c);

(b) all Liabilities of the ADS Group and/or the Loyalty Ventures Group to the extent relating to, arising out of or in connection with or resulting from any Loyalty Ventures Former Business or any disposition thereof; and

(c) all Liabilities that are expressly contemplated by this Agreement or any other Ancillary Agreement as Liabilities to be retained or assumed by Loyalty Ventures or any other member of the Loyalty Ventures Group, and all agreements, obligations and other Liabilities of Loyalty Ventures or any member of the Loyalty Ventures Group under this Agreement or any of the other Ancillary Agreements;

provided that, notwithstanding the foregoing, the Loyalty Ventures Liabilities shall not include (i) any Liabilities for Taxes, which shall be governed by the Tax Matters Agreement or (ii) any Liabilities for the employment, employee benefits and employee compensation matters expressly covered by the Employee Matters Agreement, all of which shall be governed by the Employee Matters Agreement.

"**Loyalty Ventures Participants**" has the meaning set forth in the Employee Matters Agreement.

[8] **Note to Draft**: ADS to advise on additional categories of liabilities to be specifically listed as Loyalty Ventures Liabilities.

"**Liabilities**" means any and all Claims, debts, liabilities, damages and/or obligations (including, but not limited to, any Escheat Payment) of any kind, character or description, whether absolute or contingent, matured or not matured, liquidated or unliquidated, accrued or unaccrued, known or unknown, whenever arising, including all costs and expenses (including attorneys' fees and expenses and associated investigation costs) relating thereto, and including those Claims, debts, liabilities, damages and/or obligations arising under this Agreement, any Applicable Law, any Action or threatened Action, any order or consent decree of any Governmental Authority or any award of any arbitrator of any kind, and those arising under any agreement, commitment or undertaking, including in connection with the enforcement of rights hereunder or thereunder.

"~~Nasdaq~~Nasdaq" means Nasdaq Global [Select] Market.

[HC19]: ~~Davis Polk: Can we just change it to "Exchange" and fill in the selection later? Why favor this one?~~

~~Chesnut / Tusa - Need to circle about timing to determine this.~~

"**Permit**" means any license, permit, approval, consent, certification, franchise, registration or authorization which has been issued by or obtained from any Governmental Authority.

"**Person**" means an individual, corporation, partnership, limited liability company, association, trust or other entity or organization, including a Governmental Authority.

"**PLR**" means the private letter ruling and any supplements thereto issued by the IRS to ADS prior to and in connection with the Contribution, Distribution Equity-for-Debt Exchange, Boot Purge and any related transactions.

"**Record Date**" means the close of business on [•], 2021, the date determined by the Board of Directors of ADS as the record date for the Distribution.

"**Restructuring**" means the reorganization of certain businesses, assets and liabilities of the ADS Group and the Loyalty Ventures Group to be completed before the Distribution Time in accordance with the Restructuring Plan, including the Contribution.

"**Restructuring Plan**" means that certain [•], attached hereto as Annex A.

[HC20]: Seeking an update from PwC Tax to the April plan.

"**Securities Act**" means the Securities Act of 1933.

"**Subsidiary**" means, with respect to any Person, any other entity of which securities or other ownership interests having ordinary voting power to elect a majority of the board of directors or other persons performing similar functions are at the time directly or indirectly owned by such Person.

"**Tax**" or "**Taxes**" has the meaning set forth in the Tax Matters Agreement.

"**Tax Benefit**" has the meaning set forth in the Tax Matters Agreement.

"**Tax Matters Agreement**" means the Tax Matters Agreement dated as of the date hereof between ADS and Loyalty Ventures substantially in the form of Exhibit B, as such agreement may be amended from time to time in accordance with its terms.

"**Tax Opinion**" has the meaning set forth in the Tax Matters Agreement.

"**Third Party**" means any Person that is not a member or an Affiliate of the Loyalty Ventures Group or the ADS Group.

"**Transition Services Agreement**" means the Transition Services Agreement dated as of the date hereof between ADS and Loyalty Ventures substantially in the form of Exhibit C, as such agreement may be amended from time to time in accordance with its terms.

(b) Each of the following terms is defined in the Section set forth opposite such term:

Term	Section
ADILC	Recitals
ADS	Preamble
ADS Assumed Actions	4.02(b)
ADS Claims-Made Policies	4.10(b)
ADS Common Stock	Recitals
ADS Designee	2.03(a)
ADS Group Privileged Materials	4.07(e)
ADS Indemnitees	5.02(a)
ADS Insurance Policies	4.10(a)
ADS Loss Discovered-Policies	4.10(b)
ADS Occurrence-Based Policy	4.10(b)
ADS Shared Policies	4.10(b)
Agreement	Preamble
Amended and Restated Bylaws	2.02(c)
Amended and Restated Certificate of Incorporation	2.02(c)
Boot Purge	Recitals
Cash Proceeds	Recitals
Claim	5.04(a)
Code	Recitals
Contribution	Recitals
Disposing Party	4.05
Distribution	Recitals
Equity-for-Debt Exchange	Recitals
Guarantee	2.09
Indemnified Party	5.04(a)
Indemnifying Party	5.04(a)

Term	Section
Intercompany Accounts	2.06
Loyalty Ventures	Preamble
Loyalty Ventures Assumed Actions	4.02(a)
Loyalty Ventures Common Stock	Recitals
Loyalty Ventures Designee	2.03(a)
Loyalty Ventures Facilities	1.01(a)
Loyalty Ventures Indemnitees	5.03(a)
Patent Rights	1.01(a)
Pre-Distribution Time Communications	4.07(e)
Prior Company Counsel	4.07(d)
Privileged Information	4.07(a)
Privileges	4.07(a)
Post-Distribution Insurance Arrangements	4.10(a)
Receiving Party	4.05
Released Parties	5.01(a)
Representatives	4.06
Restructuring Agreements	2.04
Third Party Claim	5.04(b)
Trademarks	1.01(a)

Section 1.02. *Interpretation.* (i) In this Agreement, unless the context clearly indicates otherwise:

(ii) words used in the singular include the plural and words used in the plural include the singular;

(iii) references to any Person include such Person's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement;

(iv) except as otherwise clearly indicated, reference to any gender includes the other gender;

(v) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation";

(vi) reference to any Article, Section, Exhibit or Schedule means such Article or Section of, or such Exhibit or Schedule to, this Agreement, as the case may be, and references in any Section or definition to any clause means such clause of such Section or definition;

(vii) the words "herein," "hereunder," "hereof," "hereto" and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Section or other provision hereof;

(viii) reference to any agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and by this Agreement;

(ix) reference to any law (including statutes and ordinances) means such law (including all rules and regulations promulgated thereunder) as amended, modified, codified or reenacted, in whole or in part, and in effect at the time of determining compliance or applicability;

(x) relative to the determination of any period of time, "from" means "from and including," "to" means "to and including" and "through" means "through and including";

(xi) the titles to Articles and headings of Sections contained in this Agreement have been inserted for convenience of reference only and shall not be deemed to be a part of or to affect the meaning or interpretation of this Agreement;

(xii) unless otherwise specified in this Agreement, all references to dollar amounts herein shall be in respect of lawful currency of the United States; and

(xiii) any capitalized term used in an Exhibit or Schedule but not otherwise defined therein shall have the meaning set forth in this Agreement.

ARTICLE 2
PRIOR TO THE DISTRIBUTION

On or prior to the Distribution Date:

Section 2.01. *Information Statement; Listing.* ADS shall mail (or shall have mailed) the Information Statement to the holders of ADS Common Stock as of the Record Date. ADS and Loyalty Ventures shall take (or shall have taken) all such actions as may be necessary or appropriate under the securities or blue sky laws of states or other political subdivisions of the United States and shall use commercially reasonable efforts to comply with all applicable foreign securities laws in connection with the transactions contemplated by this Agreement and the Ancillary Agreements. ADS and Loyalty Ventures shall prepare, file and pursue (or shall have prepared, filed and pursued) an application to permit listing of the Loyalty Ventures Common Stock on ~~the~~ Nasdaq.

[HC21]: In the Form 10 a reference to Notice of Internet Availability, so are we mailing the Information Statement to all? If not, please correct here and in Section 3.01(iii).

Section 2.02. *Restructuring and Other Actions prior to the Distribution Time.*

(a) Restructuring. The Restructuring shall have been consummated on or prior to the Distribution Time, including (i) the entry by Loyalty Ventures into the Loyalty Ventures Financing Arrangements and (ii) the Contribution, including the transfer by Loyalty Ventures of a portion of the ~~proceeds of~~Cash Proceeds from the Loyalty Ventures Financing Arrangements to ADILC in partial consideration for the stock of Loyalty ~~Venturers~~Ventures First-Tier Subsidiaries.

(b) Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws. (i) ADS and Loyalty Ventures shall each take (or shall have taken) all necessary action that may be required to provide for the adoption by Loyalty Ventures of an amended and restated certificate of incorporation of Loyalty Ventures substantially in the form of Exhibit D (the "**Amended and Restated Certificate of Incorporation**"), and amended and restated bylaws of Loyalty Ventures, substantially in the form of Exhibit E (the "**Amended and Restated Bylaws**"), and (ii) Loyalty Ventures shall file (or shall have filed) the Amended and Restated Certificate of Incorporation of Loyalty Ventures with the Secretary of State of the State of Delaware.

(c) The Distribution Agent. ADS shall enter (or shall have entered) into a distribution agent agreement with the Distribution Agent or otherwise provide instructions to the Distribution Agent regarding the Distribution.

(d) Satisfying Conditions to the Distribution. ADS and Loyalty Ventures shall cooperate (or shall have cooperated) to cause the conditions to the Distribution set forth in Section 3.01 to be satisfied (or waived by ADS) and to effect the Distribution at the Distribution Time upon such satisfaction (or waiver by ADS).

Section 2.03. *Transfers of Certain Other Assets and Liabilities*. Unless otherwise provided in this Agreement or in any Ancillary Agreement and to the extent not previously effected in accordance with Section 2.02(a), effective as of the Distribution Time:[9]

(a) ADS hereby agrees, and hereby causes the relevant member of the ADS Group, to assign, contribute, convey, transfer and deliver (or shall have assigned, contributed, conveyed, transferred and delivered) to Loyalty Ventures or any member of the Loyalty Ventures Group as of the Distribution Time designated by Loyalty Ventures (a "**Loyalty Ventures Designee**") all of the right, title and interest of ADS or such member of the ADS Group in and to all of the Loyalty Ventures Assets, if any, held by any member of the ADS Group, and ADS and Loyalty Ventures hereby agree, and hereby cause the relevant member of the Loyalty Ventures Group, to assign, contribute, convey, transfer and deliver to ADS or any member of the ADS Group as of the Distribution Time designated by ADS (a "**ADS Designee**") all of the right, title and interest of Loyalty Ventures or

[9] **Note to Draft**: If there are any overlapping/shared assets or contracts that need to be separated, to discuss how best to address these. **Best identified by Julie McLaughlin and Todd Holcomb?**

such member of the Loyalty Ventures Group in and to all of the ADS Assets, if any, held by any member of the Loyalty Ventures Group; and

(b) ADS hereby agrees, and hereby causes the relevant member of the ADS Group, to assign, transfer and deliver (or shall have assigned, transferred and delivered) to Loyalty Ventures, and Loyalty Ventures, on behalf of itself or such Loyalty Ventures Designee, hereby accepts, assumes and agrees to perform, discharge and fulfill, all of the Loyalty Ventures Liabilities, if any, to the extent such Loyalty Ventures Liabilities would otherwise remain obligations of any member of the ADS Group, and ADS and Loyalty Ventures hereby agree, and hereby cause the relevant member of the Loyalty Ventures Group, to assign, transfer and deliver (or shall have assigned, transferred and delivered) to ADS, and ADS, on behalf of itself or such ADS Designee, hereby accepts, assumes and agrees to perform, discharge and fulfill, all of the ADS Liabilities, if any, to the extent such ADS Liabilities would otherwise remain obligations of any member of the Loyalty Ventures Group.

(c) To the extent any assignment, contribution, conveyance, transfer, delivery or assumption of any asset or Liability of either Group as of the Distribution Time is not effected in accordance with this Section 2.03 as of the Distribution Time for any reason (including as a result of the failure of the parties to identify it as being required to be transferred pursuant to this Section 2.03, but subject to Section 2.04), the relevant party shall use all commercially reasonable efforts to effect such transfer as promptly thereafter as practicable.

Section 2.04. *Restructuring Agreements*. The transfers of the various entities and the contribution, assignment, transfer, conveyance and delivery of the assets and the acceptance and assumption of the Liabilities contemplated by Section 2.03 and the Restructuring Plan will be effected, in certain cases, pursuant to one or more asset transfer agreements, share transfer agreements, business transfer agreements, certificates of merger and other agreements and instruments (the "**Restructuring Agreements**"); *provided that*, in each case, it is intended that the Restructuring Agreements shall serve purely to effect (x) the legal transfer of the Loyalty Ventures Assets or ADS Assets to the Loyalty Ventures Group or the ADS Group, as applicable, in accordance with the Restructuring Plan or as contemplated pursuant to Section 2.03 and (y) the acceptance and assumption of the Loyalty Ventures Liabilities or the ADS Liabilities by a member of the Loyalty Ventures Group or the ADS Group, as applicable, in each case, in accordance with the Restructuring Plan or as contemplated pursuant to Section 2.03. ~~[In the event of any conflict between any Restructuring Agreement and this Agreement, the terms of such Restructuring Agreement shall control solely with respect to any applicable purchase price adjustment or cash adjustment set forth in any such Restructuring Agreement and this Agreement shall control in all other respects;] [*provided* that, notwithstanding anything in any Restructuring Agreement to the contrary, in the event any Restructuring Agreement provides for a purchase price adjustment or cash adjustment, whether based upon a calculation of fair market value or otherwise, or any similar adjustment provision, any purchase price~~

~~adjustment or cash adjustment determination under such Restructuring Agreement, including as to the amount, if any, of any such adjustment, shall be determined by ADS in its sole discretion.]~~ Notwithstanding anything in any Restructuring Agreement to the contrary, neither ADS nor any member of the ADS Group, on the one hand, nor Loyalty Ventures nor any member of the Loyalty Ventures Group, on the other hand, shall commence, bring or otherwise initiate any Action under any Restructuring Agreement.

Section 2.05. *Agreement Relating to Consents Necessary to Transfer Assets and Liabilities.* Notwithstanding any provision of this Agreement to the contrary, this Agreement shall not constitute an agreement to transfer or assign any asset (including any Contract) or any claim or right or any benefit arising thereunder or resulting therefrom, or to assume any Liability, if such transfer, assignment, or assumption without the consent of a Third Party or a Governmental Authority, would result in a breach, or constitute a default (or an event which, with the giving of notice or lapse of time, or both, would become a default), under any Contract or would otherwise adversely affect the rights of a member of the ADS Group or the Loyalty Ventures Group thereunder. ADS and Loyalty Ventures will use their respective commercially reasonable efforts to obtain the consent of any Third Party (including any Governmental Authority), if any, required in connection with the transfer, assignment or assumption pursuant to Section 2.03 of any such asset or any such claim or right or benefit arising thereunder or to the assumption of any Liability; *provided* that in no event shall any member of a Group have any Liability whatsoever to any member of the other Group for any failure to obtain any such consent. If and when such consent is obtained, such transfer, assignment and/or assumption shall be effected in accordance with the terms of this Agreement and/or the applicable Ancillary Agreement. During the period in which any transfer, assignment or assumption is delayed pursuant to this Section 2.05 as a result of the absence of a required consent, the party (or relevant member in its Group) retaining such asset, claim or right shall thereafter hold (or shall cause such member in its Group to hold) such asset, claim or right for the use and benefit of the party (or relevant member in its Group) entitled thereto (at the expense of the Person entitled thereto) and the party intended to assume an such Liability shall, or shall cause the applicable member of its Group to, pay, hold harmless or reimburse the party (or the relevant member of its Group) retaining such Liability for all amounts paid, incurred in connection with or arising out of the retention of such Liability. In addition, the party retaining such asset, claim or right, or such Liability (or relevant member of its Group) shall (or shall cause such member in its Group to) treat, insofar as reasonably possible and to the extent permitted by Applicable Law, such asset, claim or right, or such Liability, in the ordinary course of business in accordance with past practice and take such other actions as may be reasonably requested by the party to which such asset, claim or right, or such Liability, is to be transferred or assumed in order to place such party, insofar as reasonably possible, in the same position as if such asset, claim or right, or such Liability, had been transferred or assumed on or prior to the Distribution Time as contemplated hereby and so that all the benefits and burdens relating to such asset, claim or

right, or such Liability, including possession, use, risk of loss, potential for gain, and dominion, control and command over such asset, claim or right, or such Liability, are to inure from and after the Distribution Time to the relevant member of the ADS Group or the Loyalty Ventures Group, as the case may be, entitled to the receipt of such asset, claim or right, or required to assume such Liability.

[HC25]: ~~Laura/Julie - Need to ensure Brigette is planning for this.~~

Section 2.06. *Intercompany Accounts*. The parties shall use commercially reasonable efforts to settle on or prior to the Distribution Date (to the extent practicable), all intercompany receivables, payables and other balances, in each case, that arise prior to the Distribution Time between members of the ADS Group, on the one hand, and members of the Loyalty Ventures Group, on the other hand ("**Intercompany Accounts**"), by way of ~~capitalization~~a contribution to capital or distributions from equity and/or one or more cash payments (whether or not on a net basis) in satisfaction of such amounts. ~~From and after the Distribution Time, the parties shall use commercially reasonable efforts to settle any Intercompany Accounts that are not settled as of the Distribution Time within 90 days of the Distribution Date and in the manner set forth in the first sentence of this Section 2.06; *provided* that any claim by any member of either Group with respect to an Intercompany Account must be made in writing (which writing shall be provided in accordance with Section 6.01 and be reasonably specific as to the applicable Intercompany Account and the amount thereof) to the applicable member of the other Group within 90 days of the Distribution Date.~~

[HC26]: ~~NONE to report.~~

Section 2.07. *Intercompany Agreements*. (i) Except as set forth in Section 2.07(b), all Contracts between members of the ADS Group, on the one hand, and members of the Loyalty Ventures Group, on the other hand, in effect immediately prior to the Distribution are hereby agreed by ADS (on behalf of itself and each member of the ADS Group) and by Loyalty Ventures (on behalf of itself and each member of the Loyalty Ventures Group) to be terminated, cancelled and of no further force and effect from and after the Distribution Time (including any provision thereof that purports to survive termination) without any further Liability to any party thereto.

~~(a)~~ The provisions of Section 2.07(a) shall not apply to any of the following Contracts: (ii) this Agreement and the Ancillary Agreements (and each other Contract expressly contemplated by this Agreement or any Ancillary Agreement (A) to be entered into by any of the parties hereto or any of the members of their respective Groups or (B) to survive the Distribution Date); (iii) any Contract to which any Person, other than solely the parties hereto and the members of their respective Groups is a party; ~~any Intercompany Accounts to the extent such Intercompany Accounts were not satisfied and/or settled in accordance with the first sentence of Section 2.06 (it being understood that such Intercompany Accounts shall be satisfied or settled in accordance with the second sentence of Section 2.06);~~ and (iv) the Contracts set forth on Schedule 2.07(b).

[HC27]: ~~Chesnut / Tusa – Please review.~~

Section 2.08. *Bank Accounts; Cash Balances.*

(a) ADS and Loyalty Ventures shall, and shall cause the members of their respective Group to, use commercially reasonable efforts such that, on or prior to the Distribution Time, the ADS Group and the Loyalty Ventures Group maintain separate bank accounts and separate cash management processes. Without limiting the generality of the foregoing, ADS and Loyalty Ventures shall use commercially reasonable efforts to, and shall cause the members of their respective Groups to use commercially reasonable efforts to, effective prior to the Distribution Time, (x) remove and replace the signatories of any bank or brokerage account owned by Loyalty Ventures or any other member of the Loyalty Ventures Group as of the Distribution Time with individuals designated by Loyalty Ventures and (y) if requested by ADS, remove and replace the signatories of any bank or brokerage account owned by ADS or any other member of the ADS Group as of the Distribution Time with individuals designated by ADS.

(b) With respect to any outstanding payments initiated by ADS, Loyalty Ventures, or any of their respective Subsidiaries prior to the Distribution Time, such outstanding payments shall be honored following the Distribution by the Person or Group owning the account from which the payment was initiated.

(c) As between ADS and Loyalty Ventures (and the members of their respective Groups) all payments received after the Distribution Date by either party (or member of its Group) that relate to a business, asset or Liability of the other party (or member of its Group), shall be held by such party for the use and benefit and at the expense of the party entitled thereto. Each party shall maintain an accounting of any such payments, and the parties shall have a monthly reconciliation, whereby all such payments received by each party are calculated and the net amount owed to ADS or Loyalty Ventures, as applicable, shall be paid over with a mutual right of set-off. If at any time the net amount owed to either party exceeds $[~~[~~500,000~~]~~][10], an interim payment of such net amount owed shall be made to the party entitled thereto within five (5) Business Days of such amount exceeding $[~~[~~500,000~~]~~]. Notwithstanding the foregoing, neither ADS nor Loyalty Ventures shall act as collection agent for the other party, nor shall either party act as surety or endorser with respect to non-sufficient funds checks or funds to be returned in a bankruptcy or fraudulent conveyance action. Further notwithstanding the foregoing, treatment of Tax assets shall be governed by the Tax Matters Agreement and shall not be considered in this reconciliation process.

Section 2.09. *Replacement of Guarantees*. ADS and Loyalty Ventures shall each use commercially reasonable efforts to, and shall cause the members of their respective Groups to use commercially reasonable efforts to, effective as of the Distribution Time, terminate or cause a member of the Loyalty Ventures Group to be substituted in all respects for a member of the ADS Group with respect to, and for the members of the ADS Group, as applicable, to be otherwise removed or released from, all obligations of any member of the Loyalty Ventures Group under any guarantee, surety bond, letter of credit, letter of comfort or similar credit or performance support arrangement (each, a "**Guarantee**"), given

[10] **Note to Draft**: ADS to confirm.

[HC28]: ~~Chesnut / McLaughlin - Any reason to be concerned about this amount and is it too high or too low?~~

[HC29]: ~~There are no lease guarantees. I am aware of a Lego (BrandLoyalty supplier) guarantee and will inquire about any others.~~

~~Credit facility guarantees will fall away at the time of the Loyalty Ventures Financing.~~

[HC30]: Since Loyalty Ventures Inc. would be the natural replacement and is not able to "do business" and has no assets at this time, this process will need to be post-Distribution.
Lego (Brand Loyalty)
Moneris (AMRP)
351 King Street (ADSC as Indemnitor)

or obtained by any member of the ADS Group for the benefit of any member of the Loyalty Ventures Group or the LoyaltyOne Business. If ADS and Loyalty Ventures have been unable to effect any such substitution, removal, release and termination with respect to any such Guarantee as of the Distribution Time, then, following the Distribution Time (a) the parties shall cooperate to effect such substitution, removal, release and termination as soon as reasonably practicable after the Distribution Time, (b) Loyalty Ventures and the members of the Loyalty Ventures Group shall, from and after the Distribution Time, indemnify against, hold harmless and promptly reimburse the members of the ADS Group for any payments made by members of the ADS Group and for any and all Liabilities of the members of the ADS Group arising out of, or in performing, in whole or in part, any obligation under any such Guarantee, and (c) without the prior written consent of ADS, no member of the Loyalty Ventures Group may renew, extend the term of, increase any obligations under, or transfer to a third Person, any Liability for which any member of the ADS Group is or might be liable pursuant to an applicable Guarantee unless such Guarantee, and all applicable obligations of the members of the ADS Group with respect thereto, are thereupon terminated pursuant to documentation reasonably acceptable to ADS.[11]

Section 2.10. *Further Assurances and Consents.* In addition to the actions specifically provided for elsewhere in this Agreement, each of the parties hereto shall use its commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things, reasonably necessary, proper or advisable under Applicable Law or applicable agreements or otherwise to consummate and make effective any transfers of assets, assignments and assumptions of Liabilities and any other transactions contemplated hereby, including using its commercially reasonable efforts to obtain any consents and approvals and to make any filings and applications necessary or desirable in order to consummate the transactions contemplated by this Agreement; *provided* that in no event shall any member of a Group have any Liability whatsoever to any member of the other Group for any failure to obtain any such consent or approval.

ARTICLE 3
DISTRIBUTION

Section 3.01. *Conditions Precedent to Distribution.* (a) In no event shall the Distribution occur unless each of the following conditions shall have been satisfied (or waived by ADS in its sole discretion):

(i) the Restructuring shall have been completed, including the consummation of the Loyalty Ventures Financing Arrangements and the Contribution, including the transfer by Loyalty Ventures of a portion of the ~~proceeds~~Cash Proceeds of the Loyalty Ventures Financing Arrangements

[11] **Note to Draft**: Subject to review and discussion of any outstanding guarantees between the Loyalty Ventures Group and the ADS Group.

to ADILC in partial consideration for the stock of Loyalty Ventures First-Tier Subsidiaries;

(ii) the Board of Directors of ADS shall have approved the Distribution and shall not have abandoned the Distribution or terminated this Agreement at any time prior to the Distribution;

(iii) the Form 10 shall have been filed with the Commission and declared effective by the Commission, no stop order suspending the effectiveness of the Form 10 shall be in effect, no proceedings for such purpose shall be pending before or threatened by the Commission, and the Information Statement shall have been mailed to holders of the ADS Common Stock as of the Record Date;

[HC31]: Same question as Section 2.01.

(iv) all actions and filings necessary or appropriate under applicable federal, state or foreign securities or "blue sky" laws and the rules and regulations thereunder shall have been taken and, where applicable, become effective or been accepted;

(v) the Loyalty Ventures Common Stock to be delivered in the Distribution shall have been approved for listing on ~~the~~ Nasdaq, subject to official notice of issuance;

[HC32]: ~~What about the resignations of Loyalty Ventures Participants form their roles as officers or directors of ADS Group subsidiaries?~~

[PJB33]: ~~We can cover this outside of the SDA.~~

(vi) the Board of Directors of Loyalty Ventures, as named in the Information Statement, shall have been duly appointed, and the Amended and Restated Certificate of Incorporation and the Amended and Restated Bylaws, each in substantially the form filed as an exhibit to the Form 10, shall be in effect;

(vii) each of the Ancillary Agreements shall have been duly executed and delivered by the parties thereto;

(viii) ADS shall have received the PLR and Tax Opinion (neither of which shall have been revoked or modified in any material respect), both of which are reasonably satisfactory to ADS ;

~~(ix) a nationally recognized valuation advisory firm acceptable to ADS shall have delivered one or more opinions to the Board of Directors of ADS concerning the solvency and capital adequacy matters relating to each of (A) ADS and its Group and (B) Loyalty Ventures and its Group after consummation of the Distribution, and such opinions shall be acceptable to the Board of Directors of ADS in its sole and absolute discretion and such opinions shall not have been withdrawn or rescinded;~~

[HC34]: ~~Davis Polk: ADS would like guidance on this process.~~

(ix) ~~(x)~~ no Applicable Law shall have been adopted, promulgated or issued, and be in effect, that prohibits the consummation of the Distribution or any of the other transactions contemplated hereby;

(x) ~~(xi)~~ any material governmental approvals and consents and any material permits, registrations and consents from Third Parties, in each case, necessary to effect the Distribution and to permit the operation of the Loyalty Ventures Group and the LoyaltyOne Business after the Distribution Date substantially as it is conducted at the date hereof shall have been obtained; and

(xi) ~~(xii)~~ no event or development shall have occurred or exist that, in the judgment of the Board of Directors of ADS, in its sole discretion, makes it inadvisable to effect the Distribution or the other transactions contemplated hereby.

(b) Each of the conditions set forth in this Section 3.01(a) is for the sole benefit of ADS and shall not give rise to or create any duty on the part of ADS or its Board of Directors to waive or not to waive any such condition or to effect the Distribution, or in any way limit ADS'~~s~~ rights of termination as set forth in Section 6.11 or alter the consequences of any termination from those specified in Section 6.11. Any determination made by ADS on or prior to the Distribution concerning the satisfaction or waiver of any or all of the conditions set forth in this Section 3.01 shall be conclusive and binding on the parties and all other affected Persons.

Section 3.02. *The Distribution*. (a) ADS shall, in its sole discretion, determine the Distribution Date and all terms of the Distribution, including the timing of the consummation of all or part of the Distribution. ADS may, at any time and from time to time until the consummation of the Distribution, modify or change the terms of the Distribution including by accelerating or delaying the timing of the consummation of all or part of the Distribution. For the avoidance of doubt, nothing in this Agreement shall in any way limit ADS'~~s~~ right to terminate this Agreement or the Distribution as set forth in Section 6.11 or alter the consequences of any such termination from those specified in Section 6.11.

(b) Subject to the terms and conditions set forth in this Agreement, (i) on or prior to the Distribution Date, ADS shall take such steps as are reasonably necessary or appropriate to permit the Distribution by the Distribution Agent of validly issued, fully paid and non-assessable shares of Loyalty Ventures Common Stock, registered in book-entry form through the registration system, (ii) the Distribution shall be effective at the Distribution Time, and (iii) subject to Section 3.03, ADS shall instruct the Distribution Agent to distribute, on or as soon as practicable after the Distribution Date, to each holder of record of ADS Common Stock as of the Record Date, by means of a *pro rata* dividend, one share of Loyalty Ventures Common Stock for every [•] shares of ADS Common Stock so held. Following the Distribution Date, Loyalty Ventures agrees to provide all book-entry transfer authorizations for shares of Loyalty Ventures Common Stock that ADS or the Distribution Agent shall require (after giving effect to Sections 3.03 and 3.04) in order to effect the Distribution.

(c) Within three (3) Business Days following the completion of the Loyalty Ventures Financing Arrangements and upon completion of the Restructuring and Contribution, ADS shall use that portion of the Cash Proceeds necessary to satisfy its obligation for mandatory prepayment of its term loans as provided in Section 2.11(d) of the ADS Amended and Restated Credit Agreement, as amended through July 9, 2021.

(d) ~~(c)~~ Within thirty (30) days following the ~~Distribution~~receipt of additional Cash Proceeds, whether from the Loyalty Ventures Financing Arrangements or future amounts due pursuant to this Agreement or the Tax Matters Agreement, ADS shall use the Cash Proceeds to repay ~~or repurchase~~ certain of its debt ~~from~~owed to third-party lenders. Further, ADS may complete ~~the~~an Equity-for-Debt Exchange within one year of the Distribution.

Section 3.03. *Fractional Shares*. No fractional shares of Loyalty Ventures Common Stock will be distributed in the Distribution. The Distribution Agent will be directed to determine (based on the aggregate number of shares held by each holder) the number of whole shares and the fractional share of Loyalty Ventures Common Stock allocable to each holder of ADS Common Stock as of the Record Date. Upon the determination by the Distribution Agent of such numbers of whole shares and fractional shares, as soon as practicable on or after the Distribution Date, the Distribution Agent, acting on behalf of the holders thereof, shall aggregate the fractional shares into whole shares and shall sell the whole shares obtained thereby for cash on the open market (with the Distribution Agent, in its sole discretion, determining when, how and through which broker-dealer(s) and at which price(s) to make such sales) and shall thereafter promptly distribute to each such holder entitled thereto (*pro rata* based on the fractional share such holder would have been entitled to receive in the Distribution) the resulting aggregate cash proceeds, after making appropriate deductions of the amounts required to be withheld for United States federal income tax purposes, if any, and after deducting an amount equal to all brokerage fees and commissions, transfer taxes and other costs attributed to the sale of shares pursuant to this Section 3.03. Neither ADS nor Loyalty Ventures will be required to guarantee any minimum sale price for the fractional shares. Recipients of cash in lieu of fractional shares will not be entitled to any interest on the amounts of payments made in lieu of fractional shares.

[HC37]: ~~Chesnut - there may be an opportunity here; if we are using Computershare as the Distribution Agent, we should talk to Monique Hughes and ask if we can assist in the designation.~~

[HC38]: ~~Also want to know how this happens – like cash dividends? Do not want the $100 per wire fee issue that we had with Bread stockholders receiving payments.~~

[PJB39]: ~~Should definitively confirm the approach with Computershare, but wires are not typically contemplated. Payment is typically made in the form of a check mailed to the holder or a credit to a brokerage account.~~

Section 3.04. *NO REPRESENTATIONS OR WARRANTIES.* EXCEPT AS EXPRESSLY SET FORTH HEREIN OR IN ANY OTHER DISTRIBUTION DOCUMENT, NO MEMBER OF EITHER GROUP MAKES ANY REPRESENTATION OR WARRANTY OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, TO ANY MEMBER OF THE OTHER GROUP OR ANY OTHER PERSON WITH RESPECT TO ANY OF THE TRANSACTIONS OR MATTERS CONTEMPLATED HEREBY (INCLUDING WITH RESPECT TO THE BUSINESS, ASSETS, LIABILITIES, CONDITION OR PROSPECTS (FINANCIAL OR OTHERWISE) OF, OR ANY OTHER MATTER INVOLVING, EITHER BUSINESS, OR THE SUFFICIENCY OF ANY

ASSETS TRANSFERRED OR LICENSED TO THE APPLICABLE GROUP, OR THE TITLE TO ANY SUCH ASSETS, OR THAT ANY REQUIREMENTS OF APPLICABLE LAW ARE COMPLIED WITH RESPECT TO THE RESTRUCTURING OR THE DISTRIBUTION). EXCEPT AS EXPRESSLY SET FORTH HEREIN OR IN ANY OTHER DISTRIBUTION DOCUMENT, EACH MEMBER OF EACH GROUP SHALL TAKE ALL OF THE BUSINESS, ASSETS AND LIABILITIES TRANSFERRED OR LICENSED TO OR ASSUMED BY IT PURSUANT TO THIS AGREEMENT OR ANY DISTRIBUTION DOCUMENT ON AN "AS IS, WHERE IS" BASIS, AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A SPECIFIC PURPOSE OR OTHERWISE ARE HEREBY EXPRESSLY DISCLAIMED.

[HC40]: We need to add a covenant here related to what Loyalty Ventures needs as a public reporting company from ADS as a significant service provider - 3 options consulted on with Deloitte have been provided to Julie McLaughlin for consideration.

ARTICLE 4
COVENANTS

Section 4.01. *Books and Records; Access to Information*. (i) To the extent not previously transferred in accordance with Section 2.02(a) or Section 2.03, from and after the Distribution Date, ADS shall, and shall cause the members of the ADS Group to, deliver to Loyalty Ventures or any Loyalty Ventures Designee any books and records that are Loyalty Ventures Assets (or copies of relevant portions thereof if such books and records contain information not related to the Loyalty Ventures Group or the LoyaltyOne Business) found to be in the possession of ADS or any member of the ADS Group in accordance with the applicable terms of the Transition Services Agreement and the applicable schedules thereto; *provided* that without limiting any express delivery requirements under this Section 4.01(a) and the terms of the Transition Services Agreement, neither ADS nor any member of the ADS Group shall be required to conduct any general search or investigation of its files for such books and records other than with respect to Commercial Data. Notwithstanding anything in this Agreement to the contrary, ADS shall not transfer or otherwise disclose or deliver to Loyalty Ventures any confidential supervisory information (including confidential supervisory information as identified in 12 C.F.R. § 309.5(g)(8)) of a U.S. federal or state Governmental Authority or any information the disclosure of which by ADS is prohibited by Applicable Law.

(b) Without limiting the express delivery requirements of Section 4.01(a) or any Ancillary Agreement, for a period of seven [12] years after completion of the ~~Distribution Date~~Transition Services Agreement, each Group shall afford promptly the other Group and its agents and, to the extent required by Applicable Law, authorized representatives of any Governmental Authority of competent jurisdiction, reasonable access (which shall include, to the extent reasonably requested, the right to make copies) during normal business hours to its books of account, financial and other records (including accountant's work

[12] **Note to Draft**: ADS to confirm.

papers, to the extent any required consents have been obtained), information (excluding any Commercial Data), employees and auditors to the extent necessary or useful for such other Group in connection with any audit, investigation, dispute or litigation, complying with their obligations under this Agreement or any Ancillary Agreement, any regulatory proceeding, any regulatory filings, complying with reporting disclosure requirements or any other requirements imposed by any Governmental Authority or any other reasonable business purpose of the Group requesting such access; *provided* that (i) any such access shall not unreasonably interfere with the conduct of the business of the Group providing such access and (ii) if any party reasonably determines that affording any such access to the other party would be commercially detrimental in any material respect or violate any Applicable Law or agreement to which such party or member of its Group is a party, or waive any Privilege applicable to such party or any member of its Group, the parties shall use commercially reasonable efforts to permit the compliance with such request in a manner that avoids any such harm or consequence.

(c) ~~[~~Without limiting the express delivery requirements of Section 4.01(a) or any Ancillary Agreement, to the extent ~~permitted under~~not prohibited by Applicable Law, ~~until~~through the ~~end~~term of the ~~first full Loyalty Ventures fiscal year occurring after the Distribution Date~~Transition Services Agreement (and for a reasonable period of time afterwards as required for each party to prepare consolidated financial statements or complete a financial statement audit for the fiscal year during which ~~the Distribution Date occurs~~ADS provides services to Loyalty Ventures under the Transition Services Agreement), each party shall use its commercially reasonable efforts to cooperate with the other party's information requests (other than with respect to any Commercial Data) to enable (i) the other party to meet its timetable for dissemination of its earnings releases, financial statements and management's assessment of the effectiveness of its disclosure controls and procedures and its internal control over financial reporting in accordance with Items 307 and 308, respectively, of Regulation S-K promulgated under the Exchange Act; and (ii) the other party's auditors timely to complete their review of the quarterly financial statements and audit of the annual financial statements, including, to the extent applicable to such party, its auditor's audit of its internal control over financial reporting and management's assessment thereof in accordance with Section 404 of the Sarbanes-Oxley Act of 2002, the SEC's and Public Company Accounting Oversight Board's rules and auditing standards thereunder and any other Applicable Laws.~~]~~[13]

Section 4.02. *Litigation Cooperation*. (i) Effective as of the Distribution Time, the applicable member of the Loyalty Ventures Group shall assume and thereafter be responsible for all Liabilities of either Group that may result from the Loyalty Ventures Assumed Actions and, subject to Section 5.04(c), all Liabilities and fees and costs relating to the defense of the Loyalty Ventures Assumed Actions, including attorneys', accountants', consultants' and other professionals'

[13] **Note to Draft**: To discuss whether any additional financial information should be included for purposes of satisfying ADS'~~s~~ public reporting and financial statement preparation.

fees and expenses that have been incurred prior to the Distribution Time and are unpaid as of the Distribution Time, or, that are incurred on or after the Distribution Time. "**Loyalty Ventures Assumed Actions**" means (x) those Actions primarily related to the Loyalty Ventures Group or the LoyaltyOne Business, including those in which any member of the ADS Group or any Affiliate of a member of the ADS Group is a defendant or a party against whom the claim or investigation is directed that are primarily related to the Loyalty Ventures Group or the LoyaltyOne Business, (y) those Actions set forth on Schedule 4.02(a)(i) and (x) all Actions that Loyalty Ventures has elected to control the defense of as the Indemnifying Party pursuant to Section 5.04(b)[, but excluding those Actions set forth on Schedule 4.02(a)(ii).][14] If any member of the ADS Group has any rights or claims against a Third Party insurer or other Third Party in connection with or relating to any Loyalty Ventures Assumed Action, such member shall, subject to Section 2.05, transfer and assign to the applicable member of the Loyalty Ventures Group all such rights or claims and cooperate with the Loyalty Ventures Group in connection with the enforcement and collection thereof. For the avoidance of doubt, effective as of the Distribution Time, Loyalty Ventures shall be entitled to all recovery, rights, claims, credits, causes of action, payments, awards and rights of set-off, in each case, with respect to the Loyalty Ventures Assumed Actions. ADS hereby agrees to transfer or pay, and to cause any applicable member of the ADS Group to transfer or pay, to Loyalty Ventures any such recovery, rights, claims, credits, causes of action, payments, awards and rights of set-off as promptly as possible.

[HC41]: ~~Joe - Is there anything to list here if (x) captures already those primarily related to the LoyaltyOne Business?~~

[HC42]: Not understanding what is to go here that wouldn't go on Schedule 4.02(b) - it belongs to one group or the other?

[HC43]: ~~Joe - Anything ADS keeps - see footnote.~~

(b) Effective as of the Distribution Time, the applicable member of the ADS Group shall assume and thereafter be responsible for all Liabilities of either Group that may result from the ADS Assumed Actions and, subject to Section 5.04(c), all fees and costs relating to the defense of the ADS Assumed Actions, including attorneys', accountants', consultants' and other professionals' fees and expenses that have been incurred prior to the Distribution Time and are unpaid as of or after the Distribution Time, or, that are incurred on or after the Distribution Time. "**ADS Assumed Actions**" means (x) those Actions primarily related to the ADS Business, including those in which any member of Loyalty Ventures Group or any Affiliate of a member of the Loyalty Ventures Group is a defendant or a party against whom the claim or investigation is directed that are primarily related to the ADS Business, (y) those Actions set forth on Schedule 4.02(b) and (z) all Actions that ADS has elected to control the defense of as the Indemnifying Party pursuant to Section 5.04(b).[15] If any member of the Loyalty Ventures Group has any rights or claims against a Third Party insurer or other Third Party in connection with or relating to any ADS Assumed Action, such member shall, subject to Section 2.05, transfer and assign to the applicable member of the ADS Group all such rights or claims and cooperate with the ADS Group in connection with the enforcement and collection thereof. For the avoidance of doubt, effective as of the Distribution Time, ADS shall be entitled to all recovery, rights, claims,

[14] **Note to Draft**: ADS to confirm if there is litigation primarily relating to the LoyaltyOne Business that should be retained by ADS.

[15] **Note to Draft**: To discuss clause (z).

credits, causes of action, payments, awards and rights of set-off, in each case, with respect to the ADS Assumed Actions. Loyalty Ventures hereby agrees to transfer or pay, and to cause any applicable member of the Loyalty Ventures Group to transfer or pay, to ADS any such recovery, rights, claims, credits, causes of action, payments, awards and rights of set-off as promptly as possible.

(c) Each party agrees that, at all times from and after the Distribution Time, if an Action relating primarily to its Business is commenced by a Third Party naming a member of each Group as defendants thereto, such action shall be deemed to be a Loyalty Ventures Assumed Action (in the case of an Action primarily related to the Loyalty Ventures Group or the LoyaltyOne Business) or an ADS Assumed Action (in the case of an Action primarily related to the ADS Business) and the party as to which the Action primarily relates shall use its commercially reasonable efforts to cause the other party or member of its Group to be removed from such Action.

(d) The parties agree, that at all times from and after the Distribution Time, if any Action is commenced by a Third Party naming a member of each Group as a defendant thereto and the parties are not able to reasonably determine whether such Action primarily relates to the Loyalty Ventures Group or the LoyaltyOne Business or the ADS Business, then the parties shall cooperate in good faith to determine which party and the members of its Group shall control and be responsible for such Action in accordance with the terms of this Section 4.02, and the parties will consult to the extent necessary or advisable with respect to such Action.

(e) Each Group shall use commercially reasonable efforts to make available to the other Group and its attorneys, accountants, consultants and other designated representatives, upon written request, its directors, officers, employees and representatives as witnesses, and shall otherwise cooperate with the other Group, to the extent reasonably requested in connection with any Action arising out of either Group's Business prior to the Distribution Time in which the requesting Group may from time to time be involved.

(f) Notwithstanding the foregoing, this Section 4.02 shall not require the party to whom any request pursuant to Section 4.02(e) has been made to make available Persons or information if such party determines that doing so would, in the reasonable good faith judgment of such party, reasonably be expected to result in any violation of any Applicable Law or agreement or adversely affect its ability to successfully assert a claim of Privilege under Applicable Law; *provided*, that the parties shall use commercially reasonable efforts to cooperate in seeking to find a way to permit compliance with such obligations to the extent and in a manner that avoids such consequence.

Section 4.03. *Reimbursement*. Each Group providing information or witnesses to the other Group or otherwise incurring any out-of-pocket expense in connection with transferring books and records or otherwise cooperating under

Section 4.01 or Section 4.02 shall be entitled to receive from the recipient thereof, upon the presentation of invoices therefor, payment for all reasonable and documented out-of-pocket costs and expenses (including outside attorney's fees but excluding reimbursement for general overhead, salary and employee benefits) actually incurred in providing such access, information, witnesses or cooperation.

Section 4.04. *Ownership of Information*. All information owned by one party (or a member of its Group) that is provided to the other party (or a member of its Group) under Section 4.01 or Section 4.02 shall be deemed to remain the property of the providing party. Unless specifically set forth herein or in any Ancillary Agreement, nothing contained in this Agreement shall be construed to grant or confer rights of license or otherwise in any such information.

Section 4.05. *Retention of Records*. Except as otherwise required by Applicable Law or agreed to in writing, each party shall, and shall cause the members of its Group to, retain any and all information in its possession or control relating to the other Group's Business in accordance with the document retention practices of ADS as in effect as of the date hereof. Neither party shall destroy, or permit the destruction, or otherwise dispose, or permit the disposal, of any such information, subject to such retention practice, unless, prior to such destruction or disposal, the party proposing (or whose Group member is proposing) such destruction or disposal (the "**Disposing Party**") provides not less than 30 days' prior written notice to the other party (the "**Receiving Party**"), specifying the information proposed to be destroyed or disposed of and the scheduled date for such destruction or disposal. If the Receiving Party shall request in writing prior to the scheduled date for such destruction or disposal that any of the information proposed to be destroyed or disposed of be delivered to the Receiving Party, the Disposing Party shall promptly arrange for the delivery of such of the information as was requested at the expense of the Receiving Party; *provided* that, if the Disposing Party reasonably determines that any such provision of information would violate any Applicable Law or agreement to which such party or member of its Group is a party, or waive any Privilege applicable to such party or any member of its Group, the parties shall use commercially reasonable efforts to permit the prompt compliance with such request in a manner that avoids any such harm or consequence. Any records or documents that were subject to a litigation hold prior to the Distribution Date must be retained by the applicable party until such party or member of its Group is notified by the other party that the litigation hold is no longer in effect.

[HC44]: ~~No need to define a random date - use records retention rules.~~

Section 4.06. *Confidentiality*. Each party acknowledges that it or a member of its Group may have in its possession, and, in connection with this Agreement and the Ancillary Agreements, may receive, Confidential Information of the other party or any member of its Group (including information in the possession of such other party relating to its clients or customers). Each party shall hold and shall cause its directors, officers, employees, agents, consultants and advisors ("**Representatives**") and the members of its Group and their Representatives to hold in strict confidence and not to use, except as permitted by

this Agreement, or any Ancillary Agreement all such Confidential Information concerning the other Group unless (i) such party or any of the members of its Group or its or their Representatives is compelled to disclose such Confidential Information by judicial or administrative process or by other requirements of Applicable Law or (ii) such Confidential Information can be shown to have been (iii) in the public domain through no fault of such party or any of the members of its Group or its or their Representatives, (iv) lawfully acquired after the Distribution Date on a non-confidential basis from other sources not known by such party to be under any legal obligation to keep such information confidential or (v) developed by such party or any of the members of its Group or its or their Representatives without the use of any Confidential Information of the other Group. Notwithstanding the foregoing, such party or member of its Group or its or their Representatives may disclose such Confidential Information to the members of its Group and its or their Representatives so long as such Persons are informed by such party of the confidential nature of such Confidential Information and are directed by such party to treat such information confidentially. The obligation of each party and the members of its Group and its and their Representatives to hold any such Confidential Information in confidence shall be satisfied if they exercise the same level of care with respect to such Confidential Information as they would with respect to their own proprietary information. If such party or any of a member of its Group or any of its or their Representatives becomes legally compelled to disclose any documents or information subject to this Section 4.06, such party will promptly notify the other party and, upon request, use commercially reasonable efforts to cooperate with the other party's efforts to seek a protective order or other remedy. If no such protective order or other remedy is obtained or if the other party waives in writing such party's compliance with this Section 4.06, such party or the member of its Group or its or their Representatives may furnish only that portion of the information which it concludes, after consultation with counsel, is legally required to be disclosed and will exercise its commercially reasonable efforts to obtain reliable assurance that confidential treatment will be accorded such information. Each party agrees to be responsible for any breach of this Section 4.06 by it, the members of its Group and its and their Representatives.

Section 4.07. *Privileged Information.* (i) The parties acknowledge that members of the ADS Group, on the one hand, and members of the Loyalty Ventures Group, on the other hand, may possess documents or other information regarding the other Group that is or may be subject to the attorney-client privilege, the work product doctrine or common interest privilege (collectively, "**Privileges**"; and such documents and other information collectively, the "**Privileged Information**"). Each party agrees to use commercially reasonable efforts to protect and maintain, and to cause their respective Affiliates to protect and maintain, any applicable claim to Privilege in order to prevent any of the other Group's Privileged Information from being disclosed or used in a manner inconsistent with such Privilege without the other party's consent. Without limiting the generality of the foregoing, a party and its Affiliates shall not, without

the other party's prior written consent, (i) waive any Privilege with respect to any of the other party's or any member of its Group's Privileged Information, (ii) fail to defend any Privilege with respect to any such Privileged Information, or (iii) fail to take any other actions reasonably necessary to preserve any Privilege with respect to any such Privileged Information.

(b) Upon receipt by a party or any member of such party's Group of any subpoena, discovery or other request that calls for the production or disclosure of Privileged Information of the other party or a member of its Group, such party shall promptly notify the other party of the existence of the request and shall provide the other party a reasonable opportunity to review the information and to assert any rights it or a member of its Group may have under this Section 4.07 or otherwise to prevent the production or disclosure of such Privileged Information. Each party agrees that neither it nor any member of its Group will produce or disclose any information that may be covered by a Privilege of the party or a member of its Group under this Section 4.07 unless (A) the other party has provided its written consent to such production or disclosure (which consent shall not be unreasonably withheld) or (B) a court of competent jurisdiction has entered an order finding that the information is not entitled to protection under any applicable Privilege or otherwise requires disclosure of such information.

(c) In the event that any member of the ADS Group and any member of the Loyalty Ventures Group cooperate in the mutual defense of any Third Party Claim, such cooperation shall not constitute a waiver or qualification of such party's right to assert and defend any applicable claim to Privilege.

(d) Each of the ADS Group and the Loyalty Ventures Group covenants and agrees that, following the Distribution Time, Davis Polk & Wardwell LLP or any other internal or external legal counsel currently representing the Loyalty Ventures Group (each a "**Prior Company Counsel**") may serve as counsel to the ADS Group and its Affiliates in connection with any matters arising under or related to this Agreement or the transactions contemplated by this Agreement or any Ancillary Agreement, including with respect to any litigation, Claim or obligation arising out of or related to this Agreement or any Ancillary Agreement or the transactions contemplated by this Agreement or any Ancillary Agreement, notwithstanding any representation by the Prior Company Counsel prior to the Distribution Time. The ADS Group and the Loyalty Ventures Group hereby irrevocably (i) waive any Claim they have or may have that a Prior Company Counsel has a conflict of interest or is otherwise prohibited from engaging in such representation and (ii) covenant and agree that, in the event that a dispute arises after the Distribution Time between the Loyalty Ventures Group (or any of its Affiliates) and the ADS Group (or any of its Affiliates), Prior Company Counsel may represent any member of the ADS Group and any Affiliates thereof in such dispute even though the interests of such Person(s) may be directly adverse to the Loyalty Ventures Group and even though Prior Company Counsel may have represented the Loyalty Ventures Group in a matter substantially related to such dispute.

(e) All communications between members of the ADS Group, on the one hand, and Prior Company Counsel, on the other hand, related to the transactions contemplated by this Agreement or any Ancillary Agreement shall be deemed to be attorney-client confidences that belong solely to such members of the ADS Group or the Prior Company Counsel (the "**Pre-Distribution Time Communications**"). Accordingly, the Loyalty Ventures Group shall not have access to any such Pre-Distribution Time Communications or to the files of Prior Company Counsel relating to such engagement related to the transactions contemplated hereby from and after the Distribution Time, and all books, records and other materials of the Loyalty Ventures Group in any medium (including electronic copies) containing or reflecting any of the Pre-Distribution Time Communications or the work product of legal counsel with respect thereto, including any related summaries, drafts or analyses, and all rights with respect to any of the foregoing, are hereby assigned and transferred to the ADS Group effective as of the Distribution Time (collectively, the "**ADS Group Privileged Materials**"). The ADS Group may cause all of the ADS Group Privileged Materials to be distributed to the ADS Group immediately prior to the Distribution Time with no copies thereof retained by the Loyalty Ventures Group or its respective representatives, and all such distributed ADS Group Privileged Materials shall be excluded from the transactions contemplated by this Agreement and each Ancillary Agreement. From and after the Distribution Time, in the event that any member of the Loyalty Ventures Group shall possess any ADS Group Privileged Materials, such member of the Loyalty Ventures Group shall promptly cause such ADS Group Privileged Materials to be distributed to the ADS Group in accordance with this Section 4.07(e) or destroyed, at the election of Loyalty Ventures. In addition, from and after the Distribution Time, (i) the Loyalty Ventures Group and its representatives shall maintain the confidentiality of the ADS Group Privileged Materials and (ii) none of the members of the Loyalty Ventures Group or their respective representatives shall access or in any way, directly or indirectly, use or rely upon any ADS Group Privileged Materials (whether or not distributed to the ADS Group prior to the Distribution Time in accordance with this Section 4.07(e)). To the extent that any ADS Group Privileged Materials are not delivered to the ADS Group, the Loyalty Ventures Group agrees not to assert a waiver of any applicable Privilege or protection with respect to such materials. Without limiting the generality of the foregoing, from and after the Distribution Time, (a) the ADS Group shall be the sole holders of the Privileges with respect to the ADS Group Privileged Materials, and no member of the Loyalty Ventures Group shall be a holder thereof, (b) to the extent that files of Prior Company Counsel in respect of ADS Group Privileged Materials constitute property of the client, only the ADS Group shall hold such property rights, (c) Prior Company Counsel shall have no duty whatsoever to reveal or disclose any ADS Group Privileged Materials to the Loyalty Ventures Group by reason of any attorney-client relationship between Prior Company Counsel and the Loyalty Ventures Group and (d) after the Distribution Date, all communications between members of the Loyalty Ventures Group, on the one hand, and any attorneys retained by any member of the Loyalty Ventures Group, on the other hand, shall

be deemed to be attorney-client confidences that belong solely to such members of the Loyalty Ventures Group or such attorneys. Each of the Loyalty Ventures Group and the ADS Group hereby acknowledges and confirms that it has had the opportunity to review and obtain adequate information regarding the significance and risks of the waivers and other terms and conditions of this Section 4.07(e), including the opportunity to discuss with counsel such matters and reasonable alternatives to such terms. This Section 4.07(e) is for the benefit of the ADS Group and Prior Company Counsel, and the ADS Group and Prior Company Counsel are intended third party beneficiaries of this Section 4.07(e). This Section 4.07(e) shall be irrevocable, and no term of this Section 4.07(e) may be amended, waived or modified, without the prior written consent of the ADS Group and Prior Company Counsel. The covenants and obligations set forth in this Section 4.07(e) shall survive for ten (10) years following the Distribution Time.

[HC45]: ~~Davis Polk: Joe and I need to both speak with you and understand why constructed this way.~~

Section 4.08. *Limitation of Liability*. Except as otherwise provided in this Agreement, no party shall have any liability to any other party in the event that any information, books or records exchanged or provided pursuant to this Agreement is found to be inaccurate or the requested information, books or records is not provided, in the absence of willful misconduct by the party requested to provide such information, books or records. No party shall have any liability to any other party if any information, books or records is destroyed after commercially reasonable efforts by such party to comply with the provisions of Section 4.05.

Section 4.09. *Other Agreements Providing for Exchange of Information*. The rights and obligations granted under this Article 4 are subject to any specific limitations, qualifications or additional provisions on the sharing, exchange, retention, rights to use, or confidential treatment of information set forth in any Ancillary Agreement. Notwithstanding anything in this Agreement to the contrary, (i) the Tax Matters Agreement shall govern the retention of Tax related records and the exchange of Tax related information and (ii) the Employee Matters Agreement shall govern the retention of employment and benefits related records.

[HC46]: ~~Reviewed and approved by Lockton (insurance broker)~~

Section 4.10. *Conduct of Incidents Subject to ADS Insurance*. (a) Loyalty Ventures, for itself and the members of its Group, acknowledges that coverage for the Loyalty Ventures Group and the LoyaltyOne Business under the insurance policies of ADS and the members of the ADS Group (other than insurance policies, insurance contracts and claim administration contracts established in contemplation of the Distribution to cover only the Loyalty Ventures Group after the Distribution Time (the "**Post-Distribution Insurance Arrangements**")) (the "**ADS Insurance Policies**") will cease as of the Distribution Time, and that, except as set forth in this Section 4.10, neither ADS nor any member of its Group will purchase any "tail" policy or other additional or substitute coverage for the benefit of Loyalty Ventures or the members of the Loyalty Ventures Group relating to the LoyaltyOne Business applicable in any period after the Distribution Time.

(b) Notwithstanding the foregoing, ADS, for itself and the members of its Group, agrees that ADS or a member of its Group shall, with respect to (x) any act, circumstance, occurrence or incident arising prior to the Distribution Time that relates to the Loyalty Ventures Group or the LoyaltyOne Business that is potentially covered by an occurrence-based insurance policy of ADS or any member of its Group (each, a "**ADS Occurrence-Based Policy**") in effect prior to the Distribution Time, (y) any act, circumstance, occurrence or incident arising or occurring prior to the Distribution Time that relates to the Loyalty Ventures Group or the LoyaltyOne Business that is potentially covered by an insurance policy of ADS or any member of its Group written on a "claims made" basis ("**ADS Claims-Made Policies**") in effect prior to the Distribution Time, or (z) any act, circumstance, occurrence or incident arising or occurring prior to the Distribution Time that relates to the Loyalty Ventures Group or the LoyaltyOne Business that is potentially covered by an insurance policy of ADS or any member of its Group written on a "loss discovered" basis ("**ADS Loss Discovered-Policies**" and together with the ADS Occurrence-Based Policies and the ADS Claims-Made Policies, the "**ADS Shared Policies**") (i) not relinquish any of its rights, or take any actions (other than the making of claims under the ADS Shared Policies) that could reasonably be expected to reduce or otherwise limit the available coverage for any claim or incident arising prior to the Distribution Time that relates to the Loyalty Ventures Group or the LoyaltyOne Business, under any of the ADS Shared Policies, (ii) upon request of Loyalty Ventures or any member of its Group, report such claim or incident to the appropriate insurer as promptly as practicable and in accordance with the terms and conditions of the applicable ADS Shared Policy and to use commercially reasonable efforts to administer such claims, (iii) include Loyalty Ventures and the applicable member of its Group on material correspondence and possible litigation proceedings relating to such claim or incident and (iv) instruct that such proceeds are paid directly to the injured party in settlement of any claims, rather than to ADS or the members of its Group, or, if such proceeds are received by ADS or any member of its Group, pay such proceeds over to Loyalty Ventures or the applicable member of its Group; *provided* that Loyalty Ventures and the applicable members of its Group shall notify ADS promptly of any potential claim, shall cooperate in the investigation and pursuit of any claim, shall have the right to effectively associate in the pursuit of any claim, including the ability to withhold its consent to any proposed claim settlement (such consent not to be unreasonably conditioned, withheld or delayed) and shall bear all out-of-pocket expenses incurred by ADS or the members of its Group in connection with the foregoing; *provided further* that ADS and the members of its Group shall be obligated to use only commercially reasonable efforts to pursue any claims that are potentially covered by available ADS Shared Policies and shall not, for the avoidance of doubt, have any obligation to commence any litigation with respect to any matter potentially covered by any ADS Shared Policy unless the costs of such litigation are borne by Loyalty Ventures. Loyalty Ventures shall bear responsibility for any deductible payments required to be made under the ADS Shared Policies in respect of any such claims.

(c) If, after the Distribution Time, Loyalty Ventures or any of the members of its Group reasonably requires any information regarding claims data for renewal purposes or other information pertaining to a claim or to any occurrence or alleged wrongful acts which occurred prior to the Distribution Time (regardless of when such occurrences or alleged wrongful acts may be reported) that could reasonably be expected to give rise to a claim (including any pre-Distribution claims under any ADS Shared Policy) in order to give notice to or make filings with insurance carriers or claims adjustors or administrators or to adjust, administer or otherwise manage a claim, then, subject to the provisos in Section 4.10, ADS shall cause such information to be supplied to Loyalty Ventures or the applicable member of its Group, to the extent such information is in its possession and control or can be reasonably obtained by ADS (or the members of its Group), as applicable, reasonably promptly upon a written request therefore. In furtherance of the foregoing, if any Third Party requires the consent of ADS or any of the members its Group to the disclosure of claims data or information maintained by an insurance company or other Third Party in respect of any claim (including any pre-Distribution claims under any ADS Shared Policy), such consent shall not be unreasonably withheld, conditioned or delayed.

Section 4.11. *Trademark Phase Out*.

(a) [As soon as reasonably practicable, but in any event within ~~[~~one hundred eighty (180)~~]~~[16] days, following the Distribution Time, Loyalty Ventures shall, and shall cause its Subsidiaries to, cease any and all use of the ADS Names and Marks and remove, conceal, cover, redact and/or replace the ADS Names and Marks from any and all Loyalty Ventures Assets and any other assets and materials under their possession or control bearing such ADS Names and Marks.]

[HC47]: ~~Shouldn't there be a reciprocal obligation for ADS to remove Loyalty Ventures marks - think corporate web site?~~

(b) ~~Loyalty Ventures shall, and shall cause its Subsidiaries to, make all filings with any and all offices, agencies and bodies and take all other actions necessary to adopt new corporate names that do not contain or consist of, in whole or in part, the [ADS Names and Marks] (and provide ADS with written evidence thereof) as soon as reasonably practicable following the Distribution Time, but in any event no later than [twenty-four (24)] months thereafter~~As soon as reasonably practicable, but in any event within one hundred eighty (180) days, following the Distribution Time, ADS shall, and shall cause its Subsidiaries to, cease any and all use of the Loyalty Ventures Names and Marks and remove, conceal, cover, redact and/or replace the Loyalty Ventures Names and Marks from any and all ADS Assets and any other assets and materials under their possession or control bearing such Loyalty Ventures Names and Marks.

[HC48]: ~~There are only 4 of these; 1 has already been changed and the other 3 can be done at any time (preferably pre-Distribution).~~

Section 4.12. *Governance Matters.* The parties hereto shall take all necessary action within their power to cause Roger Ballou to be appointed as Chairman of the Board of Directors of Loyalty Ventures effective as of the Distribution Time (the "**Overlapping Board Member**"). The Overlapping Board Member's term will expire after three years, with no opportunity for reelection.

~~[16] **Note to Draft**: To confirm timing for trademark phase-out.~~

ARTICLE 5
RELEASE; INDEMNIFICATION

Section 5.01. *Release of Pre-Distribution Claims.*

(a) Except (A) as provided in Section 5.01(b) and (B) as otherwise expressly provided in this Agreement or any Ancillary Agreement, each party does hereby, on behalf of itself and each member of its Group, and each of their successors and assigns, release and forever discharge the other party and the other members of such party's Group, and their respective successors and assigns, and all Persons who at any time prior to the Distribution Time have been directors, officers, employees or attorneys serving as independent contractors of such other party or any member of its Group (in each case, in their respective capacities as such), and their respective heirs, executors, administrators, successors and assigns (collectively, the "**Released Parties**"), from any and all demands, Claims, Actions and Liabilities whatsoever, whether at law or in equity, whether arising under any Contract, by operation of law or otherwise (and including for the avoidance of doubt, those arising as a result of the negligence, strict liability or any other liability under any theory of law or equity of, or any violation of law by any Released Party), existing or arising from any acts or events occurring or failing to occur or alleged to have occurred or to have failed to occur or any conditions existing or alleged to have existed on or before the Distribution Date. In furtherance of the foregoing, each party shall cause each of the members of its respective Group to, effective as of the Distribution Time, release and forever discharge each of the Released Parties of the other Group as and to the same extent as the release and discharge provided by such party pursuant to the foregoing provisions of this Section 5.01(a).

(b) Nothing contained in Section 5.01(a) shall impair any right of any Person identified in Section 5.01(a) to enforce this Agreement or any Ancillary Agreement. Nothing contained in Section 5.01(a) shall release or discharge any Person from:

(i) any Liability assumed, transferred, assigned, retained or allocated to that Person in accordance with, or any other Liability of that Person under, this Agreement or any of the Ancillary Agreements;

(ii) any Liability that is expressly specified in this Agreement (including Section 2.06 and Section 2.07) or any Ancillary Agreement to continue after the Distribution Time, but subject to any limitation set forth in this Agreement (including Section 2.06 and Section 2.07) or any Ancillary Agreement relating specifically to such Liability;

(iii) any Liability that the parties may have with respect to claims for indemnification, recovery or contribution brought pursuant to this Agreement or any Ancillary Agreement, which Liability shall be

governed by the provisions of this Article 5, or, if applicable, the appropriate provisions of the Ancillary Agreements; or

(iv) any Liability the release of which would result in the release of any Person, other than a member of the ADS Group or any related Released Party; *provided*, *however*, that the parties hereto agree not to bring or allow their respective Subsidiaries to bring suit against the other party or any related Released Party with respect to any such Liability.

In addition, nothing contained in Section 5.01(a) shall release any party or any member of its Group from honoring its existing obligations to indemnify, or advance expenses to, any Person who was a director, officer or employee of such party or any member of its Group, at or prior to the Distribution Time, to the extent such Person was entitled to such indemnification or advancement of expenses pursuant to then-existing obligations; *provided*, *however*, that to the extent applicable, Section 5.02 hereof shall determine whether any party shall be required to indemnify the other or a member of its Group in respect of such Liability.

(c) No party hereto shall make, nor permit any member of its Group to make, any Claim or demand, or commence any Action asserting any Claim or demand, including any Claim of contribution or indemnification, against the other party, or any related Released Party, with respect to any Liability released pursuant to Section 5.01(a).

(d) It is the intent of each of the parties by virtue of the provisions of this Section 5.01 to provide for a full and complete release and discharge of all Liabilities existing or arising from all acts and events occurring or failing to occur or alleged to have occurred or to have failed to occur and all conditions existing or alleged to have existed on or before the Distribution Date between members of the ADS Group, on the one hand, and members of the Loyalty Ventures Group, on the other hand, (including any Contract existing or alleged to exist between the parties on or before the Distribution Date), except as expressly set forth in Section 5.01(b) or as expressly provided in this Agreement or any Ancillary Agreement. At any time, at the reasonable request of either ADS or Loyalty Ventures, the other party hereto shall execute and deliver (and cause its respective Subsidiaries to execute and deliver) releases reflecting the provisions hereof.

Section 5.02. *Loyalty Ventures Indemnification of the ADS Group.* (i) Effective as of and after the Distribution Time, Loyalty Ventures shall indemnify, defend and hold harmless each member of the ADS Group, each Affiliate thereof and each of their respective past, present and future directors, officers, employees and agents and the respective heirs, executors, administrators, successors and assigns of any of the foregoing (the "**ADS Indemnitees**") from and against any and all Liabilities incurred or suffered by any of the ADS Indemnitees arising out of or in connection with (ii) any of the Loyalty Ventures Liabilities, or the failure of any member of the Loyalty Ventures Group to pay, perform or otherwise

discharge any of the Loyalty Ventures Liabilities, (iii) any breach by Loyalty Ventures or any member of the Loyalty Ventures Group of this Agreement or any Ancillary Agreement, (iv) the ownership or operation of the LoyaltyOne Business or the Loyalty Ventures Assets, whether prior to, on or after the Distribution Date, (v) any payments made by ADS or any member of the ADS Group in respect of any Guarantee given or obtained by any member of the ADS Group for the benefit of any member of the Loyalty Ventures Group or the LoyaltyOne Business, or any Liability of any member of the ADS Group in respect thereof, and (vi) any use of any ADS Names and Marks by Loyalty Ventures.

(b) Except to the extent set forth in Section 5.03(b), effective as of and after the Distribution Time, Loyalty Ventures shall indemnify, defend and hold harmless each of the ADS Indemnitees and each Person, if any, who controls any ADS Indemnitee within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act from and against any and all Liabilities caused by any untrue statement or alleged untrue statement of a material fact contained in the Form 10 or any amendment thereof, the Information Statement (as amended or supplemented if Loyalty Ventures shall have furnished any amendments or supplements thereto), the Equity Compensation Registration Statement or any offering or marketing materials prepared in connection with the Loyalty Ventures Financing Arrangements or caused by any omission or alleged omission to state therein a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

Section 5.03. *ADS Indemnification of the Loyalty Ventures Group.* (i) Effective as of and after the Distribution Time, ADS shall indemnify, defend and hold harmless each member of the Loyalty Ventures Group, each Affiliate thereof and each of their respective past, present and future directors, officers, employees and agents and the respective heirs, executors, administrators, successors and assigns of any of the foregoing (the "**Loyalty Ventures Indemnitees**") from and against any and all Liabilities incurred or suffered by any of the Loyalty Ventures Indemnitees and arising out of or in connection with (ii) any of the ADS Liabilities, or the failure of any member of the ADS Group to pay, perform or otherwise discharge any of the ADS Liabilities, (iii) the ownership or operation of the ADS Business or the ADS Assets, whether prior to, on or after the Distribution Date, (iv) any breach by ADS or any member of the ADS Group of this Agreement or any Ancillary Agreement, and (iv) any use of any Loyalty Ventures Names and Marks by ADS.

(b) Effective as of and after the Distribution Time, ADS shall indemnify, defend and hold harmless each of the Loyalty Ventures Indemnitees and each Person, if any, who controls any Loyalty Ventures Indemnitee within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act from and against any and all Liabilities caused by any untrue statement or alleged untrue statement of a material fact contained in the Form 10 or any amendment thereof, the Information Statement (as amended or supplemented if Loyalty Ventures shall have furnished any amendments or supplements thereto),

the Equity Compensation Registration Statement or any offering or marketing materials prepared in connection with the Loyalty Ventures Financing Arrangements or caused by any omission or alleged omission to state therein a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, in each case to the extent, but only to the extent, that such Liabilities are caused by any such untrue statement or omission or alleged untrue statement or omission based on information furnished by ADS solely in respect of the ADS Group and which information is set forth on Schedule 5.03(b).~~17~~16

Section 5.04. *Procedures*. (i) The party seeking indemnification under Section 5.02 or Section 5.03 (the "**Indemnified Party**") agrees to give prompt notice to the party against whom indemnity is sought (the "**Indemnifying Party**") of the assertion of any claim, or the commencement of any suit, action or proceeding (each, a "**Claim**") in respect of which indemnity may be sought hereunder and will provide the Indemnifying Party such information with respect thereto that the Indemnifying Party may reasonably request. The failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party of its obligations hereunder, except to the extent such failure shall have prejudiced the Indemnifying Party.

(b) The Indemnifying Party shall be entitled to participate in the defense of any Claim asserted by any Third Party ("**Third Party Claim**") and, subject to the limitations set forth in this Section 5.04, if it so notifies the Indemnified Party no later than 30 days after receipt of the notice described in Section 5.04(a), shall be entitled to control and appoint lead counsel for such defense, in each case at its expense. If the Indemnifying Party does not so notify the Indemnified Party, the Indemnified Party shall have the right to defend or contest such Third Party Claim through counsel chosen by the Indemnified Party that is reasonably acceptable to the Indemnifying Party, subject to the provisions of this Section 5.04. The Indemnified Party shall provide the Indemnifying Party and such counsel with such information regarding such Third Party Claim as either of them may reasonably request (which request may be general or specific).

(c) If the Indemnifying Party shall assume the control of the defense of any Third Party Claim in accordance with the provisions of Section 5.04(b), (A) the Indemnifying Party shall obtain the prior written consent of the Indemnified Party (which shall not be unreasonably withheld) before entering into any settlement of such Third Party Claim, if the settlement does not release the Indemnified Party from all Liabilities and obligations with respect to such Third Party Claim or the settlement imposes injunctive or other equitable relief against the Indemnified Party or any of its related Indemnitees or is otherwise materially prejudicial to any such Person and (B) the Indemnified Party shall be entitled to participate in (but not control) the defense of such Third Party Claim and, at its own expense, to employ separate counsel of its choice for such purpose; *provided*

~~17~~16 **Note to Draft**: This schedule to be limited to details provided by ADS regarding its equity securities, corporate address and name, and the description of the Distribution.

that in the event of a conflict of interest between the Indemnifying Party and the applicable Indemnified Party, the reasonable and documented fees and expenses of such separate counsel shall be at the Indemnifying Party's expense.

(d) Each party shall cooperate, and cause their respective Affiliates to cooperate, in the defense or prosecution of any Third Party Claim and shall furnish or cause to be furnished such records, information and testimony, and attend such conferences, discovery proceedings, hearings, trials or appeals, as may be reasonably requested in connection therewith.

(e) Each Indemnified Party shall use commercially reasonable efforts to collect any amounts available under insurance coverage, or from any other Person alleged to be responsible, for any Liabilities payable under Section 5.02 or Section 5.03 and the reasonable expenses incurred in connection therewith will be treated as Liabilities subject to indemnification hereunder.

(f) If any Third Party Claim shall be brought against a member of each Group, then such Action shall be deemed to be a Loyalty Ventures Assumed Action or an ADS Assumed Action in accordance with Sections 4.02(a) or 4.02(b), to the extent applicable, and Loyalty Ventures, in the case of any Loyalty Ventures Assumed Action, or ADS, in the case of any ADS Assumed Action, shall be deemed to be the Indemnifying Party for the purposes of this Article 5. In the event of any Action in which the Indemnifying Party is not also named defendant, at the request of either the Indemnified Party or the Indemnifying Party, the parties will use commercially reasonable efforts to substitute the Indemnifying Party or its applicable Affiliate for the named defendant in the Action.

Section 5.05. *Calculation of Indemnification Amount.* Any indemnification amount pursuant to Section 5.02 or Section 5.03 shall be paid (i) net of any amounts actually recovered by the Indemnified Party under applicable Third Party insurance policies or from any other Third Party alleged to be responsible therefor, and (ii) taking into account any Tax Benefit allowable to the Indemnified Party (using the methodology set forth in Section [•] of the Tax Matters Agreement to determine the amount of any such Tax Benefit) and any Tax cost incurred by the Indemnified Party arising from the incurrence or payment of the relevant Liabilities. ADS and Loyalty Ventures agree that, for United States federal income tax purposes, any payment made pursuant to this Article 5 will be treated as provided under Section 12(b) of the Tax Matters Agreement. If the Indemnified Party receives any amounts under applicable Third Party insurance policies, or from any other Third Party alleged to be responsible for any Liabilities, subsequent to an indemnification payment by the Indemnifying Party in respect thereof, then such Indemnified Party shall promptly reimburse the Indemnifying Party for any payment made by such Indemnifying Party in respect thereof up to the amount received by the Indemnified Party from such Third Party insurance policy or Third Party, as applicable.

Section 5.06. *Contribution*. If for any reason the indemnification provided for in Section 5.02 or Section 5.03 is unavailable to any Indemnified Party, or insufficient to hold it harmless, then the Indemnifying Party shall contribute to the amount paid or payable by such Indemnified Party as a result of such Liabilities in such proportion as is appropriate to reflect the relative fault of the ADS Group, on the one hand, and the Loyalty Ventures Group, on the other hand, in connection with the conduct, statement or omission that resulted in such Liabilities. In case of any Liabilities arising out of or related to information contained in the Form 10 or any amendment thereof, the Information Statement (as amended or supplemented if Loyalty Ventures shall have furnished any amendments or supplements thereto), the Equity Compensation Registration Statement or any offering or marketing materials prepared in connection with the Loyalty Ventures Financing Arrangements, the relative fault of the ADS Group, on the one hand, and the Loyalty Ventures Group, on the other hand, shall be determined by reference to, among other things, whether the untrue statement or alleged untrue statement of a material fact or the omission or alleged omission of a material fact relates to information supplied by Loyalty Ventures or any member of its Group, on the one hand, or ADS or any member of its Group (but solely to the extent such information is set forth on Schedule 5.03(b)), on the other hand.

Section 5.07. *Non-Exclusivity of Remedies*. Subject to Section 5.01, the remedies provided for in this Article 5 are not exclusive and shall not limit any rights or remedies which may otherwise be available to any Indemnified Party at law or in equity; *provided* that the procedures set forth in Sections 5.04 and 5.05 shall be the exclusive procedures governing any indemnity action brought under this Agreement.

Section 5.08. *Survival of Indemnities.* The rights and obligations of any Indemnified Party or Indemnifying Party under this Article 5 shall survive the sale or other transfer of any party of any of its assets, business or liabilities.

Section 5.09. *Ancillary Agreements*. If an indemnification claim is covered by the indemnification provisions of an Ancillary Agreement, the claim shall be made under the Ancillary Agreement to the extent applicable and the provisions thereof shall govern such claim. In no event shall any party be entitled to double recovery from the indemnification provisions of this Agreement and any Ancillary Agreement.

ARTICLE 6
MISCELLANEOUS

Section 6.01. *Notices.* Any notice, instruction, direction or demand under the terms of this Agreement required to be in writing shall be duly given upon delivery, if delivered by hand, facsimile transmission, mail, or e-mail transmission to the following addresses:

If to ADS to:

Alliance Data Systems Corporation
7500 Dallas Parkway, Suite 700
Plano, Texas 75024
Attn: General Counsel
Email: generalcounsel@alliancedata.com

with a copy to:

Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, New York 10017
Attn: Louis Goldberg
Email: louis.goldberg@davispolk.com

[HC49]: ~~Joe - suggest using the Plano address since that is the GC's home office AND this 3075 address is about to change as well but new notice address not yet determined.~~

If to Loyalty Ventures to:

Loyalty Ventures Inc.
~~[~~7500 Dallas Parkway, Suite 700
Plano, Texas 75024
Attn: General Counsel
Email: generalcounsel@~~alliancedata~~loyalty.com~~]~~

with a copy to:

Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, New York 10017
Attn: Louis Goldberg
Email: louis.goldberg@davispolk.com

[HC50]: ~~The Form 10 is using the Plano address for now. Unsure when new contact details will be available.~~

or such other address or ~~facsimile number~~email address as such party may hereafter specify for the purpose by notice to the other party hereto. All such notices, requests and other communications shall be deemed received on the date of receipt by the recipient thereof if received prior to 5:00 p.m. in the place of receipt and such day is a Business Day in the place of receipt. Otherwise, any such notice, request or communication shall be deemed not to have been received until the next succeeding Business Day in the place of receipt.

Section 6.02. *Amendments; No Waivers*. (i) Any provision of this Agreement may be amended or waived if, and only if, such amendment or waiver is in writing and is signed, in the case of an amendment, by ADS and Loyalty Ventures, or in the case of a waiver, by the party against whom the waiver is to be effective.

(b) No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by Applicable Law.

Section 6.03. *Expenses*. ADS and Loyalty Ventures shall each bear the costs and expenses incurred or paid in connection with the Restructuring, the Distribution and any other related transaction, as applicable, set forth below their respective names on Schedule 6.03.[18] All other third-party fees, costs and expenses paid or incurred in connection with the foregoing (except as specifically allocated pursuant to the terms of this Agreement or any Ancillary Agreement) will be paid by the party incurring such fees or expenses, whether or not the Distribution occurs, or as otherwise agreed by the parties in writing.

[HC51]: ~~Need Andretta, Horn, Ballou to help us here.~~

Section 6.04. *Successors and Assigns*. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns; *provided* that neither party may assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the consent of the other party hereto. If any party or any of its successors or permitted assigns (i) shall consolidate with or merge into any other Person and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (ii) shall transfer all or substantially all of its properties and assets to any Person, then, and in each such case, proper provisions shall be made so that the successors and assigns of such party shall assume all of the obligations of such party under the Distribution Documents.

Section 6.05. *Governing Law*. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to the conflicts of law rules of such state.

Section 6.06. *Counterparts; Effectiveness; Third-Party Beneficiaries*. This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. The words "execution," "signed," "signature," and words of like import in this Agreement or in any other certificate, agreement or document related to this Agreement shall include images of manually executed signatures transmitted by facsimile or other electronic format (including "pdf", "tif" or "jpg") and other electronic signatures (including DocuSign and AdobeSign). The use of electronic signatures and electronic records (including any contract or other record created, generated, sent, communicated, received, or stored by electronic means) shall be of the same legal effect, validity and enforceability as a manually executed signature or use of a paper-based recordkeeping system to the fullest extent permitted by Applicable Law. This Agreement shall become effective when each party hereto shall have received a

[18] ~~**Note to Draft**: To discuss allocation of expenses.~~

counterpart hereof signed by the other party hereto. Until and unless each party has received a counterpart hereof signed by the other party hereto, this Agreement shall have no effect and no party shall have any right or obligation hereunder (whether by virtue of any other oral or written agreement or other communication). Except for Section 4.07 and the indemnification and release provisions of Article 5, neither this Agreement nor any provision hereof is intended to confer any rights, benefits, remedies, obligations, or liabilities hereunder upon any Person other than the parties hereto and their respective successors and permitted assigns.

Section 6.07. *Entire Agreement*. This Agreement and the other Distribution Documents constitute the entire understanding of the parties with respect to the subject matter hereof and thereof and supersede all prior agreements, understandings and negotiations, both written and oral, between the parties with respect to the subject matter hereof and thereof. No representation, inducement, promise, understanding, condition or warranty not set forth herein or in the other Distribution Documents has been made or relied upon by any party hereto or any member of their Group with respect to the transactions contemplated by the Distribution Documents. Without limiting Section 5.09 and subject to Section 6.08, in the event and to the extent that there shall be a conflict between the provisions of this Agreement and the provisions of any Ancillary Agreement, the Ancillary Agreement shall control with respect to the subject matter thereof, and this Agreement shall control with respect to all other matters; *provided*, that except as provided for in Section 2.04 to extent that there shall be a conflict between the provisions of this Agreement and the provisions of any Restructuring Agreement, this Agreement shall control with respect to all matters.

Section 6.08. *Tax and Employee Matters*. Except as otherwise expressly provided herein, this Agreement shall not govern (i) Tax matters (including any administrative, procedural and related matters thereto), which shall be exclusively governed by the Tax Matters Agreement and the Employee Matters Agreement or (ii) employee matters (including any labor, compensation plans, benefit plans and related matters thereto), which shall be exclusively governed by the Employee Matters Agreement. For the avoidance of doubt, to the extent of any inconsistency between this Agreement and either of the Tax Matters Agreement or Employee Matters Agreement, the terms of the Tax Matters Agreement or Employee Matters Agreement, as the case may be, shall govern.

Section 6.09. *Jurisdiction.* The parties hereto agree that any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby shall be brought in the Chancery Court of the State of Delaware and any state appellate court therefrom within the State of Delaware (or if the Chancery Court of the State of Delaware declines to accept jurisdiction over a particular matter, any federal or state court sitting in the State of Delaware and any federal or state appellate court therefrom), and each of the parties hereby irrevocably consents to the exclusive jurisdiction of such courts in any such suit, action or proceeding and

irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any party anywhere in the world, whether within or outside of the jurisdiction of any such court. Without limiting the foregoing, each party agrees that service of process on such party as provided in Section 6.01 shall be deemed effective service of process on such party.

Section 6.10. *WAIVER OF JURY TRIAL.* EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 6.11. *Termination*. Notwithstanding any provision of this Agreement to the contrary, the Board of Directors of ADS may, in its sole discretion and without the approval of Loyalty Ventures or any other Person, at any time prior to the Distribution terminate this Agreement and/or abandon the Distribution, whether or not it has theretofore approved this Agreement and/or the Distribution. In the event this Agreement is terminated pursuant to the preceding sentence, this Agreement shall forthwith become void and neither party nor any of its directors or officers shall have any liability or further obligation to the other party or any other Person by reason of this Agreement.

Section 6.12. *Severability*. If any one or more of the provisions contained in this Agreement should be declared invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained in this Agreement shall not in any way be affected or impaired thereby so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such a declaration, the parties shall modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner so that the transactions contemplated hereby are consummated as originally contemplated to the fullest extent possible.

Section 6.13. *Survival*. All covenants and agreements of the parties contained in this Agreement shall survive the Distribution Date indefinitely, unless a specific survival or other applicable period is expressly set forth herein.

Section 6.14. *Captions*. The captions herein are included for convenience of reference only and shall be ignored in the construction or interpretation hereof.

Section 6.15. *Interpretation.* In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties, and no presumption or burden of proof shall arise favoring

or disfavoring any party by virtue of its authorship of any of the provisions of this Agreement.

Section 6.16. *Specific Performance*. Each party to this Agreement acknowledges and agrees that damages for a breach or threatened breach of any of the provisions of this Agreement would be inadequate and irreparable harm would occur. In recognition of this fact, each party agrees that, if there is a breach or threatened breach, in addition to any damages, the other nonbreaching party to this Agreement, without posting any bond, shall be entitled to seek and obtain equitable relief in the form of specific performance, temporary restraining order, temporary or permanent injunction, attachment, or any other equitable remedy which may then be available to obligate the breaching party (i) to perform its obligations under this Agreement or (ii) if the breaching party is unable, for whatever reason, to perform those obligations, to take any other actions as are necessary, advisable or appropriate to give the other party to this Agreement the economic effect which comes as close as possible to the performance of those obligations (including transferring, or granting liens on, the assets of the breaching party to secure the performance by the breaching party of those obligations).

Section 6.17. *Performance*. Each party shall cause to be performed all actions, agreements and obligations set forth herein to be performed by any member of such party's Group.

Section 6.18. *Confidential Supervisory Information.* Notwithstanding any other provision of this Agreement, no disclosure, representation or warranty shall be made (or other action taken) pursuant to this Agreement that results in the disclosure of confidential supervisory information (including confidential supervisory information as identified in 12 C.F.R. § 309.5(g)(8)) of a Governmental Authority by any party to this Agreement to the extent prohibited by applicable law. To the extent legally permissible, appropriate substitute disclosures or actions, which may include the disclosure of underlying facts or circumstances that do not themselves constitute confidential supervisory information, shall be made or taken under circumstances in which the limitations of the preceding sentence apply.

[*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the date first above written.

ALLIANCE DATA SYSTEMS CORPORATION

By: _____
Name:
Title:

LOYALTY VENTURES INC.

By: _____
Name:
Title:

Document comparison by Workshare 10.0 on Sunday, September 12, 2021 9:24:48 PM

Input:	
Document 1 ID	file://C:\Users\cynthia.hageman\Documents\ADS SEC Filings\2021\Spin\Ancillary Agreements\Separation & Distribution Agreement\Separation and Distribution Agreement-94579784-v10.docx
Description	Separation and Distribution Agreement-94579784-v10
Document 2 ID	file://C:\Users\cynthia.hageman\Documents\ADS SEC Filings\2021\Spin\Ancillary Agreements\Separation & Distribution Agreement\Separation and Distribution Agreement-94579784-v10 LS CH.docx
Description	Separation and Distribution Agreement-94579784-v10 LS CH
Rendering set	Standard

Legend:	
Insertion	
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Style change	
Format change	
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Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	119
Deletions	137
Moved from	3
Moved to	3

Style change	0
Format changed	0
Total changes	262

This is Exhibit “H” referred to in the Affidavit of Joseph L. Motes III affirmed by Joseph L. Motes III of the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on February 9, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits (or as may be)

RJ REID

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

FORM 10-K

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

For the fiscal year ended December 31, 2021
OR

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

For The Transition Period From _____ To _____

Commission file number: 001-40776

Loyalty Ventures Inc.
(Exact name of registrant as specified in its charter)

Delaware	87-1353472
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification Number)**

7500 Dallas Parkway, Suite 700
Plano, Texas 75024
(Address of Principal Executive Offices)

(972) 338-5170
(Registrant's telephone number)

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

Title of Each Class	Trading Symbol	Name of Exchange On Which Registered
Common stock, $0.01 par value per share	**LYLT**	**The Nasdaq Stock Market LLC**

Securities registered pursuant to Section 12(g) of the Act: **None**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.
Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act.
Yes ☐ No ☒

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the Registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☒ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	☐	Accelerated filer	☐		
Non-accelerated filer	☒	Smaller reporting company	☐	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. ☒

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report. ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

As of June 30, 2021, the last business day of the Registrant's most recently completed second fiscal quarter, the Registrant's common stock was not publicly traded, and the aggregate market value of the Registrant's Common Stock held by non-affiliates as of that date was $0 as Registrant was an indirect, wholly-owned subsidiary of Alliance Data Systems Corporation as of that date.

As of February 18, 2022, 24,611,546 shares of common stock were outstanding.

Documents Incorporated By Reference

Certain information called for by Part III is incorporated by reference to certain sections of the Proxy Statement for the 2022 Annual Meeting of our stockholders, which will be filed with the Securities and Exchange Commission not later than 120 days after December 31, 2021.

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Loyalty Ventures Inc.

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Caution Regarding Forward-Looking Statements

This Annual Report on Form 10-K and the documents incorporated by reference herein contain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. All statements other than statements of historical fact, including statements regarding guidance, industry prospects, or future results of operations or financial position, made in this Annual Report on Form 10-K are forward-looking statements. Forward-looking statements give our expectations or forecasts of future events and can generally be identified by the use of words such as "believe," "expect," "anticipate," "estimate," "intend," "project," "plan," "likely," "may," "might," "should," "would" or other words or phrases of similar import. We believe that our expectations are based on reasonable assumptions. Forward-looking statements, however, are subject to a number of risks and uncertainties that could cause actual results to differ materially for a variety of reasons, including, among others, continuing impacts related to COVID-19, including variants, reductions in government economic stimulus, labor shortages, reduction in demand from clients, supply chain disruption for our reward suppliers and disruptions in the airline or travel industries; loss of, or reduction in demand for services from, significant clients; loss of active AIR MILES® Reward Program collectors or greater than expected redemptions by the same; unfavorable resolution of pending or future litigation matters; disruption to operations due to the separation from our former parent or failure of the separation to be tax-free; our high level of indebtedness; increases in market interest rates; fluctuation in foreign exchange rates; new regulatory limitations related to consumer protection or data privacy limiting our services; and loss of consumer information due to compromised physical or cyber security. These risks and uncertainties, as well as other risks and uncertainties that could cause our actual results or outcomes to differ significantly from management's expectations, are described in greater detail in Item 1A of Part I, "Risk Factors." Any forward-looking statements contained in this Form 10-K speak only as of the date made, and we undertake no obligation, other than as required by applicable law, to update or revise any forward-looking statements, whether as a result of new information, subsequent events, anticipated or unanticipated circumstances or otherwise.

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PART I

Item 1. Business.

Overview

Loyalty Ventures Inc. ("Loyalty Ventures," "we," or "our") is a leading provider of tech-enabled, data-driven consumer loyalty solutions. Our solutions are focused on helping partners achieve their strategic and financial objectives, from increased consumer basket size, shopper traffic and frequency and digital reach to enhanced program reporting and analytics. We help financial services providers, retailers and other consumer-facing businesses create and increase customer loyalty across multiple touch points from traditional to digital to mobile and emerging technologies. We own and operate the AIR MILES® Reward Program, Canada's most recognized loyalty program, and BrandLoyalty, a leading global provider of campaign-based loyalty solutions for grocers and other high-frequency retailers.

The AIR MILES Reward Program is an end-to-end loyalty platform, combining technology, data/analytics and other solutions to help our clients (who we call sponsors) drive increased engagement by consumers (who we call collectors) with their brand. The AIR MILES Reward Program operates as a full-service coalition loyalty program for our sponsors. We provide marketing, customer service, rewards and redemption management for our sponsors. We typically grant sponsors exclusivity in their market category, enabling them to realize incremental sales and increase market share as a result of their participation in the AIR MILES Reward Program. The AIR MILES Reward Program enables collectors to earn AIR MILES reward miles as they shop across a broad range of sponsors from financial institutions, grocery and liquor, e-commerce, specialty retail, pharmacy, petroleum retail, and home furnishings to hardware, that participate in the AIR MILES Reward Program. These AIR MILES reward miles can be redeemed by collectors for travel, entertainment, experiences, merchandise or other rewards. Through our AIR MILES cash program option, collectors can also instantly redeem their AIR MILES reward miles earned in the AIR MILES cash program option toward in-store purchases at participating sponsors, such as Shell Canada.

BrandLoyalty is a worldwide leader in campaign-based loyalty solutions that positively impact consumer behavior on a mass scale. We pride ourselves on being a business with purpose by connecting high-frequency retailers, supplier partners and consumers to create sustainable solutions for today's challenges. We design, implement, conduct and evaluate innovative, digitally enhanced, tailor-made loyalty campaigns. These campaigns are tailored for the specific client and are designed to reward key customer segments based on their spending levels during defined campaign periods. At BrandLoyalty, we aim to let shoppers feel emotionally connected when they shop at our clients, by designing campaigns with the right mechanics and rewards that instantly change shopping behavior and engender loyalty. The rewards we offer come from top brands with high creative standards such as Disney, Zwilling, and vivo | Villeroy & Boch.

Spin-off Transaction

On October 13, 2021, the Board of Directors of Alliance Data Systems Corporation ("ADS" or "Parent") approved the previously announced separation (the "Separation") of its LoyaltyOne segment, consisting of its Canadian AIR MILES® Reward Program and BrandLoyalty businesses, into an independent, publicly traded company, Loyalty Ventures Inc. ("Loyalty Ventures"). On November 5, 2021, the date of the Separation, 81% of the outstanding shares of Loyalty Ventures were distributed pro rata based on the outstanding shares of ADS common stock at the close of business on the record date of October 27, 2021, with ADS retaining the remaining 19% of the outstanding shares of Loyalty Ventures. ADS stockholders of record that did not sell their rights to receive Loyalty Ventures stock before the close of business on November 5, 2021 received one share of Loyalty Ventures common stock for every two and one-half (2.5) shares of ADS common stock. Additionally, Loyalty Ventures made a cash distribution of $750.0 million to ADS on November 3, 2021 as part of the Separation. The distribution qualified as a tax-free reorganization and a tax-free distribution to ADS and its stockholders for U.S. federal income tax purposes. On November 8, 2021, "regular-way" trading of Loyalty Ventures' common stock began on the Nasdaq Stock Market under the symbol "LYLT".

We entered into several agreements with ADS that govern the relationship of the parties following the Separation, including the Separation and Distribution Agreement, the Tax Matters Agreement, the Transition Services Agreement

("TSA"), and the Employee Matters Agreement. Under the terms of the TSA, ADS agreed to provide certain corporate, administrative and information technology services for periods up to 18 months, certain of which may be extended for an additional six-month period. See Note 1, "Description of Business, Spinoff and Basis of Presentation," of the Notes to Consolidated and Combined Financial Statements for additional information regarding these agreements.

Strategy

Our goal is to accelerate stakeholder value creation through the continued development of loyalty platforms for the tech-forward business and consumer era. We intend to pursue a variety of new omnichannel initiatives, including expanding geographies and verticals; further enriching tech and analytic capabilities; employing sustainable solutions; and seeking additional strategic partnerships.

Attract new clients and grow existing client base

The AIR MILES Reward Program continues to focus on broadening our sponsor base and expanding the network effects of the coalition. We seek to attract new sponsors and deepen existing relationships by enhancing our solutions portfolio. Deployment of enriched marketing and advertising capabilities will further sponsors' ability to reach and engage collectors, increasing the value proposition for sponsors and reward suppliers alike. Diversifying the sponsor network, including expansion to non-traditional partnerships and alliances, including new arrangements with business-to-business e-commerce platforms that enable smaller, local e-commerce partners to incorporate AIR MILES reward miles in their promotional activities, will allow for a stronger and broader ecosystem to capture a larger portion of total consumer spend within the AIR MILES Reward Program. A core advantage to being a part of the AIR MILES Reward Program is the benefit to each partner as the coalition expands.

Similarly, we believe there is market opportunity for BrandLoyalty to grow its client base by adding new grocers in existing markets. Additional opportunity exists in the form of diversification into adjacent segments, such as convenience stores and pharmacies, which are a natural fit for BrandLoyalty due to the high frequency and spend profile of the customer base. Further expansion into new growing verticals like e-commerce and food delivery is also expected to present significant opportunities.

By diversifying and growing our ability to integrate advanced data analytics with marketing and loyalty services, we seek to position ourselves to serve the modern consumer, thus increasing the value proposition for our clients by delivering long-term integrated growth opportunities and ultimately delivering returns for our stakeholders.

Invest in technology to better engage consumers

The AIR MILES Reward Program continues to focus on driving collector engagement to enhance the benefit to the entire coalition of sponsors. The AIR MILES Reward Program has focused on enhancing digital initiatives targeting younger demographic channels as well as the broader collector base as a whole. By providing in-store and mobile access and increasing the relevancy of personalized, targeted, real-time offers, the AIR MILES Reward Program is improving effectiveness of digital campaigns and overall collector engagement. We will continue to invest in technology to deliver new digital products and solutions to improve collector engagement and the sponsor value proposition. An expansive collector and sponsor base results in an expanding database, which can be used to create and monetize new and innovative supplemental solutions for all partners of the ecosystem.

BrandLoyalty has built a first-class technology platform and array of digital tools, including the Bright Loyalty Platform, the Analytical Framework, StorePal and other features to support its campaign-based loyalty solutions. The Analytical Framework provides full-cycle loyalty program design, real-time feedback and evaluation to adjust programs in progress or apply learnings to future designs. BrandLoyalty's Bright Loyalty Platform provides shoppers the ability to collect and share points digitally, earn badges, play games, view leaderboards and level up to achieve better status and more exclusive perks. BrandLoyalty also offers StorePal to directly support in-store staff with program execution through state-of-the-art AI analysis and collaboration to improve in-store marketing, display placement, staff program knowledge and stock availability.

We believe opportunities exist to leverage the digital loyalty capabilities of BrandLoyalty's platform and the highly advanced data science platform of the AIR MILES Reward Program to enhance the digital tools and capabilities of both businesses.

Expand into new geographies

We will seek to expand our geographic reach to accelerate growth. Our client-centered approach and the almost 30-year operating history of our businesses has resulted in unique, rich shopper and market data, which we use to generate insights for brands globally. There is substantial opportunity to serve untapped markets across the globe, which will serve as a growth lever in the near-term and solidify sustainable sources of future revenue going forward. In the near term, BrandLoyalty expects to increase its presence in the United Kingdom, the United States and the Nordic region. We also intend to enhance our product offerings and geographic footprint through opportunistic acquisitions that complement our business. We will consider select acquisition opportunities that expand the breadth of our product portfolio, enhance our market positioning and accelerate our presence in attractive geographies, while maintaining alignment with our culture.

Segments

Our business is managed and reported as two segments: the AIR MILES Reward Program segment and the BrandLoyalty segment, which provide coalitions and campaign-based loyalty programs, respectively, as described more fully below. Financial information about our segments and geographic areas appears in Note 23, "Segment Information," of the Notes to Consolidated and Combined Financial Statements.

The AIR MILES Reward Program

The AIR MILES Reward Program is an end-to-end loyalty platform, combining technology, data and analytics and other solutions to help our sponsors drive increased engagement by collectors with their brand. The AIR MILES Reward Program operates as a full-service outsourced coalition loyalty program for our sponsors, who pay us a fee per AIR MILES reward mile issued, in return for which we provide all marketing, customer service, rewards and redemption management. The AIR MILES Reward Program enables collectors to earn AIR MILES reward miles as they shop across a broad range of retailers and other sponsors participating in the AIR MILES Reward Program. The AIR MILES Reward Program provides a wide range of rewards from leisure and entertainment to merchandise, flight, travel and unique experiences with over 1,000 reward options that appeal to an expansive set of collectors. Through our AIR MILES Cash program option, collectors can also instantly redeem their AIR MILES reward miles collected in the AIR MILES Cash program option toward in-store purchases at participating sponsors.

Sponsors

We have over 100 brand name sponsors that participate in our AIR MILES Reward Program, including Shell Canada Products, Jean Coutu, Amex Bank of Canada, Sobeys Inc. and Bank of Montreal. Our sponsor base covers a diverse set of market spend categories, including gas, pharmacy, credit card, and grocery. Relationships with our largest and most well-known sponsors account for a significant portion of our consolidated and combined revenue, including approximately 17% from Bank of Montreal for the year ended December 31, 2021. We typically grant participating sponsors exclusivity in their market category, enabling them to realize incremental sales and increase market share as a result of their participation in the AIR MILES Reward Program.

Collectors

Collectors can accumulate AIR MILES reward miles across a significant portion of their everyday spend and can earn AIR MILES reward miles at thousands of in-store and online retail and service locations, including through our AIR MILES Reward Program eCommerce site. Collectors can also earn AIR MILES reward miles at any locations where they are permitted to use certain credit cards issued by Bank of Montreal and Amex Bank of Canada. Collectors can redeem AIR MILES reward miles through multiple channels, including in-lane cash redemptions, online cash

redemptions through our mobile app and online. We utilize these multiple channels to enable collectors to redeem for the rewards they desire in the physical and digital locations they frequent.

As of December 31, 2021, there were approximately 10 million collectors in the AIR MILES Reward Program.

Suppliers

We enter into agreements with airlines, supplier platforms and other providers to supply rewards for the AIR MILES Reward Program. The broad range of rewards that can be redeemed is one of the reasons the AIR MILES Reward Program remains popular with collectors and collectors continue to engage in the program. Hundreds of brands use the AIR MILES Reward Program as an additional distribution channel for these products. Suppliers include well-recognized companies in diverse industries, including travel, hospitality, electronics and entertainment.

Loyalty platform

We provide a fully managed loyalty platform that helps our sponsors by driving traffic, understanding key trends and maximizing loyalty return on investment. We provide full management of all loyalty program services and capabilities with instant issuance at point of sale and instant cash redemption at point of sale (with real-time enabled connection), along with diverse merchandise and travel rewards management, a full-service Customer Care team (employees answer questions in English & French through voice, chat and social media channels) and plug and play through ready-to-integrate application programming interfaces, or APIs.

We use data management and analytics to integrate a vast set of consumer information and turn it into meaningful collector insights which (i) engage key segments with targeted, relevant communications with our sponsors, (ii) create predictive models to enhance lifetime value throughout the customer lifecycle, and (iii) integrate directly with marketing channels for personalized experiences. These management and analytics services help Sponsors understand and optimize loyalty performance. We provide dedicated teams to help operate the program and deliver deep insights with reporting and analytics solutions to understand program performance and contribution and to monitor program and customer health. We also use traditional and AI-powered marketing tools to reach and engage collectors across multiple channels.

Our data and technology stack provides solutions based on agility, versatility, scalability and security.

BrandLoyalty

BrandLoyalty is a leading global provider of campaign-based loyalty solutions providing tailor-made programs to leading grocery and other high frequency retailers. Our customers pay us a fee, based on the number of redemptions, to create and implement customized campaigns designed to increase consumer traffic and develop consumer loyalty and long-term relationships. These campaigns are targeted at segments with the aim to increase the share of wallet for our customer by providing stamps for a certain spent amount which can ultimately be redeemed by the consumer for highly collectible rewards and are designed to generate traffic growth and increase basket size for our customer. The campaign-based loyalty programs typically last between 6 and 20 weeks, depending on the nature of the program, with contract terms usually less than one year in length. These programs are tailored for the specific retailer client and are designed to reward key customer segments based on their spending levels during defined campaign periods.

Customers

In 2021, we had approximately 145 retailers as our customers, operating on six continents in approximately 45 countries. Europe and Asia represented our largest presence, with campaigns also offered in the United States, Canada, Brazil and Nordic regions. Many of our customers are leading grocery retailers in their respective countries.

Brand suppliers

BrandLoyalty manages a broad portfolio of premium reward suppliers balanced between exclusive contracts, licenses and proprietary suppliers that are globally relevant and recognized brand suppliers. These suppliers offer highly

desirable rewards, encouraging long-term consumer loyalty, and the portfolio approach ensures we can offer the optimal reward proposition for the targeted consumer segment at the right economics.

Tech-enabled solutions

Our Analytical Framework supports our customer throughout the end-to-end campaign design by identifying the right campaign type with the right mechanics during the campaign preparation, by providing predictions and insights on campaigns in execution and by evaluating finished campaigns. It provides real-time feedback and evaluation to adjust programs in progress or apply learnings to future designs.

Our Bright Loyalty Platform is a cloud-based loyalty solution that provides our customers with a plug and play solution to run digital loyalty solutions, enabling new ways of interacting such as instant promotions and digital stamp collection. It provides shoppers the ability to collect and share points digitally, earn badges, play games, view leaderboards and level up to achieve better status and more exclusive perks.

StorePal is a digital tool that provides retailers AI-enabled insights on store level campaign execution benefitting campaign performance and consumer engagement through in-store marketing, display placement, staff program knowledge and stock availability.

Competition

The markets for our products and services are highly competitive. We compete with advertising and other promotional and loyalty programs, both traditional and online, for a portion of a client's total marketing budget, as well as with the in-house staffs of our current and potential clients. In the campaign-based loyalty program market, we have both global and, in certain geographies, regional competitors with the most significant being TCC Global N.V.

Seasonality

Our revenues, earnings and cash flows are affected by promotional activity by our sponsors, timing of campaign-based loyalty programs in market as well as increased consumer spending patterns leading up to and including the holiday shopping period in the fourth quarter.

Disaster and Contingency Planning

We operate, either internally or through third-party service providers, multiple data processing centers to process and store our customer transaction data. Given the significant amount of data that we or our third-party service providers manage, much of which is real-time data to support our clients' commerce initiatives, we have established redundant capabilities for our data centers. We have a number of safeguards in place that are designed to protect us from data-related risks and in the event of a disaster, to restore our data centers' systems.

Protection of Intellectual Property and Other Proprietary Rights

We rely on a combination of copyright, trade secret and trademark laws, confidentiality procedures, contractual provisions and other similar measures to protect our proprietary information and technology used in each segment of our business. We generally enter into confidentiality or license agreements with our employees, consultants and corporate partners, and generally control access to and distribution of our technology, documentation and other proprietary information. Despite the efforts to protect our proprietary rights, unauthorized parties may attempt to copy or otherwise obtain the use of our products or technology that we consider proprietary and third parties may attempt to develop similar technology independently. We have a number of domestic and foreign patents and pending patent applications. We pursue registration and protection of our trademarks primarily in the United States and Canada, although we also have either registered trademarks or applications pending for certain marks in other countries. No individual patent or license is material to us or our segments other than that we are the exclusive Canadian licensee of the AIR MILES family of trademarks pursuant to a perpetual license agreement with Diversified Royalty Corp., for which we pay a

royalty fee. We believe that the AIR MILES family of trademarks and our other trademarks are important for our branding, corporate identification and marketing of our services in each business segment.

We own or have rights to use trademarks and trade names that we use in conjunction with the operation of our business, which appear throughout this Form 10-K. Solely for convenience, we may not use the ™ or ® symbols every time the trademark/trade name is mentioned. We may also refer to brand names, trademarks, service marks and trade names of other companies and organizations, and these brand names, trademarks, service marks and trade names are the property of their respective owners.

Regulation

Data protection and consumer privacy laws and regulations continue to evolve, increasing restrictions on our ability to collect and disseminate collector or customer information. In addition, the enactment of new or amended legislation or industry regulations pertaining to consumer or public or private sector privacy issues could have a material adverse impact on our marketing services, including placing restrictions upon the collection, sharing and use of information that is currently legally permissible.

The rapid development of new privacy regulations and the evolution of existing data protection requirements around the globe and penalties for noncompliance may impose additional compliance and operational requirements and increase our cost to serve in the form of organizational changes, implementation of new technologies, employee training and engaging consultants. Such requirements may require us to modify or restrict our data processing practices and policies and any failure or perceived failure by us to comply with any applicable federal, state or similar foreign laws and regulations relating to data privacy and security could result in damage to our reputation, as well as proceedings or litigation by governmental agencies or other third parties, including class action privacy litigation in certain jurisdictions, which would subject us to significant fines, sanctions, awards, damages, penalties or judgments, all of which could have a material adverse effect on our business, financial condition, results of operations and prospects.

For further information related to regulation, see "Item 1A. Risk Factors."

Human capital

Our people form the core of our business, and we want our people to enjoy the journey. Our ability to build value for our sponsors, collectors and our clients and their consumers as well as our stockholders depends on the performance of our more than 1,400 employees in 20 countries around the world as of December 31, 2021. To facilitate talent acquisition and retention, we strive to make Loyalty Ventures a diverse, equitable and inclusive environment, with a strong culture and opportunities for our employees to grow and develop in their careers while being supported by competitive compensation and benefit programs.

Culture

Loyalty Ventures benefits from the blend of the vibrant cultures of the AIR MILES Reward Program and BrandLoyalty.

The unique culture at the AIR MILES Reward Program comes from the collaboration, dedication, and fun their teams bring to work every day. Their pride and passion are felt across the organization from leadership to new hires on their first day, and this is engrained in everything they do, all with a focus on delivering results for their clients, engaging their customers and empowering their employees. In addition, the AIR MILES Reward Program enables sponsors, collectors and employees alike to create lasting social and environmental change in Canadian communities through its impact strategy, consisting of four pillars that include environment; giving back; diversity, equity and inclusion; and social impact. We invest time and energy to ensure these pillars are engrained in the business goals of our organization.

At BrandLoyalty, our people are at the core of our business. Employees at BrandLoyalty are entrepreneurial and responsible, eager to stay ahead of the curve, anticipating new trends and driving innovation. Their enthusiasm stimulates our ability to grow. BrandLoyalty's culture is defined by its values, creating an invisible cord that binds a

multinational business. BrandLoyalty's value pillars of connected, original, responsible and dynamic create next generation happiness for our clients and their consumers across the globe. BrandLoyalty believes that by being consumer-driven, we can best help our clients, that by growing our business, we can attract and retain the best employees, that by developing our talent, we can create better solutions, that by improving daily life, we can be meaningful to our consumers, and that by giving our best, opening minds, touching hearts, appealing to individuals separate from the masses and having fun, we can make people happy. Our values turn our ambitions into action, to create next-generation happiness. BrandLoyalty loves happy people.

In addition, Loyalty Ventures' code of ethics remains central to our expectation that employees embody our values and, as such, every new hire and annually every employee is required to certify to their understanding of, and adherence to, the code of ethics.

Diversity, equity & inclusion

We believe that diversity, equity and inclusion ("DE&I) is important to our continued success and our ability to serve our sponsors, collectors, clients and their consumers. The AIR MILES Reward Program set out on building an explicit and focused approach to DE&I by first reviewing its processes, team structures and operating practices. The AIR MILES Reward Program worked across the business to identify where inclusion and accessibility might drive value and innovation, and how to embed it into workplace culture. Understanding inclusion is a journey, not a destination, and in 2021 the AIR MILES Reward Program engaged a third-party consultant to assist its cross-functional leadership team to further its strategy development and action plans for DE&I. Further, more than half of the AIR MILES Reward Program employees have engaged in foundational e-learning coursework in this area. At BrandLoyalty, we continuously initiate and support projects to further grow as an organization on DE&I. For example, our 'culture and connect' project team is raising awareness around DE&I throughout the year and we've redesigned the hiring process to provide equal opportunities and improve diversity in all teams. We continuously train our people on awareness and unconscious bias and how to improve awareness, encourage multi-disciplinary teams, and celebrate the important holidays of our various nationalities. Above all, we believe that "diversity is only a word, if we are not being inclusive."

Talent development and retention

We are committed to identifying and developing the talents of our people, as well as retaining these talented employees as a key component of operating a successful business with a vibrant culture.

Our AIR MILES Reward Program provides a comprehensive year-round training calendar led by internal and external experts, focused on developing skills, capabilities, leadership fundamentals and aspiring leaders. Additionally, the AIR MILES Reward Program supports its employees with continuing formal education and provides a tuition reimbursement, up to a set amount per calendar year, for the cost of courses and required educational material at accredited colleges or universities.

BrandLoyalty is committed to identifying and developing the talents of our people, as well as retaining them. All new colleagues participate in a unique online onboarding program to not only get a jump start into the core of the business but also to immediately grasp the culture of collaboration and teamwork. Further, our internally developed BrandLoyalty University takes care of developing relevant business and market knowledge and also offers a wide range of professional and personal development opportunities throughout our people's career paths. For every functional group, we have a unique learning curriculum for all employees at all levels.

In addition to career-oriented training and development, across Loyalty Ventures, we require annual employee training to ensure ongoing adherence to responsible business practices and ethical conduct.

Compensation

We believe the structure of our compensation and benefit programs provides the appropriate incentives to attract, retain and motivate our employees. We provide pay that, together with benefits, is competitive and aligns across employee positions, skill levels, experience and geographic location.

Human capital metrics

Category	Metric		Year-End 2021
Employees	Employees by Geography	Americas	890
		Asia Pacific	102
		EMEA	414
Development	2021 Annual Survey*	Opportunity to develop	78%
Diversity, Equity & Inclusion	2021 Annual Survey*	DE&I Environment**	89%
	Gender Representation	% Female	58%
		% Female leadership	42%
Retention	Voluntary Attrition	% Global	17%
	Employee Acquisition	% Global	19%
	Tenure	Leadership	9 years
		All Employees	7 years
Compensation	Compensation and Benefits	2021 Expenses (thousands)	$ 155,966

* 2021 Annual Survey includes only the AIR MILES Reward Program and BrandLoyalty.

** Includes response to the following two statements: (1) my employer is committed to a diverse, equitable and inclusive environment; and (2) I have an opportunity to get to know people with different racial and ethnic backgrounds.

Available Information

We file or furnish annual, quarterly and current reports, proxy statements and other information with the Securities and Exchange Commission ("SEC"). Our SEC filings are available to the public at the SEC's website at www.sec.gov. You may also obtain copies of our annual, quarterly and current reports, proxy statements and certain other information filed or furnished with the SEC, as well as amendments thereto, free of charge from our website, www.loyaltyventures.com. No information from this website is incorporated by reference herein. These documents are posted to our website as soon as reasonably practicable after we have filed or furnished these documents with the SEC. We post our audit committee, compensation committee and corporate governance and nominating committee charters, our corporate governance guidelines, and our code of ethics, code of ethics for senior financial officers, and code of ethics for board members on our website. These documents are available free of charge to any stockholder upon request.

Item 1A. Risk Factors.

The following summary of our principal risks provides an overview of the inherent uncertainty investing in us presents and is not exhaustive. This summary is qualified in its entirety by reference to the complete description of our risk factors set forth immediately below. With regard to strategic, operational and competitive business risks, we caution that the impacts of COVID-19 on the macroeconomic environment will continue to heighten all of our risks for an indeterminate duration.

Risks related to the strategic, operational and competitive business environment include client concentration, increases in redemptions or their cost, loss of sponsors, collectors or desired rewards, reduced demand for short-term loyalty programs, disruptions in reward quality or availability, competition for new business and changes in consumer preference.

- Our ten largest clients represented 58% of our consolidated and combined revenue in 2021, and these client commitments may not be long-term.
- Loss of sponsors, business by our clients, relationships with rewards suppliers or changes in collector redemption amounts or patterns may limit both our growth and results of operations.
- Airline or travel industry disruptions, including airline competition, market availability, operating restrictions, restructurings or insolvencies, could limit collector engagement in the AIR MILES Reward Program.
- Failure to accurately forecast consumer demand for our BrandLoyalty campaigns could result in excess inventories or inventory shortages.

- Inability to anticipate and respond to market trends and changes in consumer preferences for loyalty program features or rewards could reduce demand for our services.
- Failure of rewards suppliers to deliver in contracted quantities, in a timely manner and meeting quality standards could adversely affect our reputation with sponsors, clients and loyalty program participants.
- Opportunities to grow our business may be limited by inability to identify or pursue suitable acquisitions or new business opportunities, or to effectively integrate businesses we acquire.

Risks related to our liquidity, the transition to an independent public company and other terms of our separation from ADS include servicing our outstanding indebtedness, maintaining adequate liquidity, expenditure of limited resources, lack of independent operating history, inequitable indemnities with ADS, insufficient remedies or markets for our equity securities, conflicts of interest, and potential tax-related liabilities.

- High levels of indebtedness may restrict our ability to compete, react to changes in our business and incur additional indebtedness to fund future needs.
- Our historical combined financial information may not necessarily be representative of the results we would have achieved as an independent, publicly traded company and may not be indicative of our future results.
- We may incur significant costs and utilization of other resources to create the infrastructure necessary to operate as an independent publicly traded company, or experience operational disruptions.
- Reciprocal indemnifications with ADS in connection with the Separation may not equitably allocate responsibility, may be insufficient to insure us for liabilities incurred or may require us to divert cash to fund obligations to ADS.
- Our board chair owns an equity position in, and is a director for, ADS, giving rise to potential conflicts of interest.
- If the Separation and Distribution fail to qualify as tax-free due to a breach of any covenant or representation by us or if we fail to comply with the restrictions placed on us for subsequent periods, we may be responsible to ADS for significant tax-related liabilities.

Risks related to our information technology, cyber, privacy or other legal and regulatory matters include potential for data breach, or other restrictions on the use of sponsor, collector, client consumer and supplier information, operating in complex global legal environments and fluctuations in global economic conditions.

- Failures in data protection, cyber and information security and protection of intellectual property rights could critically impair our products, services and ability to conduct business as well as expose us to data loss, legal claims or liability and/or reputational damage.
- Changes to consumer protection, data protection, governance, data privacy and security laws that restrict functionality that enhance loyalty and marketing program capabilities and appeal to sponsors, clients and loyalty program participants.
- Resolution of pending or future litigation, regulatory actions and compliance issues could subject us to significant expense or obligation to change our business practices.
- Complex international laws as well as operating in jurisdictions lacking developed regulatory and legal systems requires extensive effort to manage compliance.
- Global economic factors beyond our control may impact demand for our services and cause fluctuations in foreign currency exchange rates that impact our results of operations.

Risks relating to our common stock include lack of significant operating history, restrictive provisions in our charter documents, concentrated ownership and potential for dilution.

- Provisions in our amended and restated certificate of incorporation and amended and restated bylaws and certain provisions of Delaware law could delay or prevent a change in control.
- A large number of our shares are or will be eligible for future sale, which may dilute your percentage ownership and cause the market price of our common stock to decline.

Strategic, Operational and Competitive Business Risks

Impacts related to the COVID-19 pandemic are expected to continue to pose risks to our business for the foreseeable future, heighten many of our known risks and may have a material adverse impact on our results of operations, financial condition and liquidity.

Following the declaration by the WHO in the first quarter of 2020 of COVID-19 as a global pandemic and the rapid spread of COVID-19, international, provincial, federal, state and local government or other authorities have instituted certain preventative measures, including border closures, travel bans, prohibitions on group events and gatherings, shutdowns or other operational restrictions on certain businesses, curfews, shelter-in-place orders, quarantines and recommendations to practice social distancing. Certain jurisdictions have reopened only to return to more stringent restrictions where increases in COVID-19 cases occur. These restrictions have continued to disrupt economic activity worldwide, resulting in volatility in the global capital markets, instability in the credit and financial markets, reduced commercial and consumer confidence and spending, widespread furloughs and layoffs, closure or restricted operating conditions for retail stores, labor shortages, disruption in supply chains (including availability of raw materials, ability to manufacture goods and delivery of finished products to suppliers and retailers), and near complete cessation of many hospitality and travel industry operations. Even as vaccines are distributed and administered, the ongoing restrictions, economic impacts, including reductions in government economic stimulus or payment deferrals, the emergence of more transmissible variants, the global availability and efficacy of vaccines and health concerns associated with the pandemic, may continue to affect consumer behavior, spending levels and retail preferences.

Specific impacts on our operations and financial results include, but are not limited to, the following:

- Short- and long-term difficulties of our retail partner clients in consumer-based businesses due to restricted foot traffic, limitations of our e-commerce platforms, their trouble maintaining supply chain integrity for both availability of desired products and delivery to end consumers, and reduced consumer confidence and spending may result in reduced sales for our retail partner clients.

- Deferral of campaign-based loyalty programs or the inability to source or deliver rewards for these programs across borders may reduce or defer revenue or increase our costs of operations. For example, during 2021 disruption to transportation channels due to port closures, the blockage of the Suez Canal, and labor shortages, led to increased utilization of alternate shipping modes, including air freight lanes, at increased cost. Demand for advance transportation lane bookings, as well as increased fuel costs, have kept shipping costs elevated and delivery timelines delayed across the globe. Further, with the ongoing impact of the COVID-19 pandemic, in the fourth quarter of 2021, we recognized a non-cash, goodwill impairment charge of $50.0 million.

- Reduced demand for hospitality, airline and other travel-related rewards within the AIR MILES Reward Program due to the various COVID-19 restrictions negatively impacts redemption revenue as collectors both changed existing reward travel and are unable to schedule future reward travel with any certainty as to the duration of restrictions.

- Volatility in the financial markets may increase our cost of capital and/or limit its availability.

- Increased operational risk, including impacts to our data, customer care center and other network integrity and availability in addition to heightened cybercriminal activity and other cyberfraud risk, may affect our ability to timely and effectively meet the needs of our sponsors, collectors, clients or other consumers in both segments.

- Increased risks to the health and safety of our employees and that of our third-party vendors may impact our ability to maintain service levels for our partners.

Despite the emergence of vaccines, surges in COVID-19 cases, including variants of the strain, may cause people to self-quarantine or governments to shut down nonessential businesses again. The broad availability of COVID-19 vaccines globally and the willingness of individuals to be vaccinated are difficult to predict. The pace and shape of the COVID-19 recovery as well as the impact and extent of potential resurgences is not presently known. We continue to

evaluate the nature and extent of changes to the market and economic conditions related to the COVID-19 pandemic and current and potential impact on our business and financial position. However, given the dynamic nature of this situation, we cannot reasonably estimate the impacts of COVID-19 on our future results of operations or cash flows at this time.

To the extent the COVID-19 pandemic continues to adversely affect our business, results of operations, financial condition and liquidity, many of the other risks described in this "Risk Factors" section may also be heightened.

Our 10 largest clients represented 58%, 55% and 46% respectively, of our consolidated and combined revenue for the years ended December 31, 2021, 2020 and 2019, and the loss of any of these clients could cause a significant reduction in our consolidated revenue.

We depend on a limited number of large clients for a significant portion of our consolidated and combined revenue. Our 10 largest clients represented approximately 58%, and 55% and 46%, respectively, of our consolidated and combined revenue for the years ended December 31, 2021, 2020 and 2019. The Bank of Montreal represented approximately 17%, 15% and 12%, respectively, of our consolidated and combined revenue for the years ended December 31, 2021, 2020 and 2019. Our contract with Bank of Montreal expires in 2023, subject to further automatic renewals as well as certain rights of either party to terminate following notice of default and cure provisions. A decrease in revenue from any of our significant clients, including Bank of Montreal, for any reason, including a decrease in pricing or activity, or a decision either to utilize another service provider or to no longer procure the services we provide, could have a material adverse effect on our consolidated revenue.

If redemptions by the AIR MILES Reward Program collectors are greater than expected, or if the costs related to redemption of AIR MILES reward miles increase, our profitability could be adversely affected.

Although our AIR MILES reward miles do not expire with the exception of cases of inactivity, as described in "Management's Discussion and Analysis—Discussion of Critical Accounting Estimates," a portion of our revenue is based on our estimate of the number of AIR MILES reward miles that will go unused by the collector base. The percentage of AIR MILES reward miles not expected to be redeemed is known as "breakage."

Breakage is based on management's estimate after viewing and analyzing various historical trends including vintage analysis, current run rates and other pertinent factors, such as the impact of macroeconomic factors and changes in the program structure, the introduction of new program options and changes to rewards offered. If there is any significant change in or failure by management to reasonably estimate breakage, or if actual redemptions are greater than our estimates, our profitability could be adversely affected. The AIR MILES Reward Program also exposes us to risks arising from potentially increasing reward costs. Our profitability could be adversely affected if costs related to redemption of AIR MILES reward miles increase. A 10% increase in the cost of redemptions would have resulted in a decrease in pre-tax income of $25.5 million for the year ended December 31, 2021.

The loss of our most active AIR MILES Reward Program collectors could adversely affect our growth and profitability.

Our most active AIR MILES Reward Program collectors drive a disproportionately large percentage of our AIR MILES reward miles issued. Historically, approximately 20% of our collectors — who utilize one of several credit card programs offered by sponsors in the AIR MILES Reward Program — generate approximately 80% of annual AIR MILES reward miles issuance. The loss of a significant portion of these collectors, for any reason, could impact our ability to generate significant revenue from sponsors. The continued appeal of our loyalty and rewards programs will depend in large part on our ability to remain affiliated with sponsors that are desirable to both existing and future collectors and to offer rewards that are both attainable and attractive.

Airline or travel industry disruptions, such as an airline insolvency, could negatively affect the AIR MILES Reward Program, our revenues and profitability.

Air travel is one of the appeals of the AIR MILES Reward Program to collectors. If one or more of our airline suppliers sharply reduces its fleet capacity and route network, we may not be able to satisfy our collectors' demands for

airline tickets. Tickets or other travel arrangements, if available, could be more expensive than a comparable airline ticket under our current supply agreements with existing suppliers, and the routes offered by other airlines or travel services may be inadequate, inconvenient or undesirable to the redeeming collectors. As a result, we may experience higher air travel redemption costs, and collector satisfaction with the AIR MILES Reward Program might be adversely affected.

As a result of airline or travel industry disruptions, including, but not limited to, the continuing impacts of COVID-19, political instability, and/or terrorist acts or war, some collectors could determine that air travel is too dangerous, burdensome or otherwise undesirable. Consequently, collectors might forego redeeming AIR MILES reward miles for air travel and therefore might not participate in the AIR MILES Reward Program to the extent they previously did, which could adversely affect our business, results of operations, financial condition and liquidity.

Our BrandLoyalty business does not generally have long-term agreements with its clients.

Our agreements for BrandLoyalty campaigns are generally short-term and must be renegotiated for each campaign. As a result, our relationship with our BrandLoyalty clients may change on short notice. Future agreements with respect to volume, pricing or new campaign rewards, among other things, are subject to negotiation with each client for each campaign and in certain instances may be delayed or deferred. No assurance can be given that our clients will continue to do business with us at prior levels, if at all, and the loss of campaigns from certain retailers could have a material adverse effect on our business, results of operations, financial condition and liquidity.

If we fail to accurately forecast consumer demand for our BrandLoyalty campaigns we could experience excess inventories or inventory shortages, which could result in reduced operating margins and cash flows and adversely affect our business.

To meet anticipated demand for our campaign rewards, BrandLoyalty sources rewards inventory from key manufacturers and other suppliers in advance of client programs. Inventory levels in excess of consumer demand may result in inventory write-downs, and the sale of, or inability to sell, excess inventory at discounted prices could have a material adverse effect on our operating results, financial condition and cash flows. For example, in the year ended December 31, 2019, BrandLoyalty wrote down inventory by $18.4 million for the discontinuance of certain campaign rewards product lines. Conversely, if we underestimate consumer demand for our campaign rewards or if our key suppliers fail to timely supply campaign rewards, BrandLoyalty may experience inventory shortages. Inventory shortages or delayed shipments may affect the ability to offer or the success of campaign-based loyalty programs in market, negatively impacting client and consumer relationships. A failure to accurately predict the level of demand for our campaign rewards could adversely affect BrandLoyalty's business, results of operations, financial condition and liquidity.

Our businesses rely on relationships with the sponsors, clients and rewards suppliers, respectively, with which we partner and a failure to maintain or renew relationships with our sponsors, clients and rewards suppliers could negatively affect our revenues and profitability.

The success of our businesses is dependent on maintaining relationships with their respective sponsors, clients and rewards suppliers. These relationships are governed by agreements with fixed terms and varying provisions regarding termination, ranging from notice to events of default and cure. If we are unable to maintain or renew our relationships with our most significant sponsors, clients and rewards suppliers, the value proposition for sponsors and collectors in the AIR MILES Reward Program coalition and demand by clients for BrandLoyalty's campaign-based loyalty programs may be impacted; further, our sponsors and clients may elect an alternative provider for their loyalty programs, each of which could have a material adverse effect on our business, results of operations, financial condition and liquidity.

Competition in the markets for the services that we offer is intense and we expect it to intensify.

The markets for our loyalty program products and services are highly competitive and we expect the continued evolution of loyalty products and services, including the technological capabilities associated therewith, and competition to provide the same to intensify. We generally compete with advertising and other promotional and loyalty programs,

both traditional and online, for a portion of a client's total marketing budget. Competition may intensify as more competitors enter our market. Competitors may target our sponsors, collectors, clients and their consumers as well as draw rewards from our rewards suppliers. The continued attractiveness of our loyalty and rewards programs will also depend on our ability to remain affiliated with sponsors and clients that are desirable to consumers and to offer rewards that are both attainable and attractive. Our ability to generate significant revenue from sponsors and clients will depend on our ability to differentiate ourselves through the loyalty program products and services we provide and the attractiveness of our programs to collectors and consumers, including our ability to adapt to new or even disruptive technological developments. We may not be able to continue to compete successfully against existing and emerging loyalty program providers in our space.

Our inability to anticipate and respond to market trends and changes in consumer preferences could adversely affect our financial results.

Our continued success depends on our ability to anticipate, gauge and react in a timely and cost-effective manner to changes in market trends and consumer preference for loyalty programs, their rewards and the associated technological capabilities. We must continually adapt our services to evolving distribution channels, relentlessly pursue a favorable mix of reward options, successfully manage our inventories, and consistently update and refine our approach with respect to how and where we offer our loyalty programs and services, including our ability to adapt to new or even disruptive technological developments. For example, within our AIR MILES Reward Program, failure to drive innovation to meet the evolving needs of sponsors and collectors with competitive program design and reward elements that offer sufficient flexibility to permit different segments of sponsors and collectors to reward their customers, meet their service expectations or offer desired rewards to remain their preferred loyalty program will limit engagement with the program. Engagement and issuance growth from current sponsors and collectors provides the necessary momentum to be successful expanding to new sponsors and collectors. Within BrandLoyalty, consumer preference and behavior evolve with the latest commercial trends and the popularity of characters, shows and events. This progression requires BrandLoyalty to constantly adapt its offering—to innovate and invest to maintain the relevance and strength of its campaign-based loyalty programs and associated rewards. Failure to do so could have a material adverse effect on our results of operations and financial condition.

The failure of our rewards suppliers to deliver products and services at contracted service levels or standards or in sufficient quantities and in a timely manner could adversely affect our relationship with our sponsors and clients, our reputation with loyalty program participants, and the financial results of our business.

The success of our loyalty programs requires that collectors redeeming AIR MILES reward miles and consumers seeking BrandLoyalty rewards receive timely delivery of any product or access of any service that constitutes the reward. The failure of our rewards suppliers to deliver products and services at contracted service levels or standards or in sufficient quantities and in a timely manner could adversely affect our relationship with our sponsors and clients and our reputation with loyalty program participants. BrandLoyalty works with suppliers outside of the United States to manufacture or contract to manufacture certain reward products. We have in the past, and may in the future, face unanticipated interruptions and delays. In that respect, we are subject to risks related to supply chains on a global scale, including industrial accidents, environmental events, strikes and other labor disputes, disruption in information systems, political instability, rapid changes in trade regulations or enforcement, shipping or other customs delays, product quality control, safety and environmental compliance issues and other regulatory issues, as well as natural disasters, global or local health crises, international conflicts, terrorist acts and other external factors over which we have no control, such as closures or restricted operating conditions for manufacturers, raw material or component part availability and the resultant supply chain disruptions. Any delay in the provision of rewards could damage our reputation, leading to a decrease in participation in our loyalty programs. We may also be required to find alternative, more expensive suppliers at short notice or otherwise incur other expenses to remediate the delay or failure in performance by the supplier. In addition, if a third-party vendor fails to meet contractual requirements, such as compliance with our code of conduct, applicable laws or regulations and standards, including environmental, health and safety standards as well as product safety standards, our business operations could suffer economic or reputational harm that could result in an adverse effect on the financial results of our business.

Economic factors beyond our control, and changes in the global economic environment, including fluctuations in inflation and currency exchange rates, could create volatility and negatively impact our results of operations.

Downturns in the economy or the performance of retailers generally or our sponsors and clients specifically, due to economic factors beyond our control including the impact of COVID-19, may result in a decrease in the demand for our products and services. Virtually all of our loyalty program services are sold outside of the United States, and we conduct purchase and sale transactions in multiple currencies, which exposes our results to the volatility of global economic conditions, including inflation and fluctuations in foreign currency exchange rates. Additionally, there has been, and may continue to be, volatility in currency exchange rates as a result of new or proposed U.S. policy changes that impact the U.S. Dollar value relative to other international currencies. Our international revenues and expenses generally are derived from sales and operations in foreign currencies, and these revenues and expenses could be affected by currency exchange fluctuations, specifically amounts recorded in foreign currencies and translated into U.S. Dollars for consolidated financial reporting, as weakening of foreign currencies relative to the U.S. Dollar adversely affects the U.S. Dollar value of our foreign currency-denominated sales and earnings. Currency exchange rate fluctuations could also disrupt the business of the manufacturers that produce our rewards products by making their purchases of raw materials more expensive or difficult to finance. Foreign currency exchange fluctuations have adversely affected and could continue to have an adverse effect on our results of operations and financial condition.

We may hedge certain foreign currency exposures to reduce and/or delay, but not completely eliminate, the effects of foreign currency exchange fluctuations on our financial results. Since the hedging activities are designed to lessen volatility, they not only reduce the negative impact of a stronger U.S. Dollar or other trading currency, but they also reduce the positive impact of a weaker U.S. Dollar or other trading currency. Our future financial results could be significantly affected by the value of the U.S. Dollar in relation to the foreign currencies in which we conduct business. The degree to which our financial results are affected for any given time period will depend in part upon our hedging activities.

If we fail to identify or secure suitable acquisitions or new business opportunities, or to effectively integrate the businesses we acquire, it could negatively affect our business.

We believe that acquisitions and the identification and pursuit of new business opportunities will be a component of our growth strategy. However, we may not be able to locate and secure future acquisition candidates or to identify and implement new business opportunities on terms and conditions that are acceptable to us. If we are unable to identify attractive acquisition candidates or accretive new business opportunities, our growth could be limited.

In addition, there are numerous risks associated with acquisitions and the implementation of new businesses, including, but not limited to:

- the inability to satisfy pre-closing conditions preventing consummation of any acquisition or new business opportunity;
- the difficulty and expense that we incur in connection with the completion or integration of any acquisition or new business opportunity;
- the potential for adverse consequences when conforming the acquired company's accounting policies to ours;
- the diversion of management's attention from other business concerns;
- the potential loss of customers or key employees of the acquired company;
- the impact on our financial condition due to the timing of the acquisition or new business implementation or the failure of the acquired or new business to meet operating expectations;
- the assumption of unknown liabilities of the acquired company; and

- the uncertainty of achieving expected benefits of an acquisition including revenue, human resources, technological or other cost savings, operating efficiencies or synergies.

Furthermore, if the operations of an acquired company or new business opportunity do not meet expectations, our profitability may decline and we may seek to restructure the acquired business or to impair the value of some or all of the assets of the acquired or new business.

Liquidity, Indebtedness and Separation-Related Risks

Our level of indebtedness resulting from the Separation could materially adversely affect our ability to generate sufficient cash to repay our outstanding debt, our ability to react to changes in our business and our ability to incur additional indebtedness to fund future needs.

Following the Separation, we have a high level of indebtedness, which requires significant interest and principal amortization payments. Further, subject to the limits contained in our debt instruments, we may be able to incur substantial additional indebtedness from time to time to finance working capital, capital expenditures, investments or acquisitions, or for other purposes. If we do so, the risks related to our level of indebtedness could intensify. Our level of indebtedness increases the possibility that we may be unable to generate cash sufficient to pay, when due, the principal of, interest on or other amounts due in respect of our indebtedness. Our higher level of indebtedness, combined with our other financial obligations and contractual commitments, could:

- make it more difficult for us to satisfy our obligations with respect to our indebtedness, and any failure to comply with the obligations under any of our debt instruments, including restrictive covenants, could result in an event of default under the agreements governing our indebtedness;
- require us to dedicate a substantial portion of our cash flow from operations to payments on our indebtedness, thereby reducing funds available for working capital, capital expenditures, acquisitions or other new business and other corporate purposes, resulting in delayed investments and capital expenditures;
- increase our vulnerability to adverse economic and industry conditions, which could place us at a competitive disadvantage or require us to dispose of assets to raise funds if needed for working capital;
- limit our flexibility in planning for, or reacting to, changes in our business and the industries in which we operate;
- limit our ability to borrow additional funds, or to dispose of assets to raise funds, if needed, for working capital, capital expenditures, acquisitions or other new business and other corporate purposes; and
- cause any refinancing of our indebtedness to be at higher interest rates and require us to comply with more onerous covenants, which could further restrict our business operations.

Restrictions imposed by the agreements governing our outstanding indebtedness may limit our ability to operate our business; to finance our future operations or capital needs; or to engage in other business activities.

The terms of the agreements governing our debt limit us and our subsidiaries from engaging in specified types of transactions. These covenants limit our and our subsidiaries' ability, among other things, to:

- incur additional debt;
- declare or pay dividends, redeem stock or make other distributions to stockholders;
- make investments;
- create liens or use assets as security in other transactions;

- merge or consolidate, or sell, transfer, lease or dispose of substantially all of our assets;
- enter into transactions with affiliates;
- sell or transfer certain assets; and
- enter into any consensual encumbrance or restriction on the ability of certain of our subsidiaries to pay dividends or make loans or sell assets to us.

As a result of these covenants and restrictions, we may be limited in how we conduct our business and we may be unable to raise additional indebtedness to compete effectively or to take advantage of new business opportunities. We cannot assure you that we will be able to maintain compliance with these covenants in the future and, if we fail to do so, that we will be able to obtain waivers from the lenders and/or amend the covenants to prevent an event of default, which would have a material adverse effect on our business, financial condition and the market price for our securities.

Our historical combined financial statements are not necessarily representative of the results that we would have achieved as an independent, publicly traded company and may not be a reliable indicator of our future results as investments remain to establish independence.

Our historical combined financial information included in this annual report have been derived from ADS' consolidated financial statements and accounting records and are not necessarily indicative of our future results of operations, financial condition or cash flows, nor do they reflect what our results of operations, financial condition or cash flows would have been as an independent public company during the periods presented prior to the effective date of the Separation. In particular, the historical combined financial information is not necessarily indicative of our future results of operations, financial condition or cash flows primarily because of the following factors:

- Prior to the Separation, our business was operated by ADS as part of its broader corporate organization, rather than as an independent company. Our historical combined financial results reflect the direct, indirect and allocated costs for internal audit, finance, accounting, tax, human resources, procurement, information technology, and public company reporting services historically provided by ADS, and these costs may significantly differ from the comparable expenses we would have incurred as an independent, publicly traded company;
- Our cost of debt and other capital significantly differs from that which is reflected in our historical combined financial statements; and
- Our business historically benefitted from ADS' size and scale in costs, employees and vendor and customer relationships. Thus, costs we will incur as an independent company may significantly exceed comparable costs we would have incurred as part of ADS, and we may have difficulty obtaining similar terms in our contractual arrangements in the future as a result of the Separation.

Please refer to "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our consolidated and combined financial statements and the notes to those statements included elsewhere in this annual report.

Further, we may not be able to achieve the full strategic and financial benefits expected to result from our Separation from ADS, which include enhanced strategic and management focus, a distinct investment identity and ability to allocate resources and deploy capital for the development of the AIR MILES and BrandLoyalty businesses, or such benefits may be delayed. Following the Separation, ADS will continue to provide certain services to us on a transitional basis, for a period of up to two years. ADS may not successfully execute all of these functions during the transition period, or we may have to expend significant efforts or costs materially in excess of those expected; any interruption in these services could have a material adverse effect on our business, results of operations, financial condition and cash flows. Further, we may not achieve the anticipated benefits of Separation for a variety of reasons,

including, among others that the Separation and further need to invest in and establish those services continuing to be provided by ADS in transition will require significant amounts of management's time and effort in addition to financial investment, which may divert both resources and attention from operating and growing our business. Our ability to effectively manage and meet our public company reporting obligations depends significantly on information technology systems, and any failure, disruption, interruption, malfunction or other issue with respect to such systems could have a material adverse effect on our business and results of operations.

In connection with the Separation, ADS agreed to indemnify us for certain liabilities and we agreed to indemnify ADS for certain liabilities. If we are required to act under these indemnities to ADS or ADS is unable to satisfy any indemnification obligation to us in the future, our financial results may be adversely impacted.

Pursuant to the Separation and Distribution Agreement and other agreements with ADS, ADS has agreed to indemnify us for certain liabilities, and we agreed to indemnify ADS for certain liabilities, as disclosed in our registration statement on Form 10. Payments that we may be required to provide under indemnities to ADS are not subject to any cap, may be significant and could negatively affect our business, particularly under indemnities relating to our actions that could affect the tax-free nature of the Separation. Third parties could also seek to hold us responsible for any liabilities that ADS has agreed to retain, and under certain circumstances, we may be subject to continuing contingent liabilities of ADS following the Separation that arise relating to the operations of our business during the time that it was a business segment of ADS prior to the Separation, such as certain tax liabilities which relate to periods during which taxes of our business were reported as a part of ADS; any liabilities retained by ADS which relate to contracts or other obligations entered into jointly by our business and ADS' retained business; and any liabilities arising from third-party claims in respect of contracts in which both ADS and our business supply goods or provide services. If ADS is unable to satisfy any indemnification obligation to us, or we are subject to continuing contingent liabilities of ADS, our financial results may be adversely impacted.

If we fail to maintain effective internal controls, we may not be able to report our financial results accurately or timely, or prevent or detect fraud, which could have a material adverse effect on our business and the market price of our securities.

Beginning with our annual report for the fiscal year ended December 31, 2022, our management is required to undertake an annual assessment of the effectiveness of our internal control over financial reporting in accordance with Section 404 of the Sarbanes-Oxley Act, and include a report on these internal controls in the annual reports we will file with the SEC on Form 10-K. Due to our "emerging growth company" status as defined in the Jumpstart Our Business Startups Act, or JOBS Act, our independent registered public accounting firm is not required to formally attest to the effectiveness of our internal controls until the later of our second annual report following the completion of the Separation or the date we no longer qualify as an "emerging growth company," which could occur as early as December 31, 2022 under the parameters set out below.

We will cease to be an emerging growth company upon the earliest to occur of the following: (i) December 31, 2026 (the last day of the fiscal year following the fifth anniversary of the Separation); (ii) the last day of the fiscal year with at least $1.07 billion in annual revenue; (iii) the last day of the fiscal year in which we are deemed to be a large accelerated filer, which means that we have been public for at least 12 months, have filed at least one annual report, and the market value of our common stock that is held by non-affiliates exceeds $700 million as of the last day of our then-most recently completed second fiscal quarter; or (iv) the date on which we have issued more than $1 billion of non-convertible debt during the prior three-year period.

If management and/or our independent registered public accounting firm determines that our internal control over financial reporting is not effective, our ability to accurately and timely report our financial position could be impacted, which could mean that our controls are not sufficient to prevent or detect fraudulent activity, result in late filings of our annual and quarterly reports under the Exchange Act, require restatements of our consolidated financial statements, and lead to loss of investor confidence, a decline in our stock price, investigations by Nasdaq, the SEC or other regulatory authorities, and/or suspension or delisting of our common stock from Nasdaq, any of which could have a material adverse effect on our business, financial condition, prospects and results of operations.

After the Separation, we will only have limited access to the insurance policies maintained by ADS for events occurring prior to the Separation and ADS' insurers may deny coverage to us under such policies.

In connection with the Separation, we entered into agreements with ADS to address several matters associated with the Separation, including insurance coverage. The Separation and Distribution Agreement provides that following the Distribution, Loyalty Ventures will no longer have insurance coverage under ADS insurance policies in connection with events occurring before, as of or after the Distribution, other than coverage for (i) events occurring prior to the Distribution and covered by occurrence-based policies of ADS as in effect as of the Distribution and (ii) events or acts occurring prior to the Distribution and covered by claims-made policies of ADS as in effect as of the Distribution. However, after the Separation, ADS' insurers may deny coverage to us for losses associated with occurrences prior to the Separation. Accordingly, we may be required to temporarily or permanently bear the costs of such lost coverage, which could adversely impact our financial condition and results of operations.

Our board chair may have actual or potential conflicts of interest because of his position as a director for, and equity ownership in, ADS.

Because of his position as a director for, and equity ownership in, ADS, our board chair may have a conflict of interest when faced with decisions that could have different implications for ADS or us. For example, potential conflicts of interest could arise in connection with the resolution of any dispute that may arise between ADS and us regarding the terms of the agreements governing the Separation and the relationship thereafter between the companies.

If the Restructuring or Distribution is taxable to ADS as a result of a breach by us of any covenant or representation made by us in the Tax Matters Agreement entered into at the time of the Separation, we will generally be required to indemnify ADS and this indemnification obligation, or the payment thereof, could have a material adverse effect on our financial condition or results of operations.

If the Restructuring, Distribution and/or related transactions fail to qualify as tax-free transactions to ADS and to holders of ADS common stock due to a breach by us (or any of our subsidiaries) of any covenant or representation made by us in the Tax Matters Agreement entered into at the time of the Separation, we will generally be required to indemnify ADS for all tax-related losses suffered by ADS. In addition, we will not control the resolution of any tax contest relating to taxes suffered by ADS in connection with the Separation, and we may not control the resolution of tax contests relating to any other taxes for which we may ultimately have an indemnity obligation under the Tax Matters Agreement. In the event that ADS suffers tax-related losses in connection with the Separation that must be indemnified by us under the Tax Matters Agreement, the indemnification liability, or the payment thereof, could have a material adverse effect on our financial condition or results of operations.

We are subject to significant restrictions on our actions following the Separation to avoid triggering significant tax-related liabilities.

The Tax Matters Agreement entered into at the time of the Separation generally prohibits us from taking certain actions, during the two-year period ending November 5, 2023 (or otherwise pursuant to a "plan" within the meaning of Section 355(e) of the Code), that could cause the Distribution and certain related transactions to fail to qualify as tax-free transactions, including:

- causing or permitting certain business combinations or transactions to occur;
- discontinuing the active conduct of our business (within the meaning of Section 355(b)(2) of the Code);
- selling or otherwise issuing our common stock in certain circumstances;
- redeeming or otherwise acquiring any of our common stock, other than pursuant to open-market repurchases of less than 20% of our common stock (in the aggregate);

- amending our certificate of incorporation (or other organizational documents) or taking any other action, whether through a stockholder vote or otherwise, affecting the voting rights of our common stock; and

- taking any action that could reasonably be expected to cause the Separation and certain related transactions to fail to qualify as tax-free transactions for U.S. federal income tax purposes or for non-U.S. tax purposes.

If we take any of the actions above and such actions result in tax-related losses to ADS, we generally will be required to indemnify ADS for such tax-related losses under the Tax Matters Agreement. Due to these restrictions and indemnification obligations under the Tax Matters Agreement, we may be limited in our ability to pursue strategic transactions, equity or convertible debt financings or other transactions that may otherwise be in our best interests. Also, our potential indemnity obligation to ADS might discourage, delay or prevent a change of control that our stockholders may consider favorable.

Information Technology, Cybersecurity, Privacy, Regulatory and Other Legal Risks

Loss of data center or cloud computing capacity, interruption due to cyber-attacks, loss of network connectivity or inability to utilize proprietary software of third-party vendors could affect our ability to timely meet the needs of our sponsors, collectors, clients and their customers.

In order to provide many of our services and other business purposes, we must be able to store, retrieve, process and manage large amounts of employee, sales and consumer data, including personally identifiable or other similar information in certain instances, as well as periodically expand and upgrade our technology capabilities. Our ability, and that of our third-party service providers, to protect our data centers against damage, loss or performance degradation from fire, power loss, network failure, cyber-attacks, including ransomware or denial of service attacks, and other disasters is critical. Any damage to our data centers or cloud computing environments, or those of our third-party service providers, any failure of our network links that interrupts our operations or any impairment of our ability to use our software or the proprietary software of third-party vendors, including impairments due to cyber-attacks, could adversely affect our ability to meet the needs of our sponsors, collectors, clients and their customers as well as their confidence in utilizing us for future services.

Failure to safeguard data could affect our reputation and may expose us to legal claims.

Information security risks for those businesses like us that hold and rely on large amounts of data continue to increase. Although we have extensive physical and cyber security controls and associated procedures, our networks have in the past been, and in the future may be, subject to unauthorized access or access attempts. In such instances of unauthorized access or access attempts, the integrity of our data has been and may again be affected. Should our sponsors, collectors, clients or their customers, have security and privacy concerns that lead them to resist providing the personal data necessary to support our loyalty and marketing programs, our business would be negatively impacted. In addition, any unauthorized release of consumer information or any public perception that we released consumer information without authorization could subject us to legal claims or regulatory enforcement actions.

Legislation relating to consumer privacy and data security may affect our ability to collect data that we use in providing our loyalty and marketing services, which, among other things, could negatively affect our ability to satisfy our sponsors' or clients' needs.

Data protection and consumer privacy laws and regulations continue to evolve, increasing restrictions on our ability to collect and disseminate collector or customer information. In addition, the enactment of new or amended legislation or industry regulations pertaining to consumer or public or private sector privacy issues could have a material adverse impact on our marketing services, including placing restrictions upon the collection, sharing and use of information that is currently legally permissible.

In Canada, the Personal Information Protection and Electronic Documents Act, or PIPEDA, requires an organization to obtain a consumer's consent to collect, use or disclose personal information. Under this act, consumer personal information may be used only for the purposes for which it was collected. We allow our customers to voluntarily "opt-

out" from receiving either one or both promotional and marketing mail or promotional and marketing electronic mail. Heightened consumer awareness of, and concern about, privacy may result in customers "opting-out" at higher rates than they have historically. This would mean that a reduced number of customers would receive bonus and promotional offers and therefore those customers may collect fewer AIR MILES reward miles. The Government of Canada has indicated its intention to modernize PIPEDA. Similarly, several Canadian provinces are in process or intend to amend other existing or newly introduced privacy legislation affecting the private sector.

Canada's Anti-Spam Legislation, or CASL, may restrict our ability to send "commercial electronic messages," defined to include text, sound, voice and image messages to email, or similar accounts, where the primary purpose is advertising or promoting a commercial product or service to our customers and prospective customers. CASL requires, in part, that a sender have consent to send a commercial electronic message and provide the customers with an opportunity to opt out from receiving future commercial electronic email messages from the sender.

On May 25, 2018, the General Data Protection Regulation, or GDPR, a European Union-wide legal framework to govern data collection, use and sharing and related consumer privacy rights came into force. The GDPR replaced the European Union Directive 95/46/EC and applies to and binds the EU Member States and the European Economic Area countries, which includes a total of 30 countries. The GDPR details greater compliance obligations on organizations, including the implementation of a number of processes and policies around data collection and use. These, and other terms of the GDPR, could limit our ability to provide services and information to our customers. In addition, the GDPR includes significant penalties for non-compliance.

In general, the GDPR, and other European Union and Member State specific privacy and data governance laws, could also lead to adaptation of our technologies or practices to satisfy local privacy requirements and standards that may be more stringent than in the U.S. Similarly, it is possible that in the future, U.S. and foreign jurisdictions may adopt legislation or regulations that impair our ability to effectively track consumers' use of our advertising services, such as the FTC's proposed "Do-Not-Track" standard or other legislation or regulations similar to EU Directive 2009/136/EC, commonly referred to as the "Cookie Directive," which directs EU Member States to ensure that accessing personal information on an internet user's computer, such as through a cookie, is allowed only if the internet user has given his or her consent. The ePrivacy Regulation, which is expected to replace the Cookie Directive, seeks to enhance security and confidentiality of communications, including the processing of metadata by companies, as well as define clearer rules applicable to tracking technologies such as cookies. Currently in tri-logue negotiations in the European Parliament, the ePrivacy Regulation could be in force by 2024. Further, changes in technology from technology manufacturers and web browser providers, like Apple and Google, may also impact our tracking abilities and advertising services.

In July 2020, the Court of Justice of the European Union, or CJEU, ruled the EU-US Privacy Shield Framework, one of the primary safeguards that allowed U.S. companies to import personal data from the EU to the U.S., was invalid. The CJEU's decision also raised questions about whether the most commonly used mechanism for cross-border transfers of personal data out of the European Economic Area, namely, the European Commission's Standard Contractual Clauses, can lawfully be used for personal data transfers from the EU to the U.S. or other third countries the European Commission has determined do not provide adequate data protections under their laws. On June 4, 2021, the European Commission adopted new Standard Contractual Clauses, which impose on companies' additional obligations relating to data transfers, including the obligation to conduct a transfer impact assessment and, depending on a party's role in the transfer, to implement additional security measures and to update internal privacy practices. If we elect to rely on the new Standard Contractual Clauses for data transfers, we may be required to incur significant time and resources to update our contractual arrangements and to comply with new obligations. If we are unable to implement a valid mechanism for personal data transfers from the EU, we will face increased exposure to regulatory actions, substantial fines and injunctions against processing personal data from the EU. Additionally, other countries outside of the EU have enacted or are considering enacting similar cross-border data transfer restrictions and laws requiring local data residency, which could increase the cost and complexity of delivering our services and operating our business. The type of challenges we face in the EU will likely also arise in other jurisdictions that adopt regulatory frameworks of equivalent complexity.

On January 31, 2020, the United Kingdom left the European Union and entered into a Brexit transition period. Following December 31, 2020, and the expiry of transitional arrangements between the UK and EU, the data protection obligations provided in the GDPR continue to apply to UK-related processing of personal data in substantially unvaried form under the so-called 'UK GDPR' (i.e., the GDPR as it continues to form part of UK law by virtue of section 3 of the EU (Withdrawal) Act 2018, as amended). However, going forward, there is increasing risk for divergence in application, interpretation and enforcement of the data protection laws as between the UK and EU; the current European Commission adequacy decisions for UK data transfers extends through June 27, 2025 with the potential to be extended for an additional four years.

Other countries outside of the European Economic Area, such as Russia, Brazil and China, have also enacted or are considering enacting similar cross-border data transfer restrictions and laws requiring local data residency, which could increase the cost and complexity of delivering our services and operating our businesses. For example, Brazil enacted the General Data Protection Law (Lei Geral de Proteção de Dados Pessoais or LGPD)(Law No. 13,709/2018), which broadly regulates the processing of personal information and imposes compliance obligations and penalties comparable to those of the GDPR.

In the United States, the federal Do-Not-Call Implementation Act makes it more difficult to telephonically communicate with prospective and existing customers. Similar measures were implemented in Canada beginning September 1, 2008. Regulations in both the United States and Canada give consumers the ability to "opt out," through a national do-not-call registry and state do-not-call registries, of having telephone solicitations placed to them by companies that do not have an existing business relationship with the consumer. In addition, regulations require companies to maintain an internal do-not-call list for those who do not want the companies to solicit them through telemarketing. These regulations could limit our ability to provide services and information to our clients. Failure to comply with these regulations could have a negative impact on our reputation and subject us to significant penalties. Further, the Federal Communications Commission has approved interpretations of rules related to the federal Telephone Consumer Protection Act defining robo-calls broadly, which may affect our ability to contact customers and may increase our litigation exposure.

In the United States, the federal Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 restricts our ability to send commercial electronic mail messages, the primary purpose of which is advertising or promoting a commercial product or service, to customers and prospective customers. The act requires that a commercial electronic mail message provide the customers with an opportunity to opt-out from receiving future commercial electronic mail messages from the sender.

In the United States, California enacted the California Consumer Privacy Act, or CCPA, which went into effect on January 1, 2020. The CCPA provides individual privacy rights for California consumers and places increased privacy and security obligations on entities handling certain personal data of consumers and households. The CCPA requires disclosures to consumers about companies' data collection, use and sharing practices; provides consumers ways to opt-out of certain sales or transfers of personal information; and provides consumers with additional causes of action. The CCPA prohibits companies from discriminating against consumers who have opted out of the sale of their personal information, subject to a narrow exception. The CCPA provides for certain monetary penalties and for enforcement of the statute by the California Attorney General or by consumers whose rights under the law are not observed. It also provides for damages, as well as injunctive or declaratory relief, if there has been unauthorized access, theft or disclosure of personal information due to failure to implement reasonable security procedures.

In November 2020, California voters passed Proposition 24, known as the California Privacy Rights Act or CPRA. The CPRA, which will amend existing CCPA requirements, and goes into effect in most meaningful respects on January 1, 2023 with a one-year lookback period, includes limitations on the sharing of personal information for cross context behavioral advertising and the use of "sensitive" personal information; the creation of a new correction right; and the establishment of a new agency to enforce California privacy law.

The enactment of the CCPA is prompting similar legislative developments in other states in the United States, creating the potential for a patchwork of overlapping but different state laws. These developments could mark the beginning of a trend toward more stringent privacy legislation in the United States, which could increase our potential

liability and adversely affect our business, results of operations, and financial condition. For example, in March 2021, Virginia enacted the Virginia Consumer Data Protection Act, and in June 2021, Colorado passed the Colorado Privacy Act, comprehensive privacy statutes that share similarities with the CCPA and CPRA and are set to become effective on January 1, 2023 and July 1, 2023, respectively. Many other states are currently reviewing or proposing the need for greater regulation of the collection, sharing, use and other processing of consumer data for marketing purposes or otherwise, and there remains increased interest at the federal level as well, including two federal privacy regulations introduced in Congress in late 2020.

In addition to the jurisdictions noted above, there is also rapid development of new privacy laws and regulations elsewhere around the globe, including amendments of existing data protection laws, to the scope of such laws and penalties for noncompliance. Failure to comply with these international data protection laws and regulations could have a negative impact on our reputation and subject us to significant penalties.

While all 50 U.S. states and the District of Columbia have enacted data breach notification laws, there is currently no such U.S. federal law generally applicable to our businesses. Data breach notification legislation and regulations relating to mandatory reporting came into force in Canada on November 1, 2018. Data breach notification laws have been proposed widely and exist in other specific countries and jurisdictions in which we conduct business. Legislative and regulatory measures, such as mandatory breach notification provisions, impose, among other elements, strict requirements on reporting time frames and providing notice to individuals.

All of these evolving compliance and operational requirements impose significant costs, such as costs related to organizational changes, implementing additional protection technologies, training employees and engaging consultants, which are likely to increase over time. In addition, such requirements may require us to modify or restrict our data processing practices and policies, distract management or divert resources from other initiatives and projects, all of which could have a material adverse effect on our business, financial condition, results of operations and prospects. Any failure or perceived failure by us to comply with any applicable federal, state or similar foreign laws and regulations relating to data privacy and security could result in damage to our reputation, as well as proceedings or litigation by governmental agencies or other third parties, including class action privacy litigation in certain jurisdictions, which would subject us to significant fines, sanctions, awards, damages, penalties or judgments, all of which could have a material adverse effect on our business, financial condition, results of operations and prospects.

Legislation relating to consumer protection may affect our ability to provide our loyalty and marketing services, which, among other things, could negatively affect our ability to satisfy our sponsors' and clients' needs.

The enactment of new or amended legislation or industry regulations pertaining to consumer protection, or any failure to comply with such changes, could have a material adverse impact on our loyalty and marketing services. Such changes could result in a negative impact to our reputation, an adverse effect on our profitability or an increase in our litigation exposure.

For example, Ontario's Protecting Rewards Points Act (Consumer Protection Amendment), 2016, and additional related regulations, prohibit suppliers from entering into or amending consumer agreements to provide for the expiry of rewards points due to the passage of time alone, while permitting the expiry of rewards points if the underlying consumer agreement is terminated and that agreement provides that reward points expire upon termination. Similar legislation pertaining to the expiry of rewards points due to the passage of time alone is also in effect in Quebec as well as limitations on changes to the valuation of rewards points.

Our failure to protect our intellectual property rights may harm our competitive position, and litigation to either protect our intellectual property rights or defend against third party allegations of infringement or license violations for which we may owe an indemnity may be costly, any of which could negatively impact our business, results of operations and profitability.

Third parties may infringe or misappropriate our trademarks or other intellectual property rights, which could have a material adverse effect on our business, financial condition or operating results. The actions we take to protect our trademarks and other proprietary rights may not be adequate. Litigation may be necessary to enforce our intellectual

property rights, protect our trade secrets or determine the validity and scope of the proprietary rights of others. Any infringement or misappropriation could harm any competitive advantage we currently derive or may derive from our proprietary rights. Third parties may also assert claims for infringement or violation of the terms of a license agreement to which we are a party against us, including claims for which we are required to indemnify the licensor. Any claims and an adverse determination in any resulting litigation could subject us to significant liability for damages and require us to either design around a third party's patent or license alternative technology from another party. In addition, litigation is time consuming and expensive to defend and could result in the diversion of our time and resources. Further, our competitors or other third parties may independently design around or develop similar technology, or otherwise duplicate our services or products in a way that would preclude us from asserting our intellectual property rights against them. In addition, our contractual arrangements may not effectively prevent disclosure of our intellectual property or confidential and proprietary information or provide an adequate remedy in the event of an unauthorized disclosure, any of which could result in liability to us and negatively impact our business, results of operations, financial condition and profitability.

Litigation, regulatory actions and compliance issues could subject us to significant fines, penalties, judgments, remediation costs and/or requirements resulting in increased expenses, any of which could be material to our results of operations, financial condition and cash flows.

We are involved, from time to time, in litigation, other legal claims, regulatory actions or other proceedings or actions by governmental authorities involving matters associated with or incidental to our business in the ordinary course, including, among other things, matters involving customer or vendor disputes, breaches of contractual obligations, class actions or purported class actions, trademark and other intellectual property protection and licensing disputes, import/export regulations, taxation, and employment matters. The resolution of currently pending matters could subject us to significant fines, penalties, obligations to change our business practices or other requirements resulting in increased expenses, diminished earnings and damage to our reputation. We contest liability and/or the amount of damages as appropriate in each pending matter. The outcome of pending and future matters could be material to our results of operations, financial condition and cash flows depending on, among other factors, the level of our earnings for that period.

We are subject to risks related to our international operations.

We maintain significant operations internationally, operating in approximately 45 countries. As of December 31, 2021, substantially all of our revenues and long-lived assets were attributable to our operations outside the United States. Our international operations are subject to many risks and uncertainties, including:

- fluctuations in foreign currency exchange rates, which have affected and may in the future affect our results of operations, reported earnings, the value of our foreign assets, the relative prices at which we and foreign competitors offer solutions in the same markets and the cost of certain inventory and non-inventory items required by our operations;

- changes in foreign laws, regulations and policies, including restrictions on foreign investment, trade, import and export license requirements, quotas, trade barriers and other protection measures imposed by foreign countries, as well as changes in U.S. laws and regulations relating to tariffs and taxes, foreign trade and investment by our international operations;

- lack of a developed legal system, elevated levels of corruption, strict currency controls, adverse tax consequences or foreign ownership requirements, difficult or lengthy regulatory approvals, or lack of enforcement for non-compete agreements in certain jurisdictions;

- difficulties and costs associated with complying with, and enforcing remedies under, a wide variety of complex, and potentially conflicting, domestic and international laws, treaties and regulations, including the European Union's GDPR, the U.S. Foreign Corrupt Practices Act ("FCPA"), Canada's Corruption of Foreign Public Officials Act ("CFPOA"), the U.K. Bribery Act 2010 ("UKBA") and different regulatory structures and changes in regulatory environments;

- potentially reduced protection for, and difficulty enforcing, intellectual property rights, especially in jurisdictions that do not respect and protect intellectual property rights to the same extent as the United States;
- failure to effectively and immediately implement processes and policies across our diverse operations and employee base;
- adverse weather conditions, social, economic and geopolitical conditions, such as the current political instability involving Russia and the Ukraine, environmental hazards, natural disasters, terrorist attacks, war or other military action or violent revolution;
- significant health hazards or pandemics, which could result in closed factories, reduced workforces, scarcity of raw materials, and scrutiny or embargoing of goods produced in certain areas;
- industry and contractual standards that are specific by region and which may generate different or additional business risk to operate; and
- disruption due to labor disputes.

We are also subject to the interpretation and enforcement by governmental agencies of international laws, rules, regulations or policies, including any changes thereto, such as restrictions on trade, import and export license requirements, privacy and data protection laws, and tariffs and taxes, which may require us to adjust our operations in certain markets where we do business. We face legal and regulatory risks in all jurisdictions where we operate; in particular, we cannot predict with certainty the outcome of various contingencies or the impact that pending or future legislative and regulatory changes may have on our business.

Furthermore, our extensive international operations may result in violations, or allegations of violations, of the FCPA, UKBA or CFPOA and similar international anti-bribery laws, which could adversely affect our reputation and business. These laws generally prohibit companies and their intermediaries from making improper payments to government officials or other third parties for the purpose of obtaining or retaining business. As part of our business, we or our partners may do business with state-owned enterprises, the employees and representatives of which may be considered foreign officials for purposes of the FCPA, UKBA or CFPOA. There can be no assurance that our policies, procedures, training and compliance programs will effectively prevent violation of all U.S. and international laws and regulations with which we are required to comply. Violations of such laws and regulations, or any of the other factors outlined above, could subject us to penalties that could adversely affect our reputation, business, financial condition or results of operations.

Market Risk

The market price and trading volume of our common stock may be volatile, and our stock price could decline.

The market price of our common stock has fluctuated significantly and, in the future, may be subject to similar fluctuations due to a number of factors, many of which are beyond our control, including:

- Fluctuations in our quarterly or annual earnings results or those of other companies in our industry;
- Failures of our operating results to meet the estimates of securities analysts or the expectations of our stockholders, or changes by securities analysts in their estimates of our future earnings;
- Announcements by us or our sponsors, clients, suppliers or competitors;
- Changes in market valuations or earnings of other companies in our industry;
- Changes in laws or regulations which adversely affect our industry or us;

- General economic, industry and stock market conditions;
- Future significant sales of our common stock by our stockholders or the perception in the market of such sales;
- Future issuances of our common stock by us; and
- The other factors described in these "Risk Factors" and elsewhere in this annual report.

These and other factors may cause the market price and demand for our common stock to fluctuate substantially, which may limit or prevent investors from readily selling their shares of common stock and may otherwise negatively affect the liquidity of our common stock. In addition, in the past, when the market price of a stock has been volatile, holders of that stock have instituted securities class action litigation against the company that issued the stock. If any of our stockholders brought a lawsuit against us, we could incur substantial costs defending the lawsuit. Such a lawsuit could also divert the time and attention of our management from our business.

The trading market for our common stock may also be influenced by the research and reports that industry or securities analysts publish about us or our business. If one or more of these analysts cease coverage of our company or fail to publish reports on us regularly, we could lose visibility in the financial markets, which in turn could cause our stock price or trading volume to decline. Moreover, if one or more of the analysts who cover us downgrade our stock, or if our results of operations do not meet their expectations, our stock price could decline.

We are an "emerging growth company" and we cannot be certain if the reduced disclosure requirements applicable to emerging growth company status will make our common stock less attractive to investors.

We are an "emerging growth company," as defined in the JOBS Act, and we intend to take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not "emerging growth companies" including, but not limited to, not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act, and reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements. We cannot predict if investors will find our common stock less attractive when we rely on these exemptions. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and our stock price may be more volatile.

Future issuance or sales of our common or preferred stock, or the perception that such future issuances or sales could occur, may adversely affect the market price of our common and such events may be dilutive to existing stockholders.

As of February 18, 2022, we had an aggregate of 172,452,206 shares of our common stock authorized but unissued and not reserved for specific purposes. In general, we may issue all of these shares without any action or approval by our stockholders for acquisitions, strategic investments, capital market transactions or otherwise. We have reserved 2,962,557 shares of our common stock for issuance under our employee stock purchase plan and our long-term incentive plan, of which 26,309 shares have been issued and 771,949 shares are issuable upon vesting of restricted stock units as of February 18, 2022. In addition, ADS holds 19% of outstanding shares as of February 18, 2022 and has the right to
require us to register the resale of those shares on a registration statement pursuant to registration rights granted in connection with the Separation. Sales or issuances of a substantial number of shares of common stock, or the perception that such sales could occur, could adversely affect prevailing market prices of our common stock, and any sale or issuance of our common stock will dilute the ownership interests of existing stockholders.

In addition, our amended and restated certificate of incorporation authorizes us to issue, without the approval of our stockholders, one or more classes or series of preferred stock having such designations, powers, preferences and relative, participating, optional and other rights, and such qualifications, limitations or restrictions as our board of directors generally may determine. The terms of one or more classes or series of preferred stock could dilute the voting power or reduce the value of our common stock. For example, we could grant holders of preferred stock the right to elect some number of our directors in all events or on the happening of specified events or the right to veto specified transactions.

Similarly, the repurchase or redemption rights or dividend, distribution or liquidation preferences we could assign to holders of preferred stock could affect the residual value of our common stock. Designation and issuance of one or more classes or series of preferred stock could adversely affect the market price of our common stock.

Our common stock is and will be subordinate to all of our future indebtedness and any preferred stock, and effectively subordinated to all indebtedness and preferred equity claims against our subsidiaries.

Shares of our common stock are common equity interests in us and, as such, will rank junior to all of our future indebtedness and other liabilities. Additionally, holders of our common stock may become subject to the prior dividend and liquidation rights of holders of any class or series of preferred stock that our board of directors may designate and issue without any action on the part of the holders of our common stock. Furthermore, our right to participate in a distribution of assets upon any of our subsidiaries' liquidation or reorganization is subject to the prior claims of that subsidiary's creditors and preferred stockholders, if any.

We cannot assure you that our board of directors will declare dividends in the foreseeable future.

We do not currently intend to pay any cash dividends on our capital stock for the foreseeable future. The declaration and payment of dividends, if any, will always be subject to the discretion of our board of directors. The timing and amount of any dividends declared will depend on, among other things, our earnings, financial condition, cash requirements and availability, our ability to obtain debt and equity financing on acceptable terms as contemplated by our growth strategy and the terms of our outstanding indebtedness. We may incur expenses or liabilities or be subject to other circumstances in the future that reduce or eliminate the amount of cash that we have available for distribution as dividends, including as a result of the risks described herein.

Provisions in our amended and restated certificate of incorporation and amended and restated bylaws and certain provisions of Delaware law could delay or prevent a change in control.

The existence of certain provisions of our amended and restated certificate of incorporation and amended and restated bylaws and Delaware law could discourage, delay or prevent a change in control that a stockholder may consider favorable. These include provisions:

- providing for a classified board of directors (until after our seventh annual meeting in 2029);
- providing that our directors may be removed by our stockholders only for cause while our board is classified, and that removal of our directors without cause thereafter must be approved by the holders of not less than a majority of our total voting power;
- providing the right to our board of directors to issue one or more classes or series of preferred stock without stockholder approval;
- authorizing a large number of shares of stock that are not yet issued, which would allow our board of directors to issue shares to persons friendly to current management, thereby protecting the continuity of our management, or which could be used to dilute the stock ownership of persons seeking to obtain control of us;
- prohibiting stockholders from calling special meetings of stockholders (until after our seventh annual meeting in 2029) or taking action by written consent; and
- establishing advance notice and other requirements for nominations of candidates for election to our board of directors or for proposing matters that can be acted on by stockholders at an annual stockholder meeting.

These provisions could delay or prevent an acquisition that our board of directors determines is not in our and our stockholders' best interests. We believe these provisions will protect our stockholders from coercive or otherwise unfair takeover tactics by requiring potential acquirers to negotiate with our board of directors and by providing our board of

directors with more time to assess any acquisition proposal. These provisions are not intended, however, to make us immune from a takeover, and apply even if a takeover offer may be considered beneficial by some stockholders.

A limited number of stockholders report ownership of a significant amount of our common stock. These stockholders may have interests that conflict with ours and, if they were to act together, may be able to control the election of directors and the approval of significant corporate transactions, including a change in control.

Pursuant to the information provided in various filings with the SEC on Schedules 13D or 13G and amendments thereto, as of February 18, 2022, there are 5 separate groups of affiliated entities that beneficially own, in the aggregate, approximately 52% of our outstanding common stock. Pursuant to the IRS' private letter ruling received by ADS as a condition to completion of the Separation, ADS will vote its Loyalty Ventures common stock in the same proportion as the votes cast in respect of the common stock not owned by ADS on any matter presented for a vote of Loyalty Ventures' stockholders. At the time of the Separation, ADS retained 19% ownership of Loyalty Ventures' common stock. These stockholders, if acting together, may be able to exercise significant influence over matters requiring stockholder approval, including the election of directors, changes to our charter documents and significant corporate actions, including a change in control. These stockholders may have interests that conflict with our interests or those of other stockholders. In addition to the charter provisions noted above, this concentration of ownership may prevent any other holder or group of holders of our common stock from being able to affect the way we are managed or the direction of our business. Accordingly, this concentration of ownership could adversely affect the prevailing market price of our common stock. Further, for corporate tax purposes, a corporation is considered to undergo "an ownership change" if, as a result of changes in the stock ownership by "5-percent shareholders" or as a result of certain reorganizations, the percentage of the corporation's stock owned by those 5-percent shareholders increases by more than 50 percentage points over the lowest percentage of stock owned by those shareholders at any time during the prior three-year testing period. If a corporation undergoes an "ownership change," Internal Revenue Code Section 382 limits the corporation's right to use its net operating losses, or NOLs, each year thereafter to an annual percentage of the fair market value of the corporation at the time of the ownership change.

Our amended and restated certificate of incorporation designates Delaware as the exclusive forum for certain litigation that may be initiated by any stockholder and will contain an exclusive federal forum provision for certain claims under the Securities Act, which may limit the market or market price for our common stock.

Pursuant to our amended and restated certificate of incorporation, unless we consent in writing to the selection of an alternative forum, a state court located within the state of Delaware (or, if no state court located within the state of Delaware has jurisdiction, the federal court for the district of Delaware) shall be the sole and exclusive forum for (i) any derivative action or proceeding brought on our behalf; (ii) any action asserting a claim for or based on a breach of a fiduciary duty owed by any of our directors or officers or other employees or agents to us or to our stockholders, including a claim alleging the aiding and abetting of such a breach of fiduciary duty; (iii) any action asserting a claim against us or any of our directors or officers or other employees or agents arising pursuant to any provision of the Delaware General Corporation Law or our amended and restated certificate of incorporation or amended and restated bylaws; (iv) any action asserting a claim related to or involving us that is governed by the internal affairs doctrine; or (v) any action asserting an "internal corporate claim" as that term is defined in Section 115 of the Delaware General Corporation Law. Our amended and restated certificate of incorporation provides that the foregoing Delaware exclusive forum provisions do not apply to any action asserting claims under the Exchange Act or the Securities Act. The forum selection clause in our amended and restated certificate of incorporation may limit our stockholders' ability to obtain a favorable judicial forum for disputes with us and limit the market or market price of our common stock.

For claims brought under the Securities Act, Section 22 of the Securities Act creates concurrent jurisdiction for federal and state courts over all claims brought to enforce any duty or liability created by the Securities Act or the rules and regulations thereunder and our amended and restated certificate of incorporation will provide that the federal district courts of the United States of America will, to the fullest extent permitted by law, be the sole and exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act (the "Federal Forum Provision"). Application of our Federal Forum Provision means that suits brought by our stockholders to enforce any duty or liability created by the Securities Act must be brought in federal court and cannot be brought in state court.

The Federal Forum Provision described above is intended to apply to the fullest extent permitted by law. However, the enforceability of forum selection provisions in the governing documents of other companies has been challenged in legal proceedings, and it is possible that a court could find the Federal Forum Provision to be inapplicable or unenforceable with respect to actions arising under the Securities Act.

Item 1B. Unresolved Staff Comments

None.

Item 2. Properties

As of December 31, 2021, we lease approximately 28 general office properties worldwide, comprised of approximately 1.1 million square feet. We have entered into a lease agreement for our future corporate headquarters in Dallas, Texas, which is expected to commence in the second quarter of 2022. These facilities are used to carry out our operational, sales and administrative functions. Our principal facilities are as follows:

Location	Segment	Approximate Square Footage	Lease Expiration Date
Toronto, Ontario, Canada	AIR MILES Reward Program	205,525 (1)	March 31, 2033
Den Bosch, Netherlands	BrandLoyalty	132,482	December 31, 2033
Maasbree, Netherlands	BrandLoyalty	668,923	September 1, 2033

(1) Includes square footage of subleased portion.

We believe that our existing facilities and offices are appropriate to meet our current requirements. If we require additional space, we believe that we will be able to obtain such space on acceptable, commercially reasonable terms.

Item 3. Legal Proceedings

We are involved, from time to time, in litigation, other legal claims, regulatory actions or other proceedings or actions by governmental authorities involving matters associated with or incidental to our business in the ordinary course, including, among other things, matters involving customer or vendor disputes, breaches of contractual obligations, class actions or purported class actions, trademark and other intellectual property protection and licensing disputes, import/export regulations, taxation, and employment matters. We believe the resolution of currently pending matters will not individually or in the aggregate have a material adverse effect on our business or financial condition. However, our current assessment of these matters may change upon discovery of facts not presently known or determinations by judges, juries, or other finders of fact not in accord with management's evaluation of the possible outcome or liability resulting therefrom.

Item 4. Mine Safety Disclosures

Not applicable.

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PART II

Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities.

Market Information

Our common stock is listed on the Nasdaq Stock Market and trades under the symbol "LYLT".

Holders

As of February 18, 2022, there were 24,611,546 shares of our common stock outstanding, and there were 87 holders of record of our common stock.

Dividends

We do not currently intend to pay any cash dividends on our capital stock in the foreseeable future. We currently intend to retain all available funds and any future earnings to pay down our outstanding indebtedness and fund the development and expansion of our business. The declaration and amount of any dividends to holders of our common stock will be at the discretion of our board of directors and will depend upon many factors, including our financial condition, earnings, cash flows, capital requirements of our business, covenants associated with our debt obligations, legal requirements, regulatory constraints, industry practice and any other factors the board of directors deems relevant. In addition, our ability to pay cash dividends on our capital stock may be limited by the terms of any future debt or preferred securities we issue or any credit facilities we enter into.

Issuer Purchases of Equity Securities

The following table presents information with respect to purchases of our common stock made during the three months ended December 31, 2021:

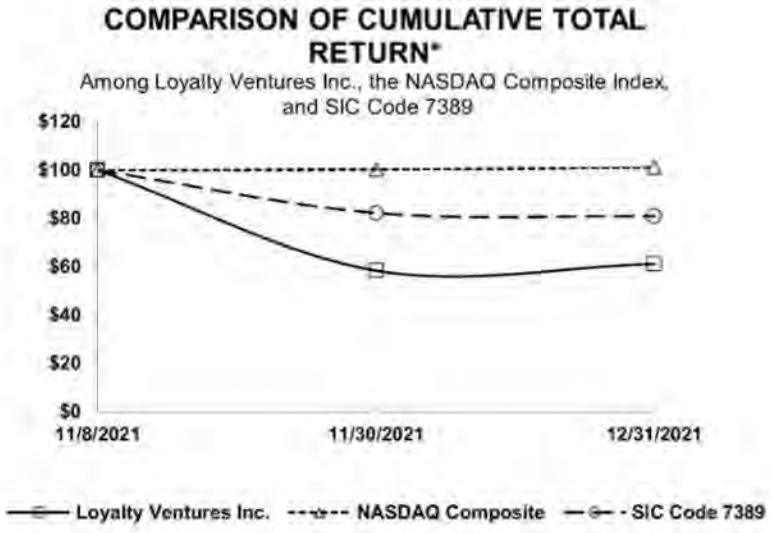
Period	Total Number of Shares Purchased	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Approximate Dollar Value of Shares that May Yet Be Purchased Under the Plans or Programs (Dollars in thousands)
During 2021:				
October 1-31	—	$ —	—	$ —
November 1-30	—	—	—	—
December 1-31	—	—	—	—
Total	—	$ —	—	$ —

Performance Graph

The following graph compares the percentage change in cumulative total stockholder return on our common stock since November 8, 2021, the day "regular-way" trading of Loyalty Ventures' common stock began on the Nasdaq Stock Market, with the cumulative total return over the same period of (1) the Nasdaq Composite Index and (2) the peer group. The peer group selected is based on the standard industrial classification codes ("SIC Code") established by the U.S.

Government. The index chosen was "Services – Business Services" and comprises all publicly traded companies having the same SIC Code (7389) as Loyalty Ventures.

Pursuant to rules of the SEC, the comparison assumes $100 was invested on November 8, 2021 in our common stock and in each of the indices and assumes reinvestment of dividends, if any. Also pursuant to SEC rules, the returns of each of the companies in the peer group are weighted according to the respective company's stock market capitalization at the beginning of each period for which a return is indicated. Historical stock prices are not indicative of future stock price performance.



	11/8/2021	11/30/2021	12/31/2021
Loyalty Ventures Inc.	$ 100.00	$ 58.48	$ 61.27
NASDAQ Composite Index	100.00	100.33	101.08
SIC Code 7389 – Services – Business Services	100.00	82.27	80.95

Our future filings with the SEC may "incorporate information by reference," including this Form 10-K. Unless we specifically state otherwise, this Performance Graph shall not be deemed to be incorporated by reference and shall not constitute soliciting material or otherwise be considered filed under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended.

Item 6. [Reserved].

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations.

Overview

We are a leading provider of tech-enabled, data-driven consumer loyalty solutions. Our solutions are focused on helping partners achieve their strategic and financial objectives, from increased consumer basket size, shopper traffic and frequency and digital reach to enhanced program reporting and analytics. We help financial services providers, retailers

and other consumer-facing businesses create and increase customer loyalty across multiple touch points from traditional to digital to mobile and emerging technologies. We own and operate the AIR MILES® Reward Program, Canada's most recognized loyalty program, and BrandLoyalty, a leading global provider of campaign-based loyalty solutions for grocers and other high-frequency retailers.

Spinoff of the LoyaltyOne Segment

On October 13, 2021, the Board of Directors of ADS approved the previously announced Separation of its LoyaltyOne segment, consisting of the Canadian AIR MILES® Reward Program and BrandLoyalty businesses, into an independent, publicly traded company. On November 5, 2021, the date of the Separation, 81% of the outstanding shares of Loyalty Ventures were distributed pro rata based on the outstanding shares of ADS common stock at the close of business on the record date of October 27, 2021, with ADS retaining the remaining 19% of the outstanding shares of Loyalty Ventures. Additionally, Loyalty Ventures made a cash distribution of $750.0 million to ADS on November 3, 2021, as part of the Separation.

Basis of presentation

Prior to the Separation, we have historically operated as part of ADS and not as a standalone company. The combined financial statements for the periods prior to the Separation date of November 5, 2021 have been derived from ADS' historical accounting records and are presented on a carve-out basis. The financial statements after the Separation date of November 5, 2021 represent the consolidated financial statements of Loyalty Ventures. Our consolidated and combined financial statements and accompanying notes have been prepared in accordance with accounting principles generally accepted in the United States of America ("GAAP"). All revenues and expenses as well as assets and liabilities directly associated with the business activity of the Loyalty Ventures business are included in the consolidated and combined financial statements. The consolidated and combined financial statements also include allocations of certain general and administrative expenses from ADS. ADS corporate overhead costs that directly or indirectly benefited Loyalty Ventures' business were allocated through the date of the spinoff and for the years ended December 31, 2021, 2020 and 2019. The allocated amounts included in general and administrative expense within our consolidated and combined statements of income were $12.6 million, $14.3 million and $14.8 million for the years ended December 31, 2021, 2020 and 2019, respectively. These allocations relate to information technology, finance, accounting, tax services, human resources, and other functional support. These allocations were determined based on management estimates on the number of employees and non-employee costs associated with the use of these functions by us and may not be indicative of the costs that we would otherwise incur on a standalone basis or had we operated independently of ADS.

ADS' third-party long-term debt and the related interest expense have not been allocated for any of the periods presented as Loyalty Ventures was not the legal obligor of such debt. Refer to Note 1, "Description of Business, Spinoff and Basis of Presentation," to our consolidated and combined financial statements for additional information on the carve-out basis of accounting.

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amount of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. The consolidated and combined financial statements may not be indicative of future performance and do not necessarily reflect what the financial position, results of operations, and cash flows would have been had we operated as an independent, publicly traded company during the periods presented, particularly because of changes we expect to experience in the future as a result of the Separation, including changes in the financing, cash management, operations, cost structure and personnel needs of our business.

COVID-19

Following the declaration by the WHO in the first quarter of 2020 of COVID-19 as a global pandemic and the rapid spread of COVID-19, international, provincial, federal, state and local government or other authorities have imposed varying degrees of restrictions on social and commercial activity in an effort to improve health and safety. As the global

COVID-19 pandemic has continued to evolve, our priority has been and continues to be, the health and safety of our employees, with the vast majority of our employees continuing to work from home.

The effects of the COVID-19 pandemic continue to negatively impact our results of operations and certain key metrics. AIR MILES reward miles issuances declined 6% due to the impact of related government restrictions and closures impacting collector spend and the nonrenewal of certain sponsor contracts in the first quarter of 2021. Redemptions increased 12% due to an increase in redemptions for travel, including the reopening of the US border for non-essential travel prior to the emergence of the omicron variant in the fourth quarter. Merchandise redemptions continue to perform well in the current environment. With respect to BrandLoyalty, the decline in revenue and adjusted EBITDA was mainly attributed to a decline in programs in market across most regions due to the impact of COVID-19 and supply chain disruptions. Shortages in production capacity in Europe due to insufficient staff availability led to lower than estimated campaign performance and revenue decline. As a result of the ongoing impact of the COVID-19 pandemic, in the fourth quarter of 2021, we determined that it was more likely than not that the fair value of the BrandLoyalty reporting unit was below its carrying value, and performed an interim impairment test. Based on the results, we recognized a non-cash, goodwill impairment charge of $50.0 million.

Despite the availability of vaccines, surges in COVID-19 cases, including variants of the strain, may adversely impact the economic recovery and our industry outlook. We continue to evaluate the nature and extent of changes to the market and economic conditions related to the COVID-19 pandemic and current and potential impact on our business and financial position. However, given the dynamic nature of this situation, we cannot reasonably estimate the impacts of COVID-19 on our future results of operations or cash flows at this time.

Consolidated and Combined Results of Operations

	Years Ended December 31,			% Change	
	2021	2020	2019	2021 to 2020	2020 to 2019
	(in thousands, except percentages)				
Revenues					
Redemption, net	$ 444,395	$ 473,067	$ 637,321	(6)%	(26)%
Services	269,073	264,050	367,647	2	(28)
Other	21,839	27,689	28,163	(21)	(2)
Total revenue	735,307	764,806	1,033,131	(4)	(26)
Operating expenses					
Cost of operations (exclusive of depreciation and amortization disclosed separately below)	573,246	587,615	847,552	(2)	(31)
General and administrative	20,011	14,315	14,823	40	(3)
Depreciation and other amortization	34,944	28,988	32,152	21	(10)
Amortization of purchased intangibles	1,740	48,953	48,027	(96)	2
Goodwill impairment	50,000	—	—	nm *	nm *
Total operating expenses	679,941	679,871	942,554	—	(28)
Operating income	55,366	84,935	90,577	(35)	(6)
Gain on sale of a business	—	(10,876)	—	nm *	nm *
Interest expense (income), net	5,534	(834)	2,335	(764)	(136)
Income before income taxes and (income) loss from investment in unconsolidated subsidiaries	49,832	96,645	88,242	(48)	10
Provision for income taxes	52,175	21,324	11,331	145	88
(Income) loss from investment in unconsolidated subsidiaries – related party, net of tax	(4,067)	246	1,681	(1,753)	(85)
Net income	$ 1,724	$ 75,075	$ 75,230	(98)%	— %
Key Operating Metrics (in millions):					
AIR MILES reward miles issued	4,670.2	4,963.8	5,511.1	(6)%	(10)%
AIR MILES reward miles redeemed	3,507.3	3,127.8	4,415.7	12 %	(29)%
Supplemental Information:					
Average CAD to USD foreign currency exchange rate	0.80	0.75	0.75	7 %	(1)%
Average EUR to USD foreign currency exchange rate	1.18	1.14	1.12	4 %	2 %

* not meaningful

Year ended December 31, 2021 compared to the year ended December 31, 2020

Revenue. Total revenue decreased $29.5 million, or 4%, to $735.3 million for the year ended December 31, 2021 from $764.8 million for the year ended December 31, 2020. The net decrease in revenue was due to the following:

- *Redemption.* Redemption revenue is recognized at the point in time when the customer redeems for a reward. Revenue decreased $28.7 million, or 6%, to $444.4 million for the year ended December 31, 2021 as redemption revenue from our campaign-based loyalty programs decreased $29.5 million due to a decline in programs in market across most regions due to the impact of COVID-19 and supply chain disruptions. In response to COVID-19, certain of our clients have delayed their campaign-based loyalty programs.

- *Services.* Service revenue is associated with the overall management of the loyalty programs and is generally recognized over time. Revenue increased $5.0 million, or 2%, to $269.1 million for the year ended December 31, 2021 due to the favorable impact of foreign currency exchange rates.

- *Other.* Other revenue includes investment income and other ancillary revenue earned. Revenue decreased $5.9 million, or 21%, to $21.8 million for the year ended December 31, 2021, due to a decline in ancillary revenue associated with surplus inventory in our BrandLoyalty segment.

Cost of operations. Cost of operations decreased $14.4 million, or 2%, to $573.2 million for the year ended December 31, 2021 as compared to $587.6 million for the year ended December 31, 2020. The decline in the cost of operations was a result of a decrease in the cost of redemptions of $27.4 million resulting from the decrease in redemption revenue noted above, offset in part by $13.2 million in costs associated with the Separation.

General and administrative. General and administrative expenses increased $5.7 million, or 40%, to $20.0 million for the year ended December 31, 2021, as compared to $14.3 million for the year ended December 31, 2020, due to an increase in payroll and benefits and $4.5 million in certain costs associated with the Separation, of which $4.0 million represented the write-off of an indemnification asset established as part of the Tax Matters Agreement.

Depreciation and other amortization. Depreciation and other amortization increased $6.0 million, or 21%, to $34.9 million for the year ended December 31, 2021, as compared to $29.0 million for the year ended December 31, 2020 due to additional capitalized software assets placed into service for digital investments for the AIR MILES Reward Program segment.

Amortization of purchased intangibles. Amortization of purchased intangibles decreased $47.2 million, or 96%, to $1.7 million for the year ended December 31, 2021, as compared to $49.0 million for the year ended December 31, 2020, due to the fully amortized customer contracts in our BrandLoyalty segment.

Goodwill impairment. As a result of the ongoing impact of the COVID-19 pandemic, in the fourth quarter of 2021, we determined that it was more likely than not that the fair value of the BrandLoyalty reporting unit was below its carrying value, and performed an interim impairment test. Based on the results, we recognized a non-cash, goodwill impairment charge of $50.0 million.

Gain on sale of a business. In January 2020, ADS sold Precima, a provider of retail strategy and customer data applications, resulting in a pre-tax gain of $10.9 million.

Interest expense (income), net. Total interest expense, net increased $6.4 million to $5.5 million for the year ended December 31, 2021 as compared to interest income of $(0.8) million for the year ended December 31, 2020. The increase in interest expense is associated with our $675.0 million in senior secured credit agreement entered in connection with the Separation in November 2021.

Taxes. Provision for income taxes increased $30.9 million, or 145%, to $52.2 million for the year ended December 31, 2021 from $21.3 million for the year ended December 31, 2020. The provision for income taxes for 2021 was negatively impacted by certain transactions associated with the Separation, including Canadian withholding taxes associated with payments to the former parent, non-deductible U.S. expenses and goodwill impairment.

(Income) loss from unconsolidated subsidiaries—related party. The income from unconsolidated subsidiary – related party was $4.1 million for the year ended December 31, 2021 as compared to a loss of $0.2 million for the year ended December 31, 2020. Our investment in our unconsolidated subsidiary, Comenity Canada, L.P., was sold to an affiliate of ADS in August 2021 for $4.1 million and we recognized a gain on sale of unconsolidated subsidiary of $4.1 million.

Year ended December 31, 2020 compared to the year ended December 31, 2019

Refer to Item 2, "Management's Discussion and Analysis of Financial Condition and Results of Operations," included in of our registration statement on Form 10, filed with SEC on October 13, 2021, for a discussion of our 2020 results compared to 2019, which discussion is incorporated by reference herein.

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Use of non-GAAP financial measures

Adjusted EBITDA is a non-GAAP financial measure equal to net income, the most directly comparable financial measure based on accounting principles generally accepted in the United States of America, or GAAP, plus (income) loss from investment in unconsolidated subsidiaries — related party, provision for income taxes, interest expense (income), net, depreciation and other amortization, the amortization of purchased intangibles, and stock compensation expense. Adjusted EBITDA excludes the gain on the sale of Precima in 2020, strategic transaction costs, which represent costs for professional services and other costs associated with strategic initiatives, including the spinoff and amounts associated with the Tax Matters and Employee Matters agreement, goodwill impairment, and restructuring and other charges for actions taken in 2019. These costs, as well as stock compensation expense, were not included in the measurement of segment adjusted EBITDA as the chief operating decision maker did not factor these expenses for purposes of assessing segment performance and decision making with respect to resource allocations.

We use adjusted EBITDA as an integral part of our internal reporting to measure the performance of our reportable segments and to evaluate the performance of our senior management, and we believe it provides useful information to our investors regarding our performance and overall results of operations. Adjusted EBITDA is considered an important indicator of the operational strength of our businesses. Adjusted EBITDA eliminates the uneven effect across all business segments of considerable amounts of non-cash depreciation of tangible assets and amortization of intangible assets, including certain intangible assets that were recognized in business combinations. A limitation of this measure, however, is that it does not reflect the periodic costs of certain capitalized tangible and intangible assets used in generating revenues in our businesses. Management evaluates the costs of such tangible and intangible assets, such as capital expenditures, investment spending and return on capital and therefore the effects are excluded from adjusted EBITDA. Adjusted EBITDA also eliminates the non-cash effect of stock compensation expense.

Adjusted EBITDA is not intended to be a performance measure that should be regarded as an alternative to, or more meaningful than, net income as an indicator of operating performance or to cash flows from operating activities as a measure of liquidity. In addition, adjusted EBITDA is not intended to represent funds available for dividends, reinvestment or other discretionary uses, and should not be considered in isolation or as a substitute for measures of performance prepared in accordance with GAAP.

Adjusted EBITDA presented herein may not be comparable to similarly titled measures presented by other companies and may not be identical to corresponding measures used in our various agreements.

	Years Ended December 31,		
	2021	2020	2019
		(in thousands)	
Net income	$ 1,724	$ 75,075	$ 75,230
(Income) loss from investment in unconsolidated subsidiaries – related party, net of tax	(4,067)	246	1,681
Provision for income taxes	52,175	21,324	11,331
Interest expense (income), net	5,534	(834)	2,335
Depreciation and other amortization	34,944	28,988	32,152
Amortization of purchased intangibles	1,740	48,953	48,027
Stock compensation expense	6,259	7,017	9,076
Gain on sale of a business, net of strategic transaction costs [1]	—	(7,816)	—
Goodwill impairment	50,000	—	—
Strategic transaction costs [2]	17,682	329	981
Restructuring and other charges [3]	—	108	50,780
Adjusted EBITDA	$ 165,991	$ 173,390	$ 231,593

(1) Represents gain on sale of Precima in January 2020, net of strategic transaction costs. Precima was included in our AIR MILES Reward Program segment. See Note 5, "Disposition," of the Notes to Consolidated and Combined Financial Statements for the year ended December 31, 2021 for additional information.

(2) Represents costs associated with strategic initiatives, including costs associated with the Separation, which were comprised of consent fees, amounts associated with the employee and tax matters agreements, and professional services.

(3) Represents costs associated with restructuring or other exit activities for actions taken in 2019. See Note 13, "Restructuring and Other Charges," of the Notes to Consolidated and Combined Financial Statements for the year ended December 31, 2021 for additional information.

	Years Ended December 31,			% Change	
	2021	2020	2019	2021 to 2020	2020 to 2019
	(in thousands, except percentages)				
Revenue:					
AIR MILES Reward Program	$ 284,744	$ 277,121	$ 384,021	3 %	(28)%
BrandLoyalty	450,609	487,685	649,110	(8)	(25)
Eliminations	(46)	—	—	nm *	nm *
Total	$ 735,307	$ 764,806	$ 1,033,131	(4)%	(26)%
Adjusted EBITDA:					
AIR MILES Reward Program	$ 147,798	$ 144,025	$ 165,168	3 %	(13)%
BrandLoyalty	32,112	42,161	79,376	(24)	(47)
Corporate/Other	(13,919)	(12,796)	(12,951)	9	(1)
Total	$ 165,991	$ 173,390	$ 231,593	(4)%	(25)%

* not meaningful

Year ended December 31, 2021 compared to the year ended December 31, 2020

Revenue. Total revenue decreased $29.5 million, or 4%, to $735.3 million for the year ended December 31, 2021 from $764.8 million for the year ended December 31, 2020. The net decrease was due to the following:

- *AIR MILES Reward Program*. Revenue increased $7.6 million, or 3%, to $284.7 million for the year ended December 31, 2021 as revenue was impacted by favorable exchange rates. The sale of Precima in January 2020 resulted in a $1.9 million decrease in revenue.

- *BrandLoyalty*. Revenue decreased $37.1 million, or 8%, to $450.6 million for the year ended December 31, 2021, due to a decline in programs in market across most regions due to the impact of COVID-19 and related supply chain disruptions.

Adjusted EBITDA. Adjusted EBITDA decreased $7.4 million, or 4%, to $166.0 million for the year ended December 31, 2021 from $173.4 million for the year ended December 31, 2020. The net decrease was due to the following:

- *AIR MILES Reward Program*. Adjusted EBITDA increased $3.8 million, or 3%, to $147.8 million for the year ended December 31, 2021, due to certain cost reductions impacted by COVID 19, such as occupancy and employee engagement costs. For the year ended December 31, 2021, costs of $3.8 million related to the Separation were excluded from adjusted EBITDA. For the year ended December 31, 2020, the $7.8 million gain on the sale of Precima, net of transaction costs, was excluded from adjusted EBITDA.
- *BrandLoyalty*. Adjusted EBITDA decreased $10.0 million, or 24%, to $32.1 million for the year ended December 31, 2021 primarily due to the decrease in revenue as discussed above. For the year ended December 31, 2021, $50.0 million of goodwill impairment and costs of $9.4 million associated with the Separation were excluded from adjusted EBITDA.
- *Corporate/Other*. Adjusted EBITDA decreased $1.1 million to $(13.9) million for the year ended December 31, 2021 as compared to $(12.8) million for the year ended December 31, 2019 due to an increase in payroll and benefits. For the year ended December 31, 2021, costs of $4.5 million associated with the Separation have been excluded from adjusted EBITDA.

Year ended December 31, 2020 compared to the year ended December 31, 2019

Refer to Item 2, "Management's Discussion and Analysis of Financial Condition and Results of Operations," included in of our registration statement on Form 10, filed with SEC on October 13, 2021, for a discussion of our 2020 results compared to 2019, which discussion is incorporated by reference herein.

Liquidity and capital resources

Historically, our primary source of liquidity has been cash generated from operating activities. We expanded this source with our new credit facility and may expand these sources with future issuances of debt or equity securities. Our primary uses of cash are for ongoing business operations, repayment of our debt, capital expenditures and investments.

We believe that internally generated funds and other sources of liquidity discussed below will be sufficient to meet working capital needs, capital expenditures, and other business requirements for at least the next 12 months. We believe we will meet known or reasonably likely future cash requirements through the combination of cash generated from operating activities, available cash balances and available borrowings through the issuance of third-party debt. If these sources of liquidity need to be augmented, additional cash requirements would likely be financed through the issuance of debt or equity securities; however, there can be no assurances that we will be able to obtain additional debt or equity financing on acceptable terms in the future. In addition, the continued volatility in the financial and capital markets due to COVID-19 may limit our access to, or increase our cost of, capital or make capital unavailable on terms acceptable to us or at all.

Our ability to fund our operating needs will depend on our future ability to continue to generate positive cash flow from operations and obtain debt or equity financing on acceptable terms.

Cash flow activity for the years ended December 31, 2021, 2020 and 2019

Operating Activities. We generated cash flow from operating activities of $179.6 million, $216.3 million, and $105.7 million for the years ended December 31, 2021, 2020, and 2019, respectively. The decrease in operating cash flows in 2021 of $36.7 million was impacted by lower profitability and a decrease of working capital. In 2020, operating

cash flows increased $110.6 million due to decreases in working capital due in most part by COVID-19 impacts in the market.

Investing Activities. Cash used in investing activities was $65.3 million, $65.7 million and $53.0 million for the years ended December 31, 2021, 2020 and 2019, respectively. Significant components of investing activities are as follows:

- *Redemption settlement assets, restricted.* The cash used from redemption settlement assets, restricted was $51.9. million, $40.7 million, and $9.5 million for the years ended December 31, 2021, 2020, and 2019, respectively. The increase in cash used was attributable to an increase in investments, as AIR MILES reward miles issued were greater than AIR MILES reward miles redeemed.

- *Capital expenditures.* Cash paid for capital expenditures was $18.2 million, $24.3 million, and $41.5 million for the years ended December 31, 2021, 2020, and 2019, respectively. In 2022, we plan to invest an incremental $20.0 million to $25.0 million of capital expenditures towards enhancing our Collector-facing digital platforms, while also upgrading our data and analytics capabilities so we can serve our clients better.

- *Proceeds from the sale of investments in unconsolidated subsidiaries — related party*. In 2021, we sold our investment in Comenity Canada L.P. for $4.1 million. In 2019, we sold our investment in ICOM Information & Communications L.P. ("ICOM") to a subsidiary of ADS for $4.0 million.

- *Investments in unconsolidated subsidiaries — related party.* We made investments in unconsolidated subsidiaries — related party of $0.7 million and $6.1 million, for the years ended December 31, 2020 and 2019, respectively. We made contributions to Comenity Canada L.P. of $0.7 million for the years ended December 31, 2020, and 2019, respectively. In 2019, we also made a contribution to ICOM of $5.3 million to fund certain losses.

- *Distributions from investment in unconsolidated subsidiary – related party.* We received distributions from Comenity Canada L.P of $0.8 million for the year ended December 31, 2021.

Financing Activities. Cash used in financing activities was $216.2 million, $2.6 million, and $42.9 million for the years ended December 31, 2021, 2020 and 2019, respectively.

In connection with the Separation with ADS, we entered into a senior secured credit facility in the amount of $675.0 million and paid $22.9 million in debt issuance costs. In connection with the Separation, we made a distribution to ADS of $750.0 million, and ADS made a contribution of $5.6 million. In the first quarter of 2021, we also paid a dividend of $124.2 million to ADS, of which $4.2 million was withheld for taxes.

In 2019, a capital contribution of $288.7 million received from ADS was used to repay existing amounts under BrandLoyalty's credit agreement and amounts owed under certain note payable agreements to subsidiaries of ADS.

Additionally, cash used in financing transactions reflecting transactions with ADS were $4.0 million, $2.6 million, and $28.4 million for the years ended December 31, 2021, 2020, and 2019 respectively.

Debt

Credit Agreement

On November 3, 2021, Loyalty Ventures entered into a senior secured credit agreement that provides a $175.0 million term loan A facility, a $500.0 million term loan B facility, which was issued at 98.0% of the aggregate principal amount, and a revolving credit facility in the maximum amount of $150.0 million, collectively the Credit Agreement. The term loan A and revolving credit facility will mature November 3, 2026. The term loan B will mature November 3,

2027. The proceeds of the term loans were used to finance a portion of the $750.0 million distribution by Loyalty Ventures on November 3, 2021 to ADS in connection with the Separation.

Loyalty Ventures will be required to make quarterly principal amortization payments in equal installments in an aggregate amount of 7.5% per annum of the initial aggregate principal amount of each of the term loan A and term loan B. Commencing with the fiscal year ending December 31, 2022, the Credit Agreement requires, on an annual basis, the prepayment of the term loan B with either 0%, 25% or 50% of Excess Cash Flow, depending on the Consolidated Secured Leverage Ratio, as defined in the Credit Agreement.

The Credit Agreement contains customary representations and warranties and affirmative and negative covenants. These covenants, among other things, limit additional indebtedness, additional liens, sales of assets, mergers and consolidations, distributions and other restricted payments, and transactions with affiliates.

As of December 31, 2021, we had $175.0 million and $500.0 million outstanding under the term loan A and B facility, respectively. Availability under the revolving credit facility was $137.5 million, with no borrowings but with $12.5 million in letters of credit outstanding. Our consolidated total leverage ratio, as defined in our Credit Agreement, was under 4 to 1 at December 31, 2021, as compared to the maximum covenant ratio of 5 to 1.

As of December 31, 2021, we were in compliance with our debt covenants.

BrandLoyalty Credit Agreement

In April 2020, BrandLoyalty entered into a new credit agreement that provided for a committed revolving line of credit of €30.0 million, an uncommitted revolving line of credit of €30.0 million, and an accordion feature permitting BrandLoyalty to request an increase in either the committed or uncommitted line of credit up to €80.0 million in aggregate.

In the first quarter of 2021, BrandLoyalty and certain of its subsidiaries, as borrowers and guarantors, amended its credit agreement to extend the maturity date by one year from April 3, 2023 to April 3, 2024. During 2021, no amounts were outstanding under the BrandLoyalty credit agreement, which was terminated in connection with entering into the Credit Agreement.

See Note 15, "Debt," of the Notes to Consolidated and Combined Financial Statements for additional information regarding our debt.

Contractual Obligations

In the normal course of business, we enter into various contractual obligations that may require future cash payments. Our future cash payments associated with our contractual obligations and commitments to make future payments by type and period as of December 31, 2021 are summarized below:

	2022	2023	2024	2025	2026	Thereafter	Total
				(in thousands)			
Long-term debt[1]	$ 82,619	$ 82,619	$ 82,619	$ 82,619	$ 190,829	$ 333,333	$ 854,638
Operating leases	15,073	14,250	13,369	12,841	12,429	77,427	145,389
ASC 740 obligations[2]	—	—	—	—	—	—	—
Purchase obligations[3]	158,389	39,409	32,956	8,065	7,678	—	246,497
Total	$ 256,081	$ 136,278	$ 128,944	$ 103,525	$ 210,936	$ 410,760	$ 1,246,524

(1) Long-term debt represents our estimated debt service obligations, including both principal and interest. Interest was based on the interest rates in effect as of December 31, 2021, applied to the contractual repayment period.

(2) Accounting Standards Codification ("ASC") 740, "Income Taxes," obligations do not reflect unrecognized tax benefits of $19.8 million, of which the timing remains uncertain.

(3) Purchase obligations are defined as an agreement to purchase goods or services that is enforceable and legally binding and specifying all significant terms, including the following: fixed or minimum quantities to be purchased; fixed, minimum or variable price provisions; and approximate timing of the transaction. The purchase obligation amounts disclosed above represent estimates of the minimum for which we are obligated and the time period in which cash outflows will occur. Purchase orders and authorizations to purchase that involve no firm commitment from either party are excluded from the above table. Purchase obligations include inventory or reward purchase commitments, sponsor commitments under our AIR MILES Reward Program, minimum royalty fee guarantees under license agreements, minimum payments under support and maintenance contracts and agreements to purchase other goods and services.

We believe that we will have access to sufficient resources to meet these commitments.

Discussion of critical accounting estimates

Our discussion and analysis of our financial condition and results of operations is based upon our consolidated and combined financial statements, which have been prepared in accordance with accounting policies that are described in the Notes to Consolidated and Combined Financial Statements for the year ended December 31, 2021. The preparation of the consolidated and combined financial statements requires management to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses, and related disclosure of contingent assets and liabilities. We continually evaluate our judgments and estimates in determination of our financial condition and operating results. Estimates are based on information available as of the date of the financial statements and, accordingly, actual results could differ from these estimates, sometimes materially. Critical accounting estimates are defined as those that are both most important to the portrayal of our financial condition and operating results and require management's most subjective judgments. The primary critical accounting estimates are described below.

Revenue recognition

AIR MILES Reward Program. The AIR MILES Reward Program collects fees, or consideration, from its sponsors based on the number of AIR MILES reward miles issued and, in limited circumstances, the number of AIR MILES reward miles redeemed. Total consideration from the issuance of AIR MILES reward miles is allocated to three performance obligations: redemption, service, and brand. As the standalone selling price is not directly observable, we estimate the standalone selling price for each performance obligation using either the adjusted market assessment or cost plus a margin approach. The transaction price is allocated to the separate performance obligations on a relative standalone selling price basis.

The estimated standalone selling price for the redemption and the service performance obligations are based on cost plus a reasonable margin. The estimated standalone selling price of the brand performance obligation is determined using a relief from royalty approach. Accordingly, management determines the estimated standalone selling price by considering multiple inputs and methods, including discounted cash flows and available market data in consideration of applicable margins and royalty rates to utilize. The margins and royalty rates used in the determination of the fair value have remained relatively consistent for the years ended December 31, 2021, 2020, and 2019.

The number of AIR MILES reward miles issued and redeemed are factored into the estimates, as management estimates the standalone selling prices and volumes over the term of the respective agreements in order to determine the allocation of consideration to each performance obligation delivered. The redemption performance obligation incorporates the expected number of AIR MILES reward miles to be redeemed, and therefore, the amount of redemption revenue recognized is subject to management's estimate of breakage, or those AIR MILES reward miles estimated to be unredeemed by the collector base. Our AIR MILES reward miles do not expire with the exception of cases of inactivity, which occurs when a collector account has had no transactional activity for 24 consecutive months. Additionally, the estimated life of an AIR MILES reward mile impacts the timing of revenue recognition.

Breakage and the life of an AIR MILES reward mile are based on management's estimate after viewing and analyzing various historical trends including collector behavior, as well as factors related to a collector's account and level of engagement that are expected to be indicative of the likelihood of future redemption. We use a statistical model

to analyze our breakage estimate and update the model at least annually. We also analyze vintage analysis, current run rates and other pertinent factors, such as the impact of macroeconomic factors and changes in the program structure.

For the years ended December 31, 2021, 2020 and 2019, our estimated breakage rate remained 20%. Our cumulative redemption rate, which represents program to date redemptions divided by program to date issuance, is 69% as of December 31, 2021. We expect the ultimate redemption rate will approximate 80% based on our historical redemption patterns, statistical regression models, and consideration of enacted program changes, as applicable.

For the years ended December 31, 2021, 2020 and 2019, our estimated life of an AIR MILES reward mile remained 38 months. We estimate that a change to the estimated life of an AIR MILES reward mile of one month would impact revenue by approximately $4 million. Any future changes in collector behavior could result in further changes in our estimates of breakage or life of an AIR MILES reward mile.

As of December 31, 2021, we had $1,022.0 million in deferred revenue related to the AIR MILES Reward Program that will be recognized in the future. Further information is provided in Note 3, "Revenue," of the Notes to Consolidated and Combined Financial Statements for the year ended December 31, 2021.

Goodwill

We test goodwill for impairment annually, or when events and circumstances change that would indicate the carrying value may not be recoverable.

For the 2021 annual impairment test, we performed a quantitative analysis for the AIR MILES Reward Program and BrandLoyalty reporting units under ADS. The fair value of the reporting units was estimated using a discounted cash flow analysis based on management's estimates of forecasted cash flows, with those cash flows discounted to present value using rates commensurate with the risks associated with those cash flows. The valuation includes assumptions related to revenue growth and profit performance, capital expenditures, the discount rate and other assumptions that are judgmental in nature. Changes in these estimates and assumptions could materially affect the results of our tests for goodwill impairment. As of the annual impairment test, goodwill for the AIR MILES Reward Program and the BrandLoyalty reporting units was $198.5 million and $527.1 million, respectively, and it was determined there was no impairment of goodwill on these reporting units, as the fair value of each of the AIR MILES Reward Program and BrandLoyalty reporting unit exceeded its carrying value by more than 190% and less than 10%, respectively.

Due to the continued impact of the COVID-19 pandemic, including supply chain disruptions in the fourth quarter of 2021 negatively impacting program performance and issuing revised downward guidance in December 2021, we believed it was more likely than not that the fair value of the BrandLoyalty reporting unit was less than its carrying value, and performed an interim impairment test on the BrandLoyalty reporting unit as of December 31, 2021. To determine the fair value of the BrandLoyalty reporting unit, we utilized an income approach and discounted cash flow model. The most significant estimates and assumptions inherent in the discounted cash flow model were the forecasted revenue growth rate, forecasted margin, the discount rate and the terminal growth rate. These assumptions are unobservable inputs classified as Level 3 under the fair value hierarchy of ASC 820, "Fair Value Measurement." The projections for revenue and gross margin are based on a multiyear forecast, which reflects a recovery from the COVID-19 pandemic during the forecast period and normalization of supply chain constraints. The discount rate was based on an estimated weighted average cost of capital and a specific risk premium for the BrandLoyalty reporting unit. The components of weighted average cost of capital, which includes the cost of equity and debt, and the specific risk premium, requires judgment by management to estimate. Based on the results of the interim goodwill impairment test, we recorded an impairment charge of $50.0 million, which reduced the goodwill balance of the BrandLoyalty reporting unit by approximately 10%.

The goodwill balances as of December 31, 2021 for the AIR MILES Reward Program and BrandLoyalty reporting units were $194.8 million and $455.2 million, respectively. See Note 11, "Intangible Assets and Goodwill," of the Notes to Consolidated and Combined Financial Statements for additional information.

As with all assumptions, there is an inherent level of uncertainty and actual results, to the extent they differ from those assumptions, could have a material impact on fair value. For example, a reduction in customer demand would impact our assumed growth rate resulting in a reduced fair value. The loss of a major customer or program could have a significant impact on the future cash flows of the reporting unit(s). Potential events or circumstances could have a negative effect on the estimated fair value. In addition, the COVID-19 pandemic and continuing uncertainty in the macroeconomic environment and future deterioration in the economy could adversely impact our reporting units and result in an additional goodwill impairment charge that could be material.

Allowance for Inventory Obsolescence

We use certain estimates and judgments to value inventory. Inventory is stated at the lower of cost or net realizable value. We review our inventories for excess or obsolete products. Based on an analysis of historical usage, management's evaluation of estimated future demand, market conditions, and alternative uses for possible excess or obsolete inventory, carrying values are adjusted. The carrying value is reduced regularly to reflect the age and current anticipated product demand. If actual demand differs from the estimates, additional reductions would be necessary in the period such determination is made. Excess and obsolete inventory is periodically disposed of through sale to third parties, scrapping, or other means. A 10% increase or decrease in our estimate of allowance for obsolescence at December 31, 2021 would impact our cost of operations by approximately $1.4 million.

Income taxes

We account for uncertain tax positions in accordance with ASC 740, "Income Taxes." The application of income tax law is inherently complex. Laws and regulations in this area are voluminous and are often ambiguous. As such, we are required to make many subjective assumptions and judgments regarding our income tax exposures. Interpretations of, and guidance surrounding, income tax laws and regulations change over time. Changes in our subjective assumptions and judgments can materially affect amounts recognized in the consolidated and combined balance sheets and statements of income. See Note 21, "Income Taxes," of the Notes to Consolidated and Combined Financial Statements for additional detail on our uncertain tax positions and further information regarding ASC 740.

Recently issued and adopted accounting standards

See "Recently Issued Accounting Standards" under Note 2, "Summary of Significant Accounting Policies," of the Notes to Consolidated and Combined Financial Statements for the year ended December 31, 2021 for a discussion of certain accounting standards that we have recently adopted and certain accounting standards that we have not yet been required to adopt and may be applicable to our future financial condition, results of operations or cash flows.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk.

Market risk is the risk of loss from adverse changes in market prices and rates. Our primary market risks include foreign currency exchange rate risk and interest rate risk.

Foreign currency exchange rate risk

We are exposed to fluctuations in the exchange rate between primarily the U.S. and the Canadian dollar and between the U.S. dollar and the Euro. For the year ended December 31, 2021, an additional 10% decrease in the strength of the Canadian dollar versus the U.S. dollar and the Euro versus the U.S. dollar would have resulted in an additional decrease in pre-tax income of approximately $12.3 million and $4.3 million, respectively. Conversely, a corresponding increase in the strength of the Canadian dollar or the Euro versus the U.S. dollar would result in a comparable increase to pre-tax income in these periods.

Interest Rate Risk

We have variable-rate debt under the Credit Agreement entered into in November 2021, more fully described in Note 15, "Debt," of the Notes to Consolidated and Combined Financial Statements and are subject to interest rate risk in

connection with amounts outstanding under the Credit Agreement. Our interest expense, net was $5.5 million for 2021. Our Credit Agreement allows for the London interbank offered rate (LIBOR) to be phased out and replaced with the Secured Overnight Financing Rate and therefore we do not anticipate a material impact by the expected upcoming LIBOR transition. To manage our risk from market interest rates, we actively monitor interest rates and other interest sensitive components to minimize the impact that changes in interest rates have on the fair value of assets, net income and cash flow.

The approach we use to quantify interest rate risk is a sensitivity analysis, which we believe best reflects the risk inherent in our business. This approach calculates the impact on pre-tax income from an instantaneous and sustained increase or decrease in interest rates of 1%. In 2021, a 1% increase or decrease in interest rates on our variable-rate debt, which was outstanding for approximately two months, would have resulted in a change to our interest expense of approximately $1.1 million. Our use of this methodology to quantify the market risk of financial instruments should not be construed as an endorsement of its accuracy or the appropriateness of the related assumptions.

Item 8. Financial Statements and Supplementary Data.

Our consolidated and combined financial statements begin on page F-1 of this Form 10-K.

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure.

None.

Item 9A. Controls and Procedures.

Conclusion Regarding the Effectiveness of Disclosure Controls and Procedures

As of December 31, 2021, we carried out an evaluation under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures pursuant to Rule 13a-15 of the Securities Exchange Act of 1934. Based upon that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that as of December 31, 2021, our disclosure controls and procedures are effective. Disclosure controls and procedures are controls and procedures designed to ensure that information required to be disclosed in our reports filed or submitted under the Securities Exchange Act of 1934 is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and include controls and procedures designed to ensure that information we are required to disclose in such reports is accumulated and communicated to management, including our Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure.

Management's Report on Internal Control Over Financial Reporting

This Annual Report on Form 10-K does not include a report of management's assessment regarding internal control over financial reporting or an attestation report of our independent registered public accounting firm due to a transition

period established by the SEC for newly public companies. In addition, while remaining an emerging growth company we will not require an attestation report from our independent registered public accounting firm.

Changes in Internal Control Over Financial Reporting

There have been no changes in our internal control over financial reporting that occurred during our fourth quarter 2021 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Item 9B. Other Information.

None.

Item 9C. Disclosure Regarding Foreign Jurisdictions that Prevent Inspections.

None.

PART III

Item 10. Directors, Executive Officers and Corporate Governance.

Incorporated by reference to the Proxy Statement for the 2022 Annual Meeting of our stockholders, which will be filed with the SEC not later than 120 days after December 31, 2021.

Item 11. Executive Compensation.

Incorporated by reference to the Proxy Statement for the 2022 Annual Meeting of our stockholders, which will be filed with the SEC not later than 120 days after December 31, 2021.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters.

Incorporated by reference to the Proxy Statement for the 2022 Annual Meeting of our stockholders, which will be filed with the SEC not later than 120 days after December 31, 2021.

Item 13. Certain Relationships and Related Transactions, and Director Independence.

Incorporated by reference to the Proxy Statement for the 2022 Annual Meeting of our stockholders, which will be filed with the SEC not later than 120 days after December 31, 2021.

Item 14. Principal Accountant Fees and Services.

Incorporated by reference to the Proxy Statement for the 2022 Annual Meeting of our stockholders, which will be filed with the SEC not later than 120 days after December 31, 2021.

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PART IV

Item 15. Exhibits, Financial Statement Schedules.

a) The following are filed as part of this 10-K:

(1) The following financial statements are included in Part II, Item 8 of this 10-K:

- Consolidated and Combined Balance Sheets as of December 31, 2021 and 2020;
- Consolidated and Combined Statements of Income for the years ended December 31, 2021, 2020 and 2019;
- Consolidated and Combined Statements of Comprehensive Income (Loss) for the years ended December 31, 2021, 2020 and 2019;
- Consolidated and Combined Statements of Stockholders' Equity for the years ended December 31, 2021, 2020 and 2019;
- Consolidated and Combined Statements of Cash Flows for the years ended December 31, 2021, 2020 and 2019;
- Notes to Consolidated and Combined Financial Statements; and
- Report of our Independent Registered Public Accounting Firm.

(2) Financial Statement Schedule II

(3) The following exhibits are filed as part of this 10-K or, where indicated, were previously filed and incorporated in this 10-K by reference.

Exhibit No.	Description	Incorporated by Reference		
		Form	Exhibit	Filing Date
2.1%	Separation and Distribution Agreement between Alliance Data Systems Corporation and Loyalty Ventures Inc., dated November 3, 2021.	8-K	2.1	11/8/2021
3.1	Amended and Restated Certificate of Incorporation of Loyalty Ventures Inc.	8-K	3.1	11/8/2021
3.2	Amended and Restated Bylaws of Loyalty Ventures Inc.	8-K	3.2	11/8/2021
4.1*	Description of Registrant's Common Stock			
10.1%	Transition Services Agreement between Alliance Data Systems Corporation and Loyalty Ventures Inc., dated November 5, 2021.	8-K	10.1	11/8/2021
10.2%	Tax Matters Agreement between Alliance Data Systems Corporation and Loyalty Ventures Inc., dated November 5, 2021.	8-K	10.2	11/8/2021
10.3%	Employee Matters Agreement between Alliance Data Systems Corporation and Loyalty Ventures Inc., dated November 5, 2021.	8-K	10.3	11/8/2021
10.4	First Amendment to Employee Matters Agreement between Alliance Data Systems Corporation and Loyalty Ventures Inc., dated December 6, 2021.	8-K	10.2	12/7/2021
10.5	Registration Rights Agreement between Alliance Data Systems Corporation and Loyalty Ventures Inc., dated November 5, 2021.	8-K	10.4	11/8/2021

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10.6[%]	Credit Agreement, dated as of November 3, 2021, by and among Loyalty Ventures Inc., Brand Loyalty Group B.V., Brand Loyalty Holding B.V. and Brand Loyalty International B.V., as borrowers, certain other subsidiaries as guarantors, Bank of America N.A., as administrative agent and collateral agent, and certain other lenders party thereto.	8-K	10.1	11/4/2021
10.7[%]	Amended and Restated License to Use the AIR MILES Trade Marks in Canada, dated as of July 24, 1998, by and between Air Miles International Holdings N.V. and Loyalty Management Group Canada Inc. (assigned by Air Miles International Holdings N.V. to Air Miles International Trading B.V. by a novation agreement dated as of July 18, 2001 and further assigned to AM Royalties Limited Partnership, a wholly owned subsidiary of Diversified Royalty Corp., in connection with an asset purchase agreement dated August 25, 2017).	8-K	10.2	11/4/2021
10.8[%]	Amended and Restated License to Use and Exploit the AIR MILES Scheme in Canada, dated July 24, 1998, by and between Air Miles International Trading B.V. and Loyalty Management Group Canada Inc. as assigned by Air Miles International Trading B.V. to AM Royalties Limited Partnership, a wholly owned subsidiary of Diversified Royalty Corp., in connection with an asset purchase agreement dated August 25, 2017.	8-K	10.3	11/4/2021
10.9[%%]	Amended and Restated Program Participation Agreement by and between LoyaltyOne, Co. and Bank of Montreal, dated as of November 1, 2017, as amended.	10	10.8	9/24/2021
10.10[+]	Loyalty Ventures Inc. 2021 Omnibus Incentive Plan.	S-8	99.1	11/9/2021
10.11	Loyalty Ventures Inc. 2021 Employee Stock Purchase Plan.	S-8	99.2	11/9/2021
10.12	Form of Indemnification Agreement for Officers and Directors.	10	10.5	9/1/2021
10.13[+]	Form of Time-Based Cash Award Agreement under the Loyalty Ventures Inc. 2021 Omnibus Incentive Plan.	8-K	10.1	12/7/2021
10.14[+]	Form of Time-Based Restricted Stock Unit Award Agreement under the Loyalty Ventures Inc. 2021 Omnibus Incentive Plan.	8-K	10.3	12/7/2021
10.15[+]	Form of Non-employee Director Restricted Stock Unit Award Agreement under the Loyalty Ventures Inc. 2021 Omnibus Incentive Plan.	8-K	10.1	12/15/2021
10.16[+*%]	Form of Performance-Based Restricted Stock Unit Award Agreement under the Loyalty Ventures Inc. 2021 Omnibus Incentive Plan.			
10.17[+*]	Form of Employee Covenants Agreement (VP or Above).			
21.1[*]	Subsidiaries of the Registrant.			
23.1[*]	Consent of Deloitte & Touche LLP.			

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31.1*	Certification of Chief Executive Officer of Loyalty Ventures Inc. pursuant to Rule 13a-14(a) promulgated under the Securities Exchange Act of 1934, as amended.
31.2*	Certification of Chief Financial Officer of Loyalty Ventures Inc. pursuant to Rule 13a-14(a) promulgated under the Securities Exchange Act of 1934, as amended.
32.1**	Certification of Chief Executive Officer of Loyalty Ventures Inc. pursuant to Rule 13a-14(b) promulgated under the Securities Exchange Act of 1934, as amended, and Section 1350 of Chapter 63 of Title 18 of the United States Code.
32.2**	Certification of Chief Financial Officer of Loyalty Ventures Inc. pursuant to Rule 13a-14(b) promulgated under the Securities Exchange Act of 1934, as amended, and Section 1350 of Chapter 63 of Title 18 of the United States Code.
101*	The following financial information from Loyalty Ventures Inc.'s Annual Report on Form 10-K for the fiscal year ended December 31, 2021, formatted in Inline XBRL: (i) Consolidated and Combined Balance Sheets, (ii) Consolidated and Combined Statements of Income, (iii) Consolidated and Combined Statements of Comprehensive Income (Loss), (iv) Consolidated and Combined Statements of Equity, (v) Consolidated and Combined Statements of Cash Flows and (vi) Notes to Consolidated and Combined Financial Statements.
104*	Cover Page Interactive Data File (formatted in Inline XBRL and contained in Exhibit 101).

* Filed herewith
** Furnished herewith
% Certain exhibits and schedules have been omitted pursuant to Item 601(a)(5) of Regulation S-K. Loyalty Ventures hereby undertakes to furnish supplementally copies of any of the omitted exhibits upon request by the U.S. Securities and Exchange Commission.
%% Pursuant to Item 601(b)(10)(iv) of Regulation S-K, certain identified information has been excluded from this exhibit.
+ Management contract, compensatory plan or arrangement

Item 16. Form 10-K Summary.

None.

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SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, Loyalty Ventures Inc. has duly caused this annual report on Form 10-K to be signed on its behalf by the undersigned, thereunto duly authorized.

LOYALTY VENTURES INC.

By: /s/ CHARLES L. HORN
Charles L. Horn
President and Chief Executive Officer

Date: February 28, 2022

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of Loyalty Ventures Inc. and in the capacities and on the dates indicated.

Name	Title	Date
/s/ CHARLES L. HORN **Charles L. Horn**	President, Chief Executive Officer and Director	February 28, 2022
/s/ JOHN J. CHESNUT **John J. Chesnut**	Executive Vice President and Chief Financial Officer	February 28, 2022
/s/ LAURA SANTILLAN **Laura Santillan**	Senior Vice President and Chief Accounting Officer	February 28, 2022
/s/ ROGER H. BALLOU **Roger H. Ballou**	Chair of the Board, Director	February 28, 2022
/s/ GRAHAM W. ATKINSON **Graham W. Atkinson**	Director	February 28, 2022
/s/ RICHARD A. GENOVESE **Richard A. Genovese**	Director	February 28, 2022
/s/ BARBARA L. RAYNER **Barbara L. Rayner**	Director	February 28, 2022

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INDEX TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS

LOYALTY VENTURES INC.

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Stockholders and the Board of Directors of Loyalty Ventures Inc.

Opinion on the Financial Statements

We have audited the accompanying consolidated and combined balance sheets of Loyalty Ventures Inc. and subsidiaries (the "Company") as of December 31, 2021 and 2020, the related consolidated and combined statements of income, comprehensive income (loss), equity, and cash flows for each of the three years in the period ended December 31, 2021, and the related notes and Schedule II (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2021 and 2020, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2021, in conformity with accounting principles generally accepted in the United States of America.

Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits we are required to obtain and understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

Emphasis of a Matter

As discussed in Note 25 to the financial statements, the financial statements include allocations of expenses from the former Parent, Alliance Data Systems Corporation. These allocations may not be reflective of the actual level of costs which would have been incurred had the Company operated as a separate entity apart from the Parent.

/s/ Deloitte & Touche LLP

Dallas, Texas
February 28, 2022

We have served as the Company's auditor since 1998.

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LOYALTY VENTURES INC.
CONSOLIDATED AND COMBINED BALANCE SHEETS

	December 31, 2021	December 31, 2020
	(in thousands, except per share amounts)	
ASSETS		
Cash and cash equivalents	$ 167,601	$ 278,841
Accounts receivable, net, less allowance for doubtful accounts ($4.7 million and $4.0 million at December 31, 2021 and 2020, respectively)	288,251	270,559
Inventories, net, less allowance for obsolescence ($13.5 million and $10.9 million at December 31, 2021 and 2020, respectively)	188,577	164,306
Redemption settlement assets, restricted	735,131	693,461
Other current assets	28,627	23,000
Total current assets	1,408,187	1,430,167
Property and equipment, net	79,959	97,916
Right of use assets - operating	99,515	113,870
Deferred tax asset, net	58,128	70,137
Intangible assets, net	3,095	5,097
Goodwill	649,958	735,898
Investment in unconsolidated subsidiary – related party	—	854
Other non-current assets	24,885	4,125
Total assets	$ 2,323,727	$ 2,458,064
LIABILITIES AND EQUITY		
Accounts payable	$ 103,482	$ 74,818
Accrued expenses	144,997	67,056
Deferred revenue	924,789	898,475
Current operating lease liabilities	10,055	9,942
Current debt	50,625	—
Other current liabilities	118,444	64,990
Total current liabilities	1,352,392	1,115,281
Deferred revenue	97,167	105,544
Long-term operating lease liabilities	103,242	117,648
Long-term debt	603,488	—
Other liabilities	20,874	25,290
Total liabilities	2,177,163	1,363,763
Commitments and contingencies (Note 17)		
Common stock, $0.01 par value; authorized, 200,000 shares; issued, 24,585 shares at December 31, 2021	246	—
Additional paid-in-capital	266,775	—
Accumulated deficit	(55,383)	—
Parent's net investment	—	1,093,920
Accumulated other comprehensive (loss) income	(65,074)	381
Total equity	146,564	1,094,301
Total liabilities and equity	$ 2,323,727	$ 2,458,064

See accompanying notes to the consolidated and combined financial statements.

LOYALTY VENTURES INC.
CONSOLIDATED AND COMBINED STATEMENTS OF INCOME

	Years Ended December 31,		
	2021	2020	2019
	(in thousands, except per share amounts)		
Revenues			
Redemption, net	$ 444,395	$ 473,067	$ 637,321
Services	269,073	264,050	367,647
Other	21,839	27,689	28,163
Total revenue	735,307	764,806	1,033,131
Operating expenses			
Cost of operations (exclusive of depreciation and amortization disclosed separately below)	573,246	587,615	847,552
General and administrative	20,011	14,315	14,823
Depreciation and other amortization	34,944	28,988	32,152
Amortization of purchased intangibles	1,740	48,953	48,027
Goodwill impairment	50,000	—	—
Total operating expenses	679,941	679,871	942,554
Operating income	55,366	84,935	90,577
Gain on sale of a business	—	(10,876)	—
Interest expense (income), net	5,534	(834)	2,335
Income before income taxes and (income) loss from investment in unconsolidated subsidiaries	49,832	96,645	88,242
Provision for income taxes	52,175	21,324	11,331
(Income) loss from investment in unconsolidated subsidiaries – related party, net of tax	(4,067)	246	1,681
Net income	$ 1,724	$ 75,075	$ 75,230
Net income per share (Note 4):			
Basic	$ 0.07	$ 3.05	$ 3.06
Diluted	$ 0.07	$ 3.05	$ 3.06
Weighted average shares (Note 4):			
Basic	24,585	24,585	24,585
Diluted	24,591	24,585	24,585

See accompanying notes to the consolidated and combined financial statements.

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LOYALTY VENTURES INC.
CONSOLIDATED AND COMBINED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)

	Years Ended December 31,		
	2021	2020	2019
		(in thousands)	
Net income	$ 1,724	$ 75,075	$ 75,230
Other comprehensive income (loss):			
Unrealized (loss) gain on securities available-for-sale	(16,819)	18,551	6,405
Tax benefit (expense)	693	(670)	—
Unrealized (loss) gain on securities available-for-sale, net of tax	(16,126)	17,881	6,405
Unrealized gain (loss) on cash flow hedges	2,514	(639)	115
Tax (expense) benefit	(544)	72	(24)
Unrealized gain (loss) on cash flow hedges, net of tax	1,970	(567)	91
Foreign currency translation adjustments (inclusive of contribution from Parent of corporate entities of $0.4 million for the year ended December 31, 2021 and deconsolidation of $3.9 million for the year ended December 31, 2020)	(51,299)	75,133	(6,214)
Other comprehensive (loss) income, net of tax	(65,455)	92,447	282
Total comprehensive (loss) income, net of tax	$ (63,731)	$ 167,522	$ 75,512

See accompanying notes to the consolidated and combined financial statements.

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LOYALTY VENTURES INC.
CONSOLIDATED AND COMBINED STATEMENTS OF EQUITY
(in thousands)

	Common Stock Shares	Common Stock Amount	Additional Paid-In Capital	Accumulated Deficit	Parent's Net Investment	Accumulated Other Comprehensive Loss	Total Equity
Balance as of January 1, 2019	—	$ —	$ —	$ —	$ 697,378	$ (92,348)	$ 605,030
Net income	—	—	—	—	75,230	—	75,230
Other comprehensive income	—	—	—	—	—	282	282
Change in Parent's net investment	—	—	—	—	267,017	—	267,017
Balance as of December 31, 2019	—	$ —	$ —	$ —	$1,039,625	$ (92,066)	$ 947,559
Net income	—	—	—	—	75,075	—	75,075
Other comprehensive income	—	—	—	—	—	92,447	92,447
Change in Parent's net investment	—	—	—	—	(20,780)	—	(20,780)
Balance as of December 31, 2020	—	$ —	$ —	$ —	$1,093,920	$ 381	$1,094,301
Net (loss) income	—	—	—	(55,383)	57,107	—	1,724
Other comprehensive loss	—	—	—	—	—	(65,822)	(65,822)
Change in Parent's net investment	—	—	—	—	(141,939)	—	(141,939)
Consideration paid to Parent in connection with Separation	—	—	—	—	(750,000)	—	(750,000)
Contribution from Parent of corporate entities	—	—	7,247	—	—	367	7,614
Issuance of common stock and reclassification of Parent's net investment	24,585	246	258,842	—	(259,088)	—	—
Stock-based compensation	—	—	688	—	—	—	688
Other	—	—	(2)	—	—	—	(2)
Balance as of December 31, 2021	24,585	$ 246	$266,775	$ (55,383)	$ —	$ (65,074)	$ 146,564

See accompanying notes to the consolidated and combined financial statements.

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LOYALTY VENTURES INC.
CONSOLIDATED AND COMBINED STATEMENTS OF CASH FLOWS

	Years Ended December 31,		
	2021	2020	2019
		(in thousands)	
CASH FLOWS FROM OPERATING ACTIVITIES:			
Net income	$ 1,724	$ 75,075	$ 75,230
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation and amortization	36,684	77,941	80,179
Deferred income tax expense (benefit)	8,763	(3,502)	(19,853)
Non-cash stock compensation	6,259	7,017	9,076
Loss from investments in unconsolidated subsidiaries – related party	60	246	1,681
Gain on sale of investment in unconsolidated subsidiary – related party	(4,110)	—	—
Gain on sale of a business	—	(10,876)	—
Asset impairment charges	—	—	40,664
Goodwill impairment	50,000	—	—
Change in other operating assets and liabilities, net of sale of business:			
Change in deferred revenue	9,990	60,826	2,943
Change in accounts receivable	13,145	64,194	(36,104)
Change in accounts payable and accrued expenses	29,868	(40,361)	(50,459)
Change in other assets	(37,061)	79,009	12,845
Change in other liabilities	45,811	(86,787)	(15,332)
Other	18,443	(6,465)	4,829
Net cash provided by operating activities	179,576	216,317	105,699
CASH FLOWS FROM INVESTING ACTIVITIES:			
Change in redemption settlement assets, restricted	(51,924)	(40,677)	(9,496)
Capital expenditures	(18,213)	(24,319)	(41,457)
Proceeds from the sale of investments in unconsolidated subsidiaries – related party	4,055	—	4,000
Investments in unconsolidated subsidiaries – related party	—	(736)	(6,093)
Distributions from investment in unconsolidated subsidiary – related party	795	—	—
Net cash used in investing activities	(65,287)	(65,732)	(53,046)
CASH FLOWS FROM FINANCING ACTIVITIES:			
Borrowings under debt agreements	675,000	—	28,271
Repayments of borrowings	—	—	(203,634)
Repayments of borrowings from related parties	—	—	(127,845)
Payment of deferred financing costs	(22,852)	—	—
Contribution from Parent	5,637	—	288,693
Consideration paid to Parent in connection with Separation	(750,000)	—	—
Dividends paid to Parent	(120,000)	—	—
Net transfers to Parent	(3,972)	(2,638)	(28,393)
Net cash used in financing activities	(216,187)	(2,638)	(42,908)
Effect of exchange rate changes on cash, cash equivalents and restricted cash	(3,025)	14,446	3,600
Change in cash, cash equivalents and restricted cash	(104,923)	162,393	13,345
Cash, cash equivalents and restricted cash at beginning of year	337,525	175,132	161,787
Cash, cash equivalents and restricted cash at end of year	$ 232,602	$ 337,525	$ 175,132
SUPPLEMENTAL CASH FLOW INFORMATION:			
Interest paid	$ 5,291	$ 146	$ 5,786
Income taxes paid, net	$ 39,258	$ 76,750	$ 40,301

See accompanying notes to the consolidated and combined financial statements.

LOYALTY VENTURES INC.
NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS

1. DESCRIPTION OF BUSINESS, SPINOFF AND BASIS OF PRESENTATION

Description of the Business—Loyalty Ventures Inc. (the "Company" or "Loyalty Ventures") provides coalition and campaign-based loyalty solutions through the Canadian AIR MILES® Reward Program and BrandLoyalty Group B.V. ("BrandLoyalty"). The AIR MILES Reward Program is a full-service outsourced coalition loyalty program for its sponsors who pay a fee per AIR MILES reward mile issued, in return for which the AIR MILES Reward Program provides all marketing, customer service, rewards and redemption management. BrandLoyalty designs, implements, conducts and evaluates innovative and tailor-made loyalty programs for high frequency retailers worldwide. These loyalty programs are designed to generate immediate changes in consumer behavior and are offered across Europe and Asia, as well as around the world. The business represents the LoyaltyOne reportable segment previously owned by Alliance Data Systems Corporation ("ADS" or "Parent") that was spun off into Loyalty Ventures Inc. on November 5, 2021.

Spinoff of the LoyaltyOne Segment—On October 13, 2021, the Board of Directors of ADS approved the previously announced separation (the "Separation") of its LoyaltyOne segment, into an independent, publicly traded company, Loyalty Ventures Inc. The Separation was completed on November 5, 2021 through the pro rata distribution of 81% of the outstanding shares of Loyalty Ventures to holders of ADS common stock at the close of business on the record date of October 27, 2021, with ADS retaining the remaining 19% of the outstanding shares of Loyalty Ventures. ADS stockholders of record that did not sell their rights to receive Loyalty Ventures stock before the close of business on November 5, 2021 received one share of Loyalty Ventures common stock for every two and one-half (2.5) shares of ADS common stock. Additionally, Loyalty Ventures made a cash distribution of $750.0 million to ADS on November 3, 2021 as part of the Separation. The distribution qualified as a tax-free reorganization and a tax-free distribution to ADS and its stockholders for U.S. federal income tax purposes. On November 8, 2021, "regular-way" trading of Loyalty Ventures' common stock began on the Nasdaq Stock Market under the symbol "LYLT".

In connection with the Separation, Loyalty Ventures entered into several agreements with ADS, including the Separation and Distribution Agreement on November 3, 2021 and the remaining agreements described below on November 5, 2021, that, among other things, effect the Separation and provide a framework for its relationship with ADS after the Separation:

- Separation and Distribution Agreement. Governs the overall terms of the Separation. Generally, the Separation and Distribution Agreement includes ADS' and Loyalty Ventures' agreements relating to the restructuring steps taken to complete the Separation, including the assets and rights transferred, liabilities assumed and related matters. The Separation and Distribution Agreement provides for ADS and Loyalty Ventures to transfer specified assets between the companies that operate the LoyaltyOne segment after the Distribution, on the one hand, and ADS' remaining businesses, on the other hand.

- Tax Matters Agreement. Governs ADS' and Loyalty Ventures' respective rights, responsibilities and obligations with respect to taxes, including taxes arising in the ordinary course of business, and taxes, if any, incurred as a result of the failure of the Distribution (and certain related transactions) to qualify for tax-free treatment for U.S. federal income tax purposes. The Tax Matters Agreement also sets forth the respective obligations of the parties with respect to the filing of tax returns, the administration of tax contests and assistance and cooperation on tax matters. Under the Tax Matters Agreement, ADS generally is responsible for all of the pre-Separation taxes of Loyalty Ventures and its subsidiaries ("Loyalty Ventures Group") and is entitled to all the Loyalty Ventures Group's pre-Separation refunds, and Loyalty Ventures is generally responsible for all post-Separation taxes with respect to the Loyalty Ventures Group. See Note 25, "Related Party Transactions," for additional information.

- Transition Services Agreement. Sets forth the terms on which each of Loyalty Ventures and ADS will provide certain historically shared services to the other, on a transitional basis. Transition services will include various corporate, administrative and information technology services. Both parties are obligated, subject to certain

customary exceptions, to provide such services in substantially the same manner as such services have been provided during the 12-month period prior to the distribution. See Note 25, "Related Party Transactions," for additional information.

- Employee Matters Agreement. Governs each company's respective compensation and benefit obligations with respect to current and former employees, directors and consultants. The Employee Matters Agreement sets forth general principles relating to employee matters in connection with the Separation, such as the assignment of employees, the assumption and retention of liabilities and related assets, expense reimbursements, workers' compensation, leaves of absence, the provision of comparable benefits, employee service credit, the sharing of employee information and duplication or acceleration of benefits. See Note 18, "Share-based Payments," for additional information.

- Registration Rights Agreement. Provides ADS with certain customary demand registration, shelf takedown and piggyback registration rights with respect to its shares of Loyalty Ventures' common stock, subject to certain customary limitations.

Basis of Presentation—Prior to the Separation, the Company had historically operated as part of ADS and not as a standalone company. The combined financial statements for the periods prior to the Separation date of November 5, 2021 have been derived from ADS' historical accounting records and are presented on a carve-out basis. The financial statements after the Separation date of November 5, 2021 represent the consolidated financial statements of Loyalty Ventures. All revenues and expenses as well as assets and liabilities directly associated with the business activity of the Company are included in the consolidated and combined financial statements. The consolidated and combined financial statements also include allocations of certain general and administrative expenses from ADS. ADS corporate overhead costs that directly or indirectly benefited Loyalty Ventures' business were allocated through the date of the Separation in 2021 and for the years ended December 31, 2020 and 2019. However, amounts recognized by the Company are not necessarily representative of the amounts that would have been reflected in the consolidated and combined financial statements had the Company operated independently of ADS. See Note 25, "Related Party Transactions," for additional information. ADS' third-party long-term debt and the related interest expense have not been allocated for any of the periods presented as the Company was not the legal obligor of such debt.

Parent's net investment represents ADS' interest in the recorded net assets of the Company prior to the Separation. All significant transactions between the Company and Parent have been included in the accompanying consolidated and combined financial statements. Transactions with Parent as contributions to the carve-out entity or distributions from the carve-out entity are reflected in the accompanying consolidated and combined statements of equity as "Change in Parent's net investment" and in the accompanying consolidated and combined balance sheets within "Parent's net investment."

The consolidated and combined financial statements for the period from November 6, 2021 through December 31, 2021 were based on the reported results of Loyalty Ventures as a standalone company and prepared on a consolidated basis.

All significant intercompany accounts and transactions between the businesses comprising the Company have been eliminated in the accompanying consolidated and combined financial statements.

The Company's consolidated and combined financial statements and accompanying notes have been prepared in accordance with accounting principles generally accepted in the United States of America ("GAAP"). The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amount of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. The Company's consolidated and combined financial statements and accompanying notes are presented in U.S. Dollar ("USD"), the Company's reporting currency.

LOYALTY VENTURES INC.
NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Principles of Consolidation—The accompanying consolidated and combined financial statements include the accounts of the Company in which it has a controlling financial interest. Controlling financial interest is determined by a majority ownership interest and the absence of substantive third party participating rights. For investments in any entities in which the Company owns 50% or less of the outstanding voting stock but has significant influence over operating and financial decisions, the equity method of accounting is applied. The equity method of accounting is also applied to investments in any entities in which the Company has a majority ownership interest but does not have a controlling financial interest due to substantive participating rights held by the minority owner.

Cash and Cash Equivalents—The Company considers all highly liquid investments with an original maturity of three months or less to be cash equivalents.

Accounts Receivable, net—Accounts receivable, net consist primarily of amounts receivable from customers, which are recorded at the invoiced amount and do not bear interest. The Company maintains an allowance for doubtful accounts for estimated credit losses inherent in its accounts receivable. The Company analyzes the appropriateness of its allowance for doubtful accounts based on its assessment of various factors, including customer-specific experience, the age of the accounts receivable balance, customer creditworthiness, current economic trends, and changes in its customer payment terms and collection trends. Account balances are charged-off against the allowance after all reasonable means of collection have been exhausted and the potential for recovery is considered remote.

Inventories, net—Inventories, net are stated at the lower of cost and net realizable value and valued primarily on a first-in-first-out basis. The Company records valuation adjustments to its inventories if the cost of inventory exceeds the amount it expects to realize from the ultimate sale or disposal of the inventory. These estimates are based on management's judgment regarding future market conditions and an analysis of historical experience.

Redemption Settlement Assets, Restricted—The cash and investments related to the redemption fund for the AIR MILES Reward Program are subject to a security interest which is held in trust for the benefit of funding redemptions by consumers, referred to as collectors. These assets are restricted to funding rewards for the collectors by certain of the Company's sponsor contracts. Investments in equity securities are stated at fair value, with holding gains and losses recognized through net income. Investments in debt securities are stated at fair value, with the unrealized gains and losses, net of tax, reported as a component of accumulated other comprehensive income (loss), as the investments are classified as available-for-sale.

Property and Equipment—Furniture, equipment, computer software and development and leasehold improvements are carried at cost, less accumulated depreciation and amortization. Depreciation and amortization for furniture and equipment are computed on a straight-line basis, using estimated lives ranging from two to ten years. Software development is capitalized in accordance with Accounting Standards Codification ("ASC") 350-40, "Intangibles – Goodwill and Other – Internal–Use Software," and is amortized on a straight-line basis over the expected benefit period, which ranges from three to five years. Leasehold improvements are amortized over the remaining lives of the respective leases or the remaining useful lives of the improvements, whichever is shorter. Long-lived assets are tested for impairment when events or conditions indicate that the carrying value of an asset may not be fully recoverable from future cash flows.

Goodwill—Goodwill is not amortized, but is reviewed at least annually for impairment or more frequently if circumstances indicate that an impairment is probable, using qualitative or quantitative analysis. See Note 11, "Intangible Assets and Goodwill," for additional information.

Intangible Assets—The Company's identifiable intangible assets consist of amortizable intangible assets that are amortized on a straight-line basis over their respective estimated useful lives. The intangible assets are tested for

impairment when events or conditions indicate that the carrying value of an asset may not be fully recoverable from future cash flows. Costs incurred to renew or extend the terms of intangible assets are expensed as incurred.

Income Taxes—Prior to the Separation, the Company's operations were included in the consolidated U.S. federal, and certain state and local income tax returns filed by the Parent, where applicable. The Company also files certain separate foreign tax returns. Income tax expense and other income tax related information contained in the consolidated and combined financial statements are presented on a separate return basis, which requires us to estimate tax expense as if the Company filed a hypothetical separate return apart from the Parent. Subsequent to the Separation, the Company's U.S. federal and certain state and local income tax returns will be filed as a separate company.

Income taxes reported in earnings also include deferred income tax provisions and provisions for uncertain tax positions. Deferred income tax assets and liabilities are computed on differences between the financial statement bases and tax bases of assets and liabilities at the enacted tax rates. Changes in deferred income tax assets and liabilities associated with components of other comprehensive income are charged or credited directly to other comprehensive income. Otherwise, changes in deferred income tax assets and liabilities are included as a component of income tax expense. The effect on deferred income tax assets and liabilities attributable to changes in enacted tax rates are charged or credited to income tax expense in the period of enactment. Valuation allowances are established for certain deferred tax assets when realization is less than more-likely-than-not.

Liabilities are established for uncertain tax positions taken or positions expected to be taken in income tax returns when such positions, in our judgment, do not meet a more-likely-than-not threshold based on the technical merits of the positions. Additionally, liabilities may be established for uncertain tax positions when, in our judgment, the more-likely-than-not threshold is met, but the position does not rise to the level of highly certain based upon the technical merits of the position. Estimated interest and penalties related to uncertain tax positions are included as a component of income tax expense.

Derivative Instruments—The Company uses derivatives to manage its exposure to various financial risks. The Company does not enter into derivatives for trading or other speculative purposes. Certain derivatives used to manage the Company's exposure to foreign currency exchange rate movements are not designated as hedges and do not qualify for hedge accounting.

Derivatives Designated as Hedging Instruments—The Company assesses both at the hedge's inception and on an ongoing basis, whether the derivatives that are used in the hedging transaction, have been highly effective in offsetting changes in the cash flows or remeasurement of the hedged items and whether the derivatives may be expected to remain highly effective in future periods. The Company discontinues hedge accounting prospectively when (1) it determines that the derivative is no longer highly effective in offsetting changes in cash flow of the hedged item; (2) the derivative expires or is sold, terminated, or exercised; (3) it is no longer probable that the forecasted transaction will occur; or (4) it determines that designating the derivative as a hedging instrument is no longer appropriate. Changes in the fair value of derivative instruments designated as hedging instruments, excluding any ineffective portion, are recorded in other comprehensive income (loss) until the hedged transactions affect net income. The ineffective portion of this hedging instrument is recognized through net income when the ineffectiveness occurs.

Derivatives not Designated as Hedging Instruments—Certain foreign currency exchange forward contracts are not designated as hedges as they do not meet the specific hedge accounting requirements of ASC 815, "Derivatives and Hedging." Changes in the fair value of the derivative instruments not designated as hedging instruments are recorded in the consolidated and combined statements of income as they occur.

Revenue Recognition—The Company recognizes revenue in accordance with ASC 606, "Revenue from Contracts with Customers." The Company recognizes revenues when control of the promised goods or services is transferred to the customer, in an amount that reflects the consideration the Company expects to be entitled to in exchange for those goods or services. In that determination, under ASC 606, the Company follows a five-step model that includes: (1)

determination of whether a contract, an agreement between two or more parties that creates legally enforceable rights and obligations, exists; (2) identification of the performance obligations in the contract; (3) determination of the transaction price; (4) allocation of the transaction price to the performance obligations in the contract; and (5) recognition of revenue when (or as) the performance obligation is satisfied.

See Note 3, "Revenue," for more information about the Company's revenue and the associated timing and basis of revenue recognition.

Currency Translation—The assets and liabilities of the Company's subsidiaries outside the U.S. are translated into USD at the rates of exchange in effect at the balance sheet dates, primarily from Canadian dollars and Euros. Income and expense items are translated at the average exchange rates prevailing during the period. Gains and losses resulting from currency transactions are recognized currently in income and those resulting from translation of financial statements are included in accumulated other comprehensive income (loss). The Company recognized net foreign transaction losses of $0.6 million and $1.0 million for the years ended December 31, 2021 and 2020, respectively, and gains of $1.5 million for the year ended December 31, 2019, which are included in cost of operations within the Company's consolidated and combined statements of income.

Leases—The Company determines if an arrangement is a lease or contains a lease at inception. Operating lease right-of-use assets and lease liabilities are recognized at commencement based on the present value of lease payments over the lease term. As the implicit rate is typically not readily determinable in the Company's lease agreements, the Company uses its incremental borrowing rate as of the lease commencement date to determine the present value of the lease payments. The incremental borrowing rate is based on the Company's specific rate of interest to borrow on a collateralized basis, over a similar term and in a similar economic environment as the lease. Lease expense is recognized on a straight-line basis over the lease term. Leases with an initial term of 12 months or less are not recognized on the balance sheet; the Company recognizes lease expense for these leases on a straight-line basis over the lease term. Additionally, the Company accounts for lease and nonlease components as a single lease component for its identified asset classes. As of December 31, 2021 and 2020, the Company did not have any finance leases. Similar to other long-lived assets, right-of-use assets are tested for impairment when events or conditions indicate that the carrying value of an asset may not be fully recoverable from future cash flows.

Marketing and Advertising Costs—The Company participates in various marketing and advertising programs with certain clients and sponsors. The cost of marketing and advertising programs is expensed in the period incurred. The Company has recognized marketing and advertising expenses, including on behalf of its clients, of $22.6 million, $22.8 million and $24.7 million for the years ended December 31, 2021, 2020 and 2019, respectively.

Recently Adopted Accounting Standards

In December 2019, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") 2019-12, "Simplifying the Accounting for Income Taxes." ASU 2019-12 eliminated certain exceptions within ASC 740, "Income Taxes," and clarified certain aspects of ASC 740 to promote consistency among reporting entities. Most amendments within the standard were required to be applied on a prospective basis, while certain amendments must be applied on a retrospective or modified retrospective basis. The Company's adoption of this standard on January 1, 2021 did not have a material impact on its consolidated and combined financial statements.

Recently Issued Accounting Standards Not Yet Effective

In March 2020, the FASB issued ASU 2020-04, "Facilitation of the Effects of Reference Rate Reform on Financial Reporting." This ASU provides optional expedients and exceptions for applying GAAP to contracts, hedging relationships, and other transactions affected by reference rate reform if certain criteria are met. The amendments in this ASU apply only to contracts and hedging relationships that reference the London Interbank Offered Rate ("LIBOR") or another reference rate expected to be discontinued due to reference rate reform. The expedients and exceptions provided

by the amendments do not apply to contract modifications made and hedging relationships entered into or evaluated after December 31, 2022. This ASU is elective and is effective upon issuance for all entities. The Company is evaluating the impact that adoption of ASU 2020-04 will have on its consolidated financial statements.

In October 2021, the FASB issued ASU 2021-08, "Business Combinations (Topic 805): Accounting for Contract Assets and Contract Liabilities from Contracts with Customers," which requires an acquirer in a business combination to recognize and measure contract assets and contract liabilities in accordance with ASC 606. ASU 2021-08 is effective for fiscal years beginning after December 15, 2022 and early adoption is permitted. The Company is evaluating the impact that adoption of ASU 2021-08 will have on its consolidated financial statements.

3. REVENUE

Under ASC 606, revenue is recognized when control of the promised goods or services is transferred to the customer, in an amount that reflects the consideration the Company expects to be entitled to in exchange for those goods or services. The Company's contracts with its customers state the terms of sale, including the description, quantity, and price of the product or service purchased. Payment terms can vary by contract, but the period between invoicing and when payment is due is not significant. Taxes assessed on revenue-producing transactions are excluded from revenues.

The Company's products and services are reported under two segments—AIR MILES Reward Program and BrandLoyalty, as shown below. The following tables present revenue disaggregated by major source, as well as geographic region based on the location of the subsidiary that generally correlates with the location of the customer:

Year Ended December 31, 2021	AIR MILES Reward Program	BrandLoyalty	Eliminations	Total
		(in thousands)		
Disaggregation of Revenue by Major Source:				
Coalition loyalty program	$ 271,130	$ —	$ —	$ 271,130
Campaign-based loyalty programs	—	444,898	—	444,898
Other	55	5,711	(46)	5,720
Revenue from contracts with customers	$ 271,185	$ 450,609	$ (46)	$ 721,748
Investment income	13,559	—	—	13,559
Total	$ 284,744	$ 450,609	$ (46)	$ 735,307

Year Ended December 31, 2020	AIR MILES Reward Program	BrandLoyalty	Eliminations	Total
		(in thousands)		
Disaggregation of Revenue by Major Source:				
Coalition loyalty program	$ 262,470	$ —	$ —	$ 262,470
Campaign-based loyalty programs	—	487,685	—	487,685
Other	1,899 (1)	—	—	1,899
Revenue from contracts with customers	$ 264,369	$ 487,685	$ —	$ 752,054
Investment income	12,752	—	—	12,752
Total	$ 277,121	$ 487,685	$ —	$ 764,806

LOYALTY VENTURES INC.
NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

Year Ended December 31, 2019	AIR MILES Reward Program	BrandLoyalty	Eliminations	Total
		(in thousands)		
Disaggregation of Revenue by Major Source:				
Coalition loyalty program	$ 290,054	$ —	$ —	$ 290,054
Campaign-based loyalty programs	—	635,516	—	635,516
Other	81,337 [1]	13,594	—	94,931
Revenue from contracts with customers	$ 371,391	$ 649,110	$ —	$ 1,020,501
Investment income	12,630	—	—	12,630
Total	$ 384,021	$ 649,110	$ —	$ 1,033,131

(1) Includes revenues from Precima®, a provider of retail strategy and customer data applications and analytics, which was sold by the Parent on January 10, 2020, which comprised $1.9 million and $80.4 million for the years ended December 31, 2020 and 2019, respectively. See Note 5, "Disposition," for more information.

Year Ended December 31, 2021	AIR MILES Reward Program	BrandLoyalty	Eliminations	Total
		(in thousands)		
Disaggregation of Revenue by Geographic Region:				
United States	$ —	$ 2,637	$ —	$ 2,637
Canada	284,744	16,870	—	301,614
Europe, Middle East and Africa	—	338,473	(46)	338,427
Asia Pacific	—	81,867	—	81,867
Other	—	10,762	—	10,762
Total	$ 284,744	$ 450,609	$ (46)	$ 735,307

Year Ended December 31, 2020	AIR MILES Reward Program	BrandLoyalty	Eliminations	Total
		(in thousands)		
Disaggregation of Revenue by Geographic Region:				
United States	$ 1,028	$ 10,062	$ —	$ 11,090
Canada	275,825	11,051	—	286,876
Europe, Middle East and Africa	268	332,364	—	332,632
Asia Pacific	—	80,546	—	80,546
Other	—	53,662	—	53,662
Total	$ 277,121	$ 487,685	$ —	$ 764,806

LOYALTY VENTURES INC.
NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

Year Ended December 31, 2019	AIR MILES Reward Program	BrandLoyalty	Eliminations	Total
		(in thousands)		
Disaggregation of Revenue by Geographic Region:				
United States	$ 37,969	$ 2,142	$ —	$ 40,111
Canada	336,105	16,058	—	352,163
Europe, Middle East and Africa	9,947	439,193	—	449,140
Asia Pacific	—	121,731	—	121,731
Other	—	69,986	—	69,986
Total	$ 384,021	$ 649,110	$ —	$ 1,033,131

AIR MILES Reward Program

The AIR MILES Reward Program is a coalition loyalty program for sponsors, who pay the Company a fee per AIR MILES reward mile issued, in return for which the AIR MILES Reward Program provides all marketing, customer service, rewards and redemption management.

Total consideration from the issuance of AIR MILES reward miles is allocated to three performance obligations: redemption, service, and brand, based on a relative standalone selling price basis. Because the standalone selling price is not directly observable for the three performance obligations, the Company estimates the standalone selling price for the redemption and the service performance obligations based on cost plus a reasonable margin. The Company estimates the standalone selling price of the brand performance obligation using a relief from royalty approach. Accordingly, management determines the estimated standalone selling price by considering multiple inputs and methods, including discounted cash flows and available market data in consideration of applicable margins and royalty rates to utilize. The number of AIR MILES reward miles issued and redeemed are factored into the estimates, as management estimates the standalone selling prices and volumes over the term of the respective agreements in order to determine the allocation of consideration to each performance obligation delivered. The redemption performance obligation incorporates the expected number of AIR MILES reward miles to be redeemed, and therefore, the amount of redemption revenue recognized is subject to management's estimate of breakage, or those AIR MILES reward miles estimated to be unredeemed by the collector base.

Redemption revenue is recognized at a point in time, as AIR MILES reward miles are redeemed. For the fulfillment of certain rewards where the AIR MILES Reward Program does not control the goods or services before they are transferred to the collector, revenue is recorded on a net basis. Service revenue is recognized over time using a time-elapsed output method, the estimated life of an AIR MILES reward mile. Revenue from the brand is recognized over time, using an output method, when an AIR MILES reward mile is issued. Revenue associated with both the service and brand is included in service revenue in the Company's consolidated and combined statements of income. The amount of revenue recognized in a period is subject to the estimate of breakage and the estimated life of an AIR MILES reward mile, which are based on management's estimates. For the years ended December 31, 2021, 2020 and 2019, the Company's breakage rate was 20%. For the years ended December 31, 2021, 2020 and 2019, the Company's estimated life of a mile was 38 months.

LOYALTY VENTURES INC.
NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

Contract Liabilities. The Company records a contract liability when cash payments are received in advance of its performance, which applies to the service and redemption of an AIR MILES reward mile.

A reconciliation of contract liabilities for the AIR MILES Reward Program is as follows:

	Deferred Revenue		
	Service	Redemption	Total
		(in thousands)	
Balance at January 1, 2020	$ 258,605	$ 663,421	$ 922,026
Cash proceeds	173,089	286,177	459,266
Revenue recognized [1]	(188,790)	(211,482)	(400,272)
Other	—	1,410	1,410
Effects of foreign currency translation	4,282	17,307	21,589
Balance at December 31, 2020	$ 247,186	$ 756,833	$ 1,004,019
Cash proceeds	177,171	280,710	457,881
Revenue recognized [1]	(195,918)	(252,935)	(448,853)
Other	—	1,234	1,234
Effects of foreign currency translation	2,053	5,622	7,675
Balance at December 31, 2021	$ 230,492	$ 791,464	$ 1,021,956
Amounts recognized in the consolidated and combined balance sheets:			
Deferred revenue (current)	$ 133,325	$ 791,464	$ 924,789
Deferred revenue (non-current)	$ 97,167	$ —	$ 97,167

[1] Reported on a gross basis herein.

The deferred redemption obligation associated with the AIR MILES Reward Program is effectively due on demand from the collector base, thus the timing of revenue recognition is based on the redemption by the collector. Service revenue is amortized over the expected life of a mile, with the deferred revenue balance expected to be recognized into revenue in the amount of $133.3 million in 2022, $68.3 million in 2023, $28.0 million in 2024, and $0.9 million in 2025.

BrandLoyalty

BrandLoyalty designs, implements, conducts and evaluates innovative and tailor-made campaign-based loyalty solutions for grocers and other high-frequency retailers worldwide. The campaign-based loyalty programs typically last between 6 and 20 weeks, depending on the nature of the program, with contract terms usually less than one year in length. These programs are tailored for the specific retailer client and are designed to reward key customer segments based on their spending levels during defined campaign periods. Revenue is recognized at the point in time control passes from BrandLoyalty to the retailer.

Contract Liabilities. The Company records a contract liability when cash payments are received in advance of its performance, which applies to the reward products for its campaign-based loyalty programs.

The contract liabilities for BrandLoyalty's campaign-based loyalty programs are recognized in other current liabilities in the Company's consolidated and combined balance sheets. In 2021, the beginning balance as of January 1, 2021 was $59.6 million and the closing balance as of December 31, 2021 was $85.4 million, with the change due to revenue recognized of approximately $372.9 million, offset in part by cash payments received in advance of program performance revenue during the year ended December 31, 2021. In 2020, the beginning balance as of January 1, 2020 was $108.8 million and the closing balance as of December 31, 2020 was $59.6 million, with the change due to revenue recognized of approximately $375.9 million, offset in part by cash payments received in advance of program performance revenue during the year ended December 31, 2020.

LOYALTY VENTURES INC.
NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

Practical Expedients

The Company does not disclose the value of unsatisfied performance obligations for (i) contracts with an original expected length of one year or less and (ii) contracts for which we recognize revenue at the amount to which the Company has the right to invoice for services performed.

The Company has elected the practical expedient from ASC 340-40 with respect to contract costs, and expenses the incremental costs as incurred for those costs that would otherwise be recognized with an amortization period of one year or less. These costs are recorded to cost of operations expense in the Company's consolidated and combined statements of income.

4. EARNINGS PER SHARE

On November 5, 2021, the date of the Separation, 81% of the outstanding shares of Loyalty Ventures were distributed pro rata based on the outstanding shares of ADS common stock at the close of business on the record date of October 27, 2021, with ADS retaining the remaining 19% of the outstanding shares of Loyalty Ventures. ADS stockholders of record that did not sell their rights to receive Loyalty Ventures stock before the close of business on November 5, 2021 received one share of Loyalty Ventures common stock for every two and one-half (2.5) shares of ADS common stock. A total of 24,585,237 shares of Loyalty Ventures common stock were outstanding at November 5, 2021. This share amount is utilized for the calculation of basic and diluted earnings per share for all periods presented prior to the Separation. For the years ended December 31, 2020 and 2019, these shares are treated as issued and outstanding for purposes of calculating historical basic and diluted earnings per share.

For the year ended December 31, 2021, the calculation of basic and diluted earnings per share is based on the weighted average number of common shares outstanding for the period subsequent to the Separation. The dilutive effect of equity awards of Loyalty Ventures granted subsequent to the Separation is included in the diluted calculation.

The following table sets forth the computation of basic and diluted earnings per share of common stock:

	Years Ended December 31,		
	2021	2020	2019
	(in thousands, except per share amounts)		
Numerator:			
Net income	$ 1,724	$ 75,075	$ 75,230
Denominator:			
Weighted average shares, basic	24,585	24,585	24,585
Weighted average effect of dilutive securities:			
Net effect of dilutive unvested restricted stock[1]	6	—	—
Denominator for diluted calculation	24,591	24,585	24,585
Basic net income per share:	$ 0.07	$ 3.05	$ 3.06
Diluted net income per share:	$ 0.07	$ 3.05	$ 3.06

(1) For the year ended December 31, 2021, there were no restricted stock units that were anti-dilutive. For all periods presented prior to the Separation, there are no dilutive equity instruments as there were no equity awards of Loyalty Ventures outstanding prior to the Separation.

LOYALTY VENTURES INC.
NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

5. DISPOSITION

On January 10, 2020, the Parent sold Precima, a provider of retail strategy and customer data applications and analytics, to Nielsen Holdings plc for total consideration to the Parent of $43.8 million. The purchase and sale agreement provided for contingent consideration based upon the occurrence of specified events and performance of the business, of which $5.0 million was achieved in 2020. The assets and liabilities of Precima were included in the Company's AIR MILES Reward Program segment. The following table summarizes the assets and liabilities of Precima as of the sale date:

	January 10, 2020 (in thousands)
Assets:	
Cash and cash equivalents	$ 10,713
Accounts receivable, net	17,154
Other current assets	2,889
Property and equipment, net	9,653
Goodwill	3,206
Other assets	2,051
Total assets	$ 45,666
Liabilities:	
Accounts payable	$ 223
Accrued expenses	2,470
Other current liabilities	14,709
Deferred tax liability	2,037
Other liabilities	71
Total liabilities	$ 19,510

In accordance with ASC 830, "Foreign Currency Matters," $3.9 million of accumulated foreign currency translation adjustments attributable to Precima's foreign subsidiaries sold were reclassified from accumulated other comprehensive income (loss) and included in the calculation of the gain/loss on sale.

As a result of the transaction, the Company recorded a pre-tax gain of $10.9 million. The Company incurred $3.1 million in transaction costs associated with the disposition.

6. PREPAID EXPENSES

Prepaid expenses relate to prepayment made for future services in advance and will be expensed over time as the benefit of the services is received in the future, expected within one year. Prepaid expenses, which are included in other current assets, consisted of the following:

	December 31,	
	2021	2020
	(in thousands)	
Licenses	$ 1,226	$ 11,583
Maintenance	4,678	4,557
Other	11,877	2,869
Prepaid expenses	$ 17,781	$ 19,009

LOYALTY VENTURES INC.
NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

7. INVENTORIES, NET

Inventories, net of $188.6 million and $164.3 million at December 31, 2021 and 2020, respectively, primarily consist of finished goods to be utilized as rewards in the Company's loyalty programs. For the year ended December 31, 2019, asset impairment charges of $18.4 million related to the discontinuance of certain reward product lines within inventory were recorded to the allowance for inventory obsolescence for the BrandLoyalty segment.

8. REDEMPTION SETTLEMENT ASSETS, RESTRICTED

Redemption settlement assets consist of restricted cash, mutual funds, and securities available-for-sale and are designated for settling redemptions by collectors of the AIR MILES Reward Program in Canada under certain contractual relationships with sponsors of the AIR MILES Reward Program. The principal components of redemption settlement assets, which are carried at fair value, are as follows:

	December 31, 2021 Fair Value	December 31, 2020 Fair Value
	(in thousands)	
Restricted cash	$ 58,752	$ 55,427
Mutual funds	25,990	26,850
Corporate bonds	650,389	611,184
Total	$ 735,131	$ 693,461

The following table shows the amortized cost, unrealized gains and losses, and fair value of securities available-for-sale as of December 31, 2021 and 2020, respectively:

	December 31, 2021				December 31, 2020			
	Amortized Cost	Unrealized Gains	Unrealized Losses	Fair Value	Amortized Cost	Unrealized Gains	Unrealized Losses	Fair Value
	(in thousands)							
Corporate bonds	$ 648,248	$ 6,389	$ (4,248)	$ 650,389	$ 592,247	$ 19,110	$ (173)	$ 611,184
Total	$ 648,248	$ 6,389	$ (4,248)	$ 650,389	$ 592,247	$ 19,110	$ (173)	$ 611,184

The following tables show the unrealized losses and fair value for those investments that were in an unrealized loss position as of December 31, 2021 and 2020, respectively, aggregated by investment category and the length of time that individual securities have been in a continuous loss position:

	December 31, 2021					
	Less than 12 months		12 Months or Greater		Total	
	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses
	(in thousands)					
Corporate bonds	$ 104,052	$ (1,341)	$ 123,382	$ (2,907)	$ 227,434	$ (4,248)
Total	$ 104,052	$ (1,341)	$ 123,382	$ (2,907)	$ 227,434	$ (4,248)

	December 31, 2020					
	Less than 12 months		12 Months or Greater		Total	
	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses
	(in thousands)					
Corporate bonds	$ 46,190	$ (86)	$ 10,316	$ (87)	$ 56,506	$ (173)
Total	$ 46,190	$ (86)	$ 10,316	$ (87)	$ 56,506	$ (173)

LOYALTY VENTURES INC.
NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

The amortized cost and estimated fair value of the available-for-sale securities at December 31, 2021 by contractual maturity are as follows:

	Amortized Cost	Estimated Fair Value
	(in thousands)	
Due in one year or less	$ 117,863	$ 118,835
Due after one year through five years	526,397	527,548
Due after five years through ten years	3,988	4,006
Total	$ 648,248	$ 650,389

Market values were determined for each individual security in the investment portfolio. The Company recorded losses associated with the change in fair value of mutual funds of $0.9 million for the year ended December 31, 2021. The Company recorded gains associated with the change in fair value of mutual funds of $1.4 million and $0.9 million for the years ended December 31, 2020 and 2019, respectively.

For available-for-sale debt securities in which fair value is less than cost, ASC 326 requires that credit-related impairment, if any, is recognized through an allowance for credit losses and adjusted each period for changes in credit risk. The Company typically invests in highly-rated securities with low probabilities of default and has the intent and ability to hold the investments until maturity, and the Company performs an assessment each period for credit-related impairment. As of December 31, 2021, the Company does not consider its investments to be impaired.

Losses from the sale of investment securities were $0.2 million for the year ended December 31, 2021. There were no realized gains or losses from the sale of investment securities for the year ended December 31, 2020. For the year ended December 31, 2019, realized gains and losses from the sale of investment securities were de minimis.

9. LEASES

The Company has operating leases for general office properties, warehouses, data centers, customer care centers, automobiles and certain equipment. As of December 31, 2021, the Company's leases have remaining lease terms of less than 1 year to 12 years, some of which may include renewal options.

The components of lease expense were as follows:

	Years Ended December 31,		
	2021	2020	2019
		(in thousands)	
Operating lease cost	$ 15,800	$ 15,580	$ 16,379
Short-term lease cost	337	451	1,142
Variable lease cost	4,249	4,224	4,106
Total	$ 20,386	$ 20,255	$ 21,627

LOYALTY VENTURES INC.
NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

Sublease income was $2.4 million, $1.8 million, and $1.5 million for the years ended December 31, 2021, 2020 and 2019, respectively, and is presented net of lease expense.

Other information related to leases was as follows:

	December 31, 2021	December 31, 2020
Weighted-average remaining lease term (in years):		
Operating leases	10.7	11.4
Weighted-average discount rate:		
Operating leases	4.7 %	4.6 %

Supplemental cash flow information related to leases was as follows:

	Years Ended December 31,		
	2021	2020	2019
		(in thousands)	
Cash paid for amounts included in the measurement of lease liabilities:			
Operating cash flows from operating leases	$ 17,265	$ 17,449	$ 18,183
Right-of-use assets obtained in exchange for lease obligations:			
Operating leases	$ 213	$ 3,028	$ 6,145

Maturities of the lease liabilities as of December 31, 2021 were as follows:

Year	Operating Leases
	(in thousands)
2022	$ 15,073
2023	14,250
2024	13,369
2025	12,841
2026	12,429
Thereafter	77,427
Total undiscounted lease liabilities	145,389
Less: Amount representing interest	(32,092)
Total present value of minimum lease payments	$ 113,297
Amounts recognized in the December 31, 2021 consolidated and combined balance sheet:	
Current operating lease liabilities	$ 10,055
Long-term operating lease liabilities	103,242
Total	$ 113,297

LOYALTY VENTURES INC.
NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

10. PROPERTY AND EQUIPMENT

Property and equipment consist of the following:

	December 31,	
	2021	2020
	(in thousands)	
Computer software and development	$ 173,503	$ 162,622
Furniture and equipment	24,336	28,656
Leasehold improvements	31,142	32,205
Construction in progress	7,107	9,709
Total	236,088	233,192
Accumulated depreciation and amortization	(156,129)	(135,276)
Property and equipment, net	$ 79,959	$ 97,916

Depreciation expense totaled $7.0 million, $7.0 million and $9.4 million for the years ended December 31, 2021, 2020 and 2019, respectively. Amortization expense on capitalized software totaled $27.9 million, $22.0 million and $22.8 million for the years ended December 31, 2021, 2020, and 2019, respectively.

As of December 31, 2021 and 2020, unamortized capitalized software and development costs included in the consolidated and combined balance sheets totaled $45.5 million and $55.8 million, respectively.

11. INTANGIBLE ASSETS AND GOODWILL

Intangible Assets

Intangible assets consist of the following:

	December 31, 2021			
	Gross Assets	Accumulated Amortization	Net	Amortization Life and Method
		(in thousands)		
Tradenames	$ 32,289	$ (29,194)	$ 3,095	8-15 years—straight line
Collector database	55,397	(55,397)	—	5 years—straight line
Total intangible assets	$ 87,686	$ (84,591)	$ 3,095	

	December 31, 2020			
	Gross Assets	Accumulated Amortization	Net	Amortization Life and Method
		(in thousands)		
Customer contracts	$ 354,242	$ (354,242)	$ —	7 years—straight line
Tradenames	34,691	(30,112)	4,579	8-15 years—straight line
Collector database	54,973	(54,455)	518	5 years—straight line
Total intangible assets	$ 443,906	$ (438,809)	$ 5,097	

Amortization expense related to intangible assets was approximately $1.7 million, $49.0 million and $48.0 million for the years ended December 31, 2021, 2020 and 2019, respectively.

LOYALTY VENTURES INC.
NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

The estimated amortization expense related to intangible assets for the next five years and thereafter is as follows:

	For the Years Ending December 31, (in thousands)
2022	$ 1,167
2023	1,167
2024	599
2025	30
2026	30
Thereafter	102

Goodwill

The changes in the carrying amount of goodwill for the years ended December 31, 2021 and 2020, respectively, are as follows:

	AIR MILES Reward Program	BrandLoyalty	Total
		(in thousands)	
Balance at January 1, 2020	$ 192,756	$ 498,058	$ 690,814
Goodwill allocated to sale of Precima	(3,206)	—	(3,206)
Effects of foreign currency translation	3,726	44,564	48,290
Balance at December 31, 2020	$ 193,276	$ 542,622	$ 735,898
Impairment	—	(50,000)	(50,000)
Effects of foreign currency translation	1,491	(37,431)	(35,940)
Balance at December 31, 2021	$ 194,767	$ 455,191	$ 649,958

Approximately $3.2 million of the AIR MILES Reward Program's goodwill was allocated to Precima upon sale in January 2020, based on a relative fair value allocation of the businesses.

ADS completed its annual impairment test for goodwill on July 1, 2021 and determined at that date no impairment existed. As of December 31, 2021, the Company does not believe it is more likely than not that the fair value of the AIR MILES Reward Program reporting unit is less than its carrying amount. However, due to the continued effects of COVID-19, the Company determined that it was more likely than not the fair value of the BrandLoyalty reporting unit was less than its carrying value and performed an interim impairment test as of December 31, 2021. The Company utilized an income approach and discounted cash flow model, and the significant unobservable inputs used were the forecasted revenue growth rate, forecasted margin, the discount rate and the terminal growth rate, all of which are classified as Level 3 under the fair value hierarchy of ASC 820, "Fair Value Measurement." As a result, the Company recorded an impairment charge of $50.0 million for the year ended December 31, 2021. With the continuing COVID-19 pandemic associated with the uncertainty in the macroeconomic environment, future deterioration in the economy could adversely impact the Company's reporting units and result in an additional goodwill impairment.

12. INVESTMENTS IN UNCONSOLIDATED SUBSIDIARIES – RELATED PARTY

Historically, the Company owned interests in certain entities, ICOM Information & Communications L.P. ("ICOM") and Comenity Canada L.P. ("Comenity Canada"), which were consolidated subsidiaries of the Parent, and were accounted for using the equity method of accounting, as the Company exercised significant influence but did not control the entities. The investments were included in the AIR MILES Reward Program segment. Under the equity

method, the Company's share of its investee's earnings or loss is recognized in the consolidated and combined statements of income.

On February 13, 2019, the Company made a capital contribution of $5.3 million to ICOM to fund losses. On February 28, 2019, the Company sold its investment in ICOM to Epsilon Interactive CA, ULC, a subsidiary of ADS, for cash consideration of $4.0 million.

For the years ended December 31, 2020, and 2019, the Company made capital contributions to Comenity Canada of $0.7 million, for each of the respective periods. In March 2021, the Company received a partnership distribution from Comenity Canada of $0.8 million, and the Company's ownership interest declined from 99.9% to 98.0%. In August 2021, the Company's investment in Comenity Canada was sold to an affiliate of ADS for $4.1 million and a gain on sale of investment in unconsolidated related party subsidiary of $4.1 million was recorded in (income) loss from investment in unconsolidated subsidiary.

As of December 31, 2021, the Company had no investment in unconsolidated subsidiaries – related party and as of December 31, 2020, the Company's investment was $0.9 million.

13. RESTRUCTURING AND OTHER CHARGES

In 2019, the Parent, under the direction of its board of directors, evaluated the cost structure and executed on certain cost saving initiatives at each segment. These charges included restructuring and other exit activities related to reductions in force, terminations of certain reward product lines, reduction or closure of certain leased office space, asset impairments, changes in management structure and fundamental reorganizations that affect the nature and focus of operations. Restructuring and other charges of $0.1 million and $50.8 million for the years ended December 31, 2020 and 2019, respectively, were incurred and recorded to cost of operations within the Company's consolidated and combined statements of income. These charges related to actions taken in 2019 did not continue in 2020 and 2021. The restructuring and other charges incurred in 2020 and charged to expense relate to changes in the Company's original estimate and consisted of adjustments to the Company's liability, including the impact of foreign currency translation. The Company's liability for restructuring and other charges is recognized in accrued expenses in its consolidated and combined balance sheets and was $1.3 million at each of December 31, 2021 and 2020, respectively. The Company's outstanding liability related to restructuring and other charges is expected to be settled by the end of 2022.

14. ACCRUED EXPENSES

Accrued expenses consist of the following:

	December 31,	
	2021	2020
	(in thousands)	
Accrued payroll and benefits	$ 31,526	$ 29,838
Accrued taxes	9,391	14,256
Accrued other liabilities	104,080	22,962
Accrued expenses	$ 144,997	$ 67,056

Included in the accrued other liabilities is $79.9 million associated with the Tax Matters Agreement. See Note 25, "Related Party Transactions," for additional information.

LOYALTY VENTURES INC.
NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

15. DEBT

Debt consists of the following:

Description	December 31, 2021	December 31, 2020	Maturity
	(in thousands)		
BrandLoyalty credit agreement	$ —	$ —	(1)
Revolving credit facility (2)	—	—	November 2026
Term loan A	175,000	—	November 2026
Term loan B	500,000	—	November 2027
Total long-term debt	$ 675,000	$ —	
Less: unamortized debt issuance costs	20,887	—	
Less: current portion	50,625	—	
Long-term portion	$ 603,488	$ —	

(1) In November 2021, the BrandLoyalty credit agreement was terminated.

(2) As of December 31, 2021, availability under the revolving credit facility was $137.5 million as a result of $12.5 million in letters of credit outstanding under the Credit Agreement.

Credit Agreement

On November 3, 2021, the Company entered into a senior secured credit agreement (the "Credit Agreement") with certain subsidiaries as additional borrowers and certain subsidiaries as guarantors, Bank of America, N.A., as administrative agent and collateral agent, and the additional lenders party thereto. The Credit Agreement provides for a $175.0 million term loan A facility, a $500.0 million term loan B facility, which was issued at 98.0% of the aggregate principal amount, and a revolving credit facility in the maximum amount of $150.0 million. The term loan A and revolving credit facility will mature November 3, 2026. The term loan B will mature November 3, 2027. The proceeds of the term loans were used to finance a portion of the $750.0 million distribution by the Company to ADS in connection with the Separation.

The outstanding USD borrowings under the term loan A bear interest at a rate elected by the relevant borrower that is based on (i) the Base Rate, subject to a floor of 1.00% per annum, plus an applicable margin that ranges from 2.00% per annum to 2.75% per annum depending on the Consolidated Total Leverage Ratio or (ii) the Eurocurrency Rate, based on LIBOR, subject to a floor of 0.00% per annum, plus an applicable margin that ranges from 3.00% per annum to 3.75% per annum depending on the Consolidated Total Leverage Ratio. The outstanding USD borrowings under the term loan B bear interest at a rate elected by the relevant borrower that is based on (i) the Base Rate, subject to a floor of 1.50% per annum, plus an applicable margin of 3.50% per annum or (ii) the Eurocurrency Rate, subject to a floor of 0.50% per annum, plus an applicable margin of 4.50% per annum. The Company is obligated to pay a commitment fee quarterly, which ranges from 0.40% to 0.50% per annum of the unused portion of the aggregate revolving commitment, which fee is also dependent on the Consolidated Total Leverage Ratio, as such terms are defined in the Credit Agreement. At December 31, 2021, the weighted average interest rate was 3.60% for term loan A and 5.00% for term loan B.

The Company will be required to make quarterly principal amortization payments in equal installments in an aggregate amount of 7.5% per annum of the initial aggregate principal amount of each of the term loan A and term loan B. Commencing with the fiscal year ending December 31, 2022, the Credit Agreement requires, on an annual basis, the prepayment of the term loan B with either 0%, 25% or 50% of Excess Cash Flow, depending on the Consolidated Secured Leverage Ratio, as defined in the Credit Agreement.

LOYALTY VENTURES INC.
NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

The Credit Agreement contains customary representations and warranties and affirmative and negative covenants. These covenants, among other things, limit additional indebtedness, additional liens, sales of assets, mergers and consolidations, distributions and other restricted payments, and transactions with affiliates. The Credit Agreement also allows for LIBOR to be phased out and replaced with the Secured Overnight Financing Rate.

As of December 31, 2021, the Company was in compliance with its financial covenants.

Uncommitted Overdraft Facility

In November 2021, BrandLoyalty entered into an uncommitted overdraft facility with Deutsche Bank AG. The facility provides overdraft protection in several currencies, up to a maximum amount of €10.0 million ($11.4 million as of December 31, 2021). Interest is calculated on debit balances at a rate of 3.5% per annum plus a relevant benchmark, due and payable at the end of each quarter. As of December 31, 2021, there were no amounts outstanding under the uncommitted overdraft facility.

BrandLoyalty Credit Agreement

BrandLoyalty and certain of its subsidiaries, as borrower and guarantors, were parties to a credit agreement that provided for an A-1 term loan facility of €90.0 million and an A-2 term loan facility of €100.0 million, subject to certain principal repayments, a committed revolving line of credit of €37.5 million and an uncommitted revolving line of credit of €37.5 million, all of which were scheduled to mature in June 2020. In September 2019, the Company repaid the €115.0 million in term loans outstanding under the BrandLoyalty credit agreement and repaid the €32.5 million amount outstanding under the revolving line of credit.

In April 2020, BrandLoyalty and certain of its subsidiaries, as borrowers and guarantors, terminated its existing facility and entered into a new credit agreement that provided for a committed revolving line of credit of €30.0 million, an uncommitted revolving line of credit of €30.0 million, and an accordion feature permitting BrandLoyalty to request an increase in either the committed or uncommitted line of credit up to €80.0 million in aggregate. Each of the committed and uncommitted revolving line of credit were scheduled to mature on April 3, 2023, subject to BrandLoyalty's request to extend for two additional one-year terms at the absolute discretion of the lenders at the time of such requests. As of December 31, 2020, there were no amounts outstanding under the BrandLoyalty credit agreement.

In the first quarter of 2021, BrandLoyalty and certain of its subsidiaries, as borrowers and guarantors, amended its credit agreement to extend the maturity date by one year from April 3, 2023 to April 3, 2024.

In November 2021, the 2020 BrandLoyalty credit agreement was terminated in connection with the execution of the Credit Agreement.

Note Payable — Related Party

In January 2017, the AIR MILES Reward Program entered into a promissory note with Alliance Data Lux Financing S.à r.l., a subsidiary of the Parent, to borrow CDN $142.8 million. The maturity of the note payable was January 27, 2022, with a fixed interest rate of 6.5% per year. Under the terms of the note payable, the AIR MILES Reward Program had the right to make prepayments of the principal amount of the debt at any time, without notice and without premium or penalty. No principal payments of the note payable were required until maturity. In March 2017, the AIR MILES Reward Program repaid CDN $60.0 million of its note payable, and in September 2019, the AIR MILES Reward Program repaid its remaining CDN $82.8 million balance outstanding.

In May 2017, BrandLoyalty and certain of its subsidiaries entered into a loan with Alliance Data Lux Financing S.à r.l., a subsidiary of the Parent, for €60.0 million with a fixed interest rate of 2.86% and a maturity date of May 2022. The

loan was wholly subordinated to loans under the BrandLoyalty credit agreement. The loan, including interest, was repaid in full in September 2019.

Maturities

The future principal payments for the Company's debt as of December 31, 2021 are as follows:

Year	Credit Facility		Total
	Term Loan A	Term Loan B	
		(in thousands)	
2022	$ 13,125	$ 37,500	$ 50,625
2023	13,125	37,500	50,625
2024	13,125	37,500	50,625
2025	13,125	37,500	50,625
2026	122,500	37,500	160,000
Thereafter	—	312,500	312,500
Total maturities	175,000	500,000	675,000
Unamortized debt issuance costs	(975)	(19,912)	(20,887)
	$ 174,025	$ 480,088	$ 654,113

16. DERIVATIVE INSTRUMENTS

The Company uses derivatives to manage risks associated with certain assets and liabilities arising from the potential adverse impact of fluctuations in foreign currency exchange rates. Certain derivatives used to manage the Company's exposure to foreign currency exchange rate movements are not designated as hedges and do not qualify for hedge accounting. The fair value of the Company's derivative instruments as of December 31, 2021 was $2.5 million included in other current assets and $0.5 million included in other current liabilities in the Company's consolidated and combined balance sheets. The fair value of the Company's derivative instruments as of December 31, 2020 was $0.4 million included in other current assets and $1.5 million included in other current liabilities in the Company's consolidated and combined balance sheets.

17. COMMITMENTS AND CONTINGENCIES

AIR MILES Reward Program

The Company has entered into contractual arrangements with certain AIR MILES Reward Program sponsors that result in fees being billed to those sponsors upon the redemption of AIR MILES reward miles issued by those sponsors. The Company has obtained letters of credit and other assurances from those sponsors for the Company's benefit that expire at various dates. These letters of credit and other assurances totaled $157.1 million and $150.5 million at December 31, 2021, and 2020, respectively, which exceeds the amount of the Company's estimate of its obligation to provide travel and other rewards upon the redemption of AIR MILES reward miles issued by those sponsors, in the respective periods.

The Company currently has an obligation to provide AIR MILES Reward Program collectors with travel and other rewards upon the redemption of AIR MILES reward miles. The Company believes that the redemption settlement assets, including the letters of credit and other assurances mentioned above, are sufficient to meet that obligation.

The Company has entered into certain long-term arrangements with airlines and other suppliers in connection with AIR MILES Reward Program redemptions. These long-term arrangements allow the Company to retain preferred pricing, subject to meeting agreed upon annual volume commitments for rewards purchased.

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Legal Proceedings

The Company is involved, from time to time, in litigation, other legal claims, regulatory actions or other proceedings or actions by governmental authorities involving matters associated with or incidental to our business in the ordinary course, including, among other things, matters involving customer or vendor disputes, breaches of contractual obligations, class actions or purported class actions, trademark and other intellectual property protection and licensing disputes, import/export regulations, taxation, and employment matters.

18. SHARE-BASED PAYMENTS

Stock Compensation Expense

Stock-based compensation expense recognized in the Company's consolidated and combined statements of income for the years ended December 31, 2021, 2020 and 2019, is as follows:

	Years Ended December 31,		
	2021	2020	2019
		(in thousands)	
Cost of operations	$ 4,644	$ 5,498	$ 7,204
General and administrative	1,615	1,519	1,872
Total	$ 6,259	$ 7,017	$ 9,076

The income tax benefits related to stock-based compensation expense for the years ended December 31, 2021, 2020 and 2019 were $0.1 million, $0.1 million and $0.9 million, respectively.

Share-based Payments of Parent

Prior to the Separation, certain employees participated in share-based compensation plans of ADS. Under these plans, shares are reserved for grants of nonqualified stock options, incentive stock options, stock appreciation rights, restricted stock, restricted stock units, performance share awards, cash incentive awards, deferred stock units, and other stock-based and cash-based awards to selected officers, employees, non-employee directors and consultants performing services for ADS or its affiliates. Terms of all awards are determined by the ADS board of directors or compensation committee of the ADS board of directors or its designee at the time of award.

ADS accounts for stock-based compensation in accordance with ASC 718, "Compensation – Stock Compensation." Under the fair value recognition provisions, stock-based compensation expense is measured at the grant date based on the fair value of the award and is recognized ratably over the requisite service period.

ADS estimates forfeitures at each grant date, with forfeiture estimates to be revised, if necessary, in subsequent periods if actual forfeitures differ from those estimates. The amount of stock-based compensation expense recognized in the Company's results of operations prior to the Separation has been reduced for estimated forfeitures. Forfeitures were estimated based on ADS' historical experience. ADS' estimated annual forfeiture rate is 5% for the years ended December 31, 2021, 2020, and 2019, respectively.

During 2021, 2020 and 2019, ADS awarded both service-based and performance-based restricted stock units. For the service-based awards, the fair value of the restricted stock units is estimated using ADS closing share price on the date of grant and typically vest ratably over a three-year period.

Performance-based restricted stock unit awards issued in 2020 and 2019 typically vest ratably over a three-year period if specified performance measures tied to the Company's financial performance are met. The fair value of these performance-based restricted stock units was estimated using the Company's closing share price on the date of grant.

The performance-based awards granted in 2021 contain pre-defined vesting criteria that permit a range from 0% to 170% to be earned, subject to a market-based condition. The fair market value of these awards is $92.62 and was estimated utilizing Monte Carlo simulations of ADS' stock price correlation, expected volatility and risk-free rate over a three-year time horizon matching the performance period. If the performance targets are met, the restrictions will lapse with respect to the entire award on February 16, 2024, provided that the participant is employed by ADS on the vesting date. Accruals of compensation cost for an award with a performance condition are based on the probable outcome of that performance condition. For each of the years ended December 31, 2020 and 2019, stock compensation expense was not accrued for the 2020 and 2019 performance-based awards, respectively, as the probable outcome was 0% achievement.

In connection with the Separation and pursuant to the Employee Matters Agreement with ADS, service-based awards granted to Loyalty Ventures employees more than a year prior to the Separation were accelerated and vested on October 22, 2021, resulting in accelerated stock compensation expense of $2.1 million. Service-based awards and performance-based awards granted to Loyalty Ventures employees less than one year prior to the Separation were forfeited at the time of the Separation, resulting in a credit to stock compensation expense of $4.0 million. In addition, ADS made a cash payment of $5.1 million, which represented 25% of the forfeited awards. These amounts in connection with the Separation and pursuant to the Employee Matters Agreement were included in cost of operations in the consolidated and combined statements of income.

Loyalty Ventures Stock Compensation Plan

The Company has adopted an equity compensation plan to advance the interests of the Company by rewarding certain employees for their contributions to the financial success of the Company and thereby motivating them to continue to make such contributions in the future.

On November 3, 2021, the Company's sole director and the sole stockholder of the Company adopted the 2021 Omnibus Incentive Plan (the "2021 Plan"). The 2021 Plan became effective November 3, 2021 and expires on November 3, 2031. The 2021 Plan reserves 1,225,000 shares of common stock for grants of incentive stock options, nonqualified stock options, stock appreciation rights, restricted stock, restricted stock units, performance share awards, cash incentive awards, deferred stock units, and other stock-based awards as well as providing for cash-based awards to selected officers, employees, non-employee directors and consultants performing services for the Company or its affiliates, with only employees being eligible to receive incentive stock options. The maximum amount that may be awarded to any independent member of the Company's board of directors, together with any cash fees paid to such member, in any one calendar year may not exceed a total value of $1.0 million.

On November 9, 2021, the Company registered 1,225,000 shares of its common stock for issuance in accordance with the 2021 Plan pursuant to a Registration Statement on Form S-8, File No. 333-260914.

Terms of all awards under the 2021 Plan are determined by the board of directors or the compensation committee of the board of directors or its designee at the time of award.

Loyalty Ventures Restricted Stock Unit Awards

Subsequent to the Separation, the Company awarded 222,715 service-based restricted stock units. Under the terms of the Employee Matters Agreement, 176,589 awards were issued with the same vesting and service conditions of the forfeited awards previously granted by ADS. Under the fair value recognition provisions, stock-based compensation expense is measured at the grant date based on the fair value of the award and is recognized ratably over the requisite service period. The Company accounts for forfeitures of awards as they occur. For service-based awards, the fair value of the restricted stock units was estimated using the Company's closing share price on the date of grant. Service-based restricted stock unit awards typically vest ratably over a three-year period.

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NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

The following table summarizes restricted stock unit activity under the Company's equity compensation plan:

	Service-Based Awards	Weighted Average Fair Value
Balance at January 1, 2021	—	$ —
Shares granted	222,715	29.97
Shares vested	—	—
Shares forfeited	(485)	30.25
Balance at December 31, 2021	222,230	$ 29.97
Outstanding and Expected to Vest	222,230	$ 29.97

The aggregate intrinsic value of restricted stock units outstanding and expected to vest was $6.7 million at December 31, 2021. The weighted-average remaining contractual life for unvested restricted stock units was 1.5 years at December 31, 2021.

As of December 31, 2021, there was a total of approximately $6.0 million of unrecognized expense related to non-vested, stock-based equity awards granted to employees, which is to be recognized over a weighted average period of approximately 1.5 years.

19. EMPLOYEE BENEFIT PLANS

The Company provides certain defined contribution benefit plans to its employees, for which eligible employees may defer a portion of their compensation that is matched by the Company, based on plan guidelines and subject to certain restrictions. The Company's contributions to these plans were $3.9 million, $4.0 million and $4.2 million for the years ended December 31, 2021, 2020 and 2019, respectively.

LOYALTY VENTURES INC.
NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

20. ACCUMULATED OTHER COMPREHENSIVE INCOME (LOSS)

The changes in each component of accumulated other comprehensive income (loss), net of tax effects, are as follows:

	Net Unrealized Gains (Losses) on Securities	Net Unrealized Gains (Losses) on Cash Flow Hedges	Foreign Currency Translation Adjustments [1]	Accumulated Other Comprehensive Income (Loss)
		(in thousands)		
Balance as of January 1, 2019	$ (6,019)	$ (224)	$ (86,105)	$ (92,348)
Changes in other comprehensive income (loss) before reclassifications	6,405	91	(6,214)	282
Amounts reclassified from other comprehensive income (loss)	—	—	—	—
Changes in other comprehensive income (loss)	6,405	91	(6,214)	282
Balance at December 31, 2019	$ 386	$ (133)	$ (92,319)	$ (92,066)
Changes in other comprehensive income (loss) before reclassifications	17,881	(567)	71,246	88,560
Amounts reclassified from other comprehensive income (loss)	—	—	3,887 [2]	3,887
Changes in other comprehensive income (loss)	17,881	(567)	75,133	92,447
Balance at December 31, 2020	$ 18,267	$ (700)	$ (17,186)	$ 381
Changes in other comprehensive income (loss) before reclassifications	(16,276)	1,970	(51,299)	(65,605)
Amounts reclassified from other comprehensive income (loss)	150	—	—	150
Changes in other comprehensive income (loss)	(16,126)	1,970	(51,299)	(65,455)
Balance at December 31, 2021	$ 2,141	$ 1,270	$ (68,485)	$ (65,074)

(1) Primarily related to the impact of changes in the Canadian dollar and Euro foreign currency exchange rates.

(2) In accordance with ASC 830, upon the sale of Precima on January 10, 2020, $3.9 million of accumulated foreign currency translation adjustments attributable to Precima's foreign subsidiaries sold were reclassified from accumulated other comprehensive income (loss) and included in the calculation of the gain on sale of Precima.

Other reclassifications from accumulated other comprehensive loss into net income for each of the periods presented were not material.

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NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

21. INCOME TAXES

The components of income before income taxes and (income) loss from investment in unconsolidated subsidiaries and income tax expense are as follows:

	Years Ended December 31,		
	2021	2020	2019
		(in thousands)	
Components of income before income taxes and (income) loss from investment in unconsolidated subsidiaries:			
Domestic	$ (24,611)	$ (5,326)	$ (25,078)
Foreign	74,443	101,971	113,320
Total	$ 49,832	$ 96,645	$ 88,242
Components of income tax expense:			
Current			
Federal	$ —	$ 63	$ (76)
State	—	(303)	—
Foreign	43,412	25,066	31,260
Total current	43,412	24,826	31,184
Deferred			
Federal	—	(63)	124
State	—	303	—
Foreign	8,763	(3,742)	(19,977)
Total deferred	8,763	(3,502)	(19,853)
Total provision for income taxes	$ 52,175	$ 21,324	$ 11,331

A reconciliation of recorded federal provision for income taxes to the expected amount computed by applying the federal statutory rate for all periods to income before income taxes and (income) loss from investment in unconsolidated subsidiaries is as follows:

	Years Ended December 31,		
	2021	2020	2019
		(in thousands)	
Expected expense at statutory rate	$ 10,465	$ 20,296	$ 18,532
Increase (decrease) in income taxes resulting from:			
Foreign rate differential	11,274	1,861	1,203
Foreign restructuring	14,402	3,598	—
Impact of sale transaction	—	3,360	—
Global intangible low-taxed income	—	(8,339)	2,895
Non-deductible expenses	14,696	2,396	4,162
Uncertain tax positions	(4,178)	(7,706)	(14,856)
Valuation allowance	5,364	5,066	(196)
Other	152	792	(409)
Total	$ 52,175	$ 21,324	$ 11,331

H.R. 1, originally known as the Tax Cuts and Jobs Act of 2017 (the "2017 Tax Reform") was enacted on December 22, 2017. The 2017 Tax Reform permanently reduced the corporate tax rate to 21% from 35%, effective January 1, 2018 and implemented a change from a system of worldwide taxation with deferral to a hybrid territorial system. This system taxes excess foreign profits above a deemed routine return through the Global Intangible Low-Taxed Income ("GILTI") regime. The Company recognizes tax on GILTI, to the extent that it applies, as an expense in the period incurred.

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NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

The Company recorded tax expense of $11.3 million for the year ended December 31, 2021 related to foreign taxes on earnings at rates higher than the U.S. statutory rate inclusive of $7.8 million of Canadian withholding taxes on dividend distributions to Parent prior to the Separation. The Company recorded tax expense of $14.4 million during the current year primarily related to the write-down of a foreign intangible deferred tax asset pursuant to a settlement agreement with a tax authority. Previously, a tax benefit resulted from a foreign restructuring of certain non-U.S. intangibles to support a strategic shift whereby various intangibles across legal entities were consolidated. Also in 2021, the Company's non-deductible expenses increased resulting in additional tax expense of $14.7 million primarily as a result of the goodwill impairment of $50.0 million. The Company recorded a benefit of $8.3 million for the year ended December 31, 2020 related to the impact of the final regulations issued by the Treasury and Internal Revenue Service regarding GILTI. Benefits for uncertain tax positions of $4.2 million, $7.7 million and $14.9 million were recognized in tax years ended December 31, 2021, 2020 and 2019, respectively, primarily due to the expiration of statutes of limitation and the resolution of tax audit issues in various foreign jurisdictions.

Deferred tax assets and liabilities consist of the following:

	December 31,	
	2021	2020
	(in thousands)	
Deferred tax assets		
Deferred revenue	$ 9,121	$ 14,960
Net operating loss carryforwards and other carryforwards	81,557	69,132
Lease liabilities	29,110	32,934
Accrued expenses and other	6,640	9,844
Intangible assets	8,437	31,478
Total deferred tax assets	134,865	158,348
Valuation allowance	(46,671)	(47,854)
Deferred tax assets, net of valuation allowance	88,194	110,494
Deferred tax liabilities		
Depreciation	4,755	11,394
Right of use assets	25,311	28,963
Total deferred tax liabilities	30,066	40,357
Net deferred tax asset	$ 58,128	$ 70,137
Amounts recognized in the consolidated and combined balance sheets:		
Non-current assets	$ 58,128	$ 70,137
Non-current liabilities	—	—
Total – Net deferred tax asset	$ 58,128	$ 70,137

The deferred tax assets associated with net operating losses ("NOLs") included in the table above as of December 31, 2020 reflect NOLs as if the Company was a taxpayer separate from the Parent. The deferred tax assets associated with NOLs included in the table above for the year ended December 31, 2021 reflect the net operating losses the Company has available to offset future taxable income subsequent to the Separation. Hypothetical federal and state NOL deferred tax assets as of December 31, 2020 of $5.4 million were eliminated at the time of Separation. As of December 31, 2021, the Company has federal NOLs of $14.3 million, of which $4.5 million expire at various times through the year 2037, and $9.8 million may be carried forward indefinitely. As of December 31, 2021, the Company also maintains state NOLs of $6.8 million which expire at various times through the year 2040. The Company has $303.5 million of foreign NOLs and $5.2 million of foreign capital losses at December 31, 2021. The foreign NOLs and capital losses have an unlimited carryforward period. The Company does not believe it is more-likely-than-not that any federal or state NOLs, a portion of the foreign NOLs, or any of the capital losses will be utilized. Therefore, in accordance with ASC 740-10-30, "Income Taxes—Overall—Initial Measurement," the Company has established a valuation allowance against

those carryforwards unlikely to be utilized. The Company's valuation allowance decreased $1.2 million during the year ended December 31, 2021, primarily as a result of the hypothetical deferred tax assets, and corresponding hypothetical valuation allowance, that existed at December 31, 2020 being eliminated at the time of Separation.

At December 31, 2021, the Company did not have any excess financial reporting basis over tax basis from a U.S. federal tax perspective primarily as a result of the GILTI regime pursuant to the 2017 Tax Reform. The Company may have, in certain state or foreign jurisdictions, amounts of financial reporting basis that exceeds tax basis as of December 31, 2021. However, these amounts are immaterial and no additional state or foreign tax liability has been recorded. Finally, despite their immaterial nature subsequent to cash distributions to Parent in 2021, the Company intends to permanently reinvest any previously undistributed earnings of our foreign subsidiaries in the operations outside the United States to support its international growth.

A reconciliation of the beginning and ending amount of unrecognized tax benefits is as follows (in thousands):

Balance at January 1, 2019	$ 74,231
Increases related to prior years' tax positions	—
Decreases related to prior years' tax positions	(10,484)
Increases related to current year tax positions	—
Settlements during the period	—
Lapses of applicable statutes of limitation	(4,251)
Foreign currency translation adjustment	1,081
Balance at December 31, 2019	$ 60,577
Increases related to prior years' tax positions	903
Decreases related to prior years' tax positions	(40,267)
Increases related to current year tax positions	—
Settlements during the period	—
Lapses of applicable statutes of limitation	(6,431)
Foreign currency translation adjustment	4,663
Balance at December 31, 2020	$ 19,445
Increases related to prior years' tax positions	—
Decreases related to prior years' tax positions	(749)
Increases related to current year tax positions	—
Settlements during the period	—
Lapses of applicable statutes of limitation	(3,742)
Foreign currency translation adjustment	(405)
Balance at December 31, 2021	$ 14,549

Included in the balance at December 31, 2021 are tax positions reclassified from deferred income taxes. Deductibility or taxability is highly certain for these tax positions but there is uncertainty about the timing of such deductibility or taxability. Because of the impact of deferred tax accounting, other than interest and penalties, this timing uncertainty, if realized, would not have a material effect on the annual effective tax rate but could accelerate the payment of cash to the taxing authority to an earlier period.

The Company recognizes potential accrued interest and penalties related to unrecognized tax benefits in income tax expense. The Company has potential cumulative interest and penalties with respect to unrecognized tax benefits of approximately $5.3 million, $5.8 million and $7.4 million at December 31, 2021, 2020 and 2019, respectively. For the years ended December 31, 2021, 2020 and 2019, the Company recorded a benefit of approximately $0.4 million, $1.8 million and $2.3 million, respectively, for potential interest and penalties with respect to unrecognized tax benefits.

LOYALTY VENTURES INC.
NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

At December 31, 2021, 2020 and 2019, the Company had unrecognized tax benefits of approximately $10.7 million, $15.5 million and $58.6 million, respectively, that, if recognized, would impact the effective tax rate. The Company does not anticipate a significant change to the total amount of unrecognized tax benefits over the next twelve months.

The Company's domestic operations that have been included in the Parent's federal and state tax returns are not separately subject to audit. The Company's foreign operations are separately subject to tax in multiple foreign jurisdictions. With some exceptions, the tax returns filed by the Company's foreign operations are no longer subject to foreign income tax examinations for years before 2013.

22. FINANCIAL INSTRUMENTS

Fair Value of Financial Instruments—The estimated fair values of the Company's financial instruments are as follows:

	December 31, 2021		December 31, 2020	
	Carrying Amount	Fair Value	Carrying Amount	Fair Value
	(in thousands)			
Financial assets				
Redemption settlement assets, restricted	$ 735,131	$ 735,131	$ 693,461	$ 693,461
Other investments	471	471	253	253
Derivative instruments	2,465	2,465	353	353
Financial liabilities				
Derivative instruments	487	487	1,505	1,505
Long-term debt	654,113	654,113	—	—

The following techniques and assumptions were used by the Company in estimating fair values of financial instruments as disclosed herein:

Redemption settlement assets, restricted — Redemption settlement assets, restricted are recorded at fair value based on quoted market prices for the same or similar securities.

Other investments — Other investments consist of marketable securities and are included in other current assets in the consolidated and combined balance sheets. Other investments are recorded at fair value based on quoted market prices for the same or similar securities.

Derivative instruments — The Company's foreign currency cash flow hedges and foreign currency exchange forward contracts are recorded at fair value based on a discounted cash flow analysis on the expected cash flows of each derivative. This analysis reflected the contractual terms of the derivatives, including the period to maturity, and used observable market-based inputs.

Long-term debt — The fair value is estimated based on the current observable market rates available to the Company for similar debt instruments with similar remaining maturities or quoted market prices for the same transaction.

LOYALTY VENTURES INC.
NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

Financial Assets and Financial Liabilities Fair Value Hierarchy

ASC 820 establishes a three-tier fair value hierarchy, which prioritizes the inputs used in measuring fair value. These tiers include:

- Level 1, defined as observable inputs such as quoted prices in active markets;
- Level 2, defined as inputs other than quoted prices in active markets that are either directly or indirectly observable; and
- Level 3, defined as unobservable inputs where little or no market data exists, therefore requiring an entity to develop its own assumptions.

Financial instruments are considered Level 3 when their values are determined using pricing models, discounted cash flow methodologies or similar techniques and at least one significant model assumption or input is unobservable. Level 3 financial instruments also include those for which the determination of fair value requires significant management judgment or estimation. The use of different techniques to determine fair value of these financial instruments could result in different estimates of fair value at the reporting date.

The following tables provide information for the assets and liabilities carried at fair value measured on a recurring basis as of December 31, 2021 and 2020:

	Balance at December 31, 2021	Fair Value Measurements at December 31, 2021 Using		
		Level 1	Level 2	Level 3
		(in thousands)		
Mutual funds [1]	$ 25,990	$ 25,990	$ —	$ —
Corporate bonds [1]	650,389	—	650,389	—
Marketable securities [2]	471	471	—	—
Derivative instruments [3]	2,465	—	2,465	—
Total assets measured at fair value	$ 679,315	$ 26,461	$ 652,854	$ —
Derivative instruments [3]	$ 487	$ —	$ 487	$ —
Total liabilities measured at fair value	$ 487	$ —	$ 487	$ —

LOYALTY VENTURES INC.
NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

	Balance at December 31, 2020	Fair Value Measurements at December 31, 2020 Using		
		Level 1	Level 2	Level 3
		(in thousands)		
Mutual funds [1]	$ 26,850	$ 26,850	$ —	$ —
Corporate bonds [1]	611,184	—	611,184	—
Marketable securities [2]	253	253	—	—
Derivative instruments [3]	353	—	353	—
Total assets measured at fair value	$ 638,640	$ 27,103	$ 611,537	$ —
Derivative instruments [3]	$ 1,505	$ —	$ 1,505	$ —
Total liabilities measured at fair value	$ 1,505	$ —	$ 1,505	$ —

(1) Amounts are included in redemption settlement assets in the consolidated and combined balance sheets.

(2) Amounts are included in other current assets in the consolidated and combined balance sheets.

(3) Amounts are included in other current assets and other current liabilities in the consolidated and combined balance sheets.

There were no transfers between Levels 1 and 2 within the fair value hierarchy for the years ended December 31, 2021 and 2020. There were no Level 3 financial instruments held during the years ended December 31, 2021 and 2020.

Financial Instruments Disclosed but Not Carried at Fair Value

The following table provides assets and liabilities disclosed but not carried at fair value as of December 31, 2021:

	Balance at December 31, 2021	Fair Value Measurements at December 31, 2021 Using		
		Level 1	Level 2	Level 3
		(in thousands)		
Long-term debt	$ 654,113	$ —	$ 654,113	$ —
Total liabilities measured at fair value	$ 654,113	$ —	$ 654,113	$ —

There were no assets or liabilities disclosed but not carried at fair value as of December 31, 2020.

Assets and Liabilities Measured at Fair Value on a Nonrecurring Basis

For the year ended December 31, 2021, the Company recognized a goodwill impairment charge of $50.0 million. See Note 11, "Intangible Assets and Goodwill," for more information.

For the year ended December 31, 2019, as part of restructuring and other charges, the Company recorded asset impairments of $40.7 million, of which $40.2 million was included in the BrandLoyalty segment and $0.4 million was included in the AIR MILES Reward Program segment, related to the discontinuance of certain product lines within inventory and the impairment of certain prepaid assets and fixed assets. See Note 13, "Restructuring and Other Charges," for more information.

23. SEGMENT INFORMATION

Operating segments are defined by ASC 280, "Segment Reporting," as components of an enterprise about which separate financial information is available that is evaluated regularly by the chief operating decision maker in deciding

LOYALTY VENTURES INC.
NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

how to allocate resources and in assessing performance. The operating segments are reviewed separately because each operating segment represents a strategic business unit that generally offers different products and services.

- The AIR MILES Reward Program is a full-service outsourced coalition loyalty program for our sponsors, who pay us a fee per AIR MILES reward mile issued, in return for which we provide all marketing, customer service, rewards and redemption management.
- BrandLoyalty designs, implements, conducts and evaluates innovative and tailor-made loyalty programs for grocers and other high-frequency retailers worldwide. These loyalty programs are designed to generate immediate changes in consumer behavior and are offered through leading grocers across Europe and Asia, as well as around the world.
- Corporate and other consists of corporate overhead not allocated to any of the Company's segments.

Income taxes and equity in earnings (losses) from related party investments accounted for under the equity method are not included in the computation of segment operating profit for internal evaluation purposes.

Year Ended December 31, 2021	AIR MILES Reward Program	BrandLoyalty	Corporate/ Other	Eliminations	Total
			(in thousands)		
Revenues	$ 284,744	$ 450,609	$ —	$ (46)	$ 735,307
Income (loss) before income taxes	$ 118,699	$ (42,883)	$ (25,984)	$ —	$ 49,832
Interest (income) expense, net	(749)	311	5,972	—	5,534
Depreciation and amortization	24,054	12,630	—	—	36,684
Stock compensation expense	1,952	2,692	1,615	—	6,259
Goodwill impairment	—	50,000	—	—	50,000
Strategic transaction costs	3,842	9,362	4,478	—	17,682
Adjusted EBITDA [1]	$ 147,798	$ 32,112	$ (13,919)	$ —	$ 165,991
Capital expenditures	$ 11,789	$ 6,424	$ —	$ —	$ 18,213

Year Ended December 31, 2020	AIR MILES Reward Program	BrandLoyalty	Corporate/ Other	Eliminations	Total
			(in thousands)		
Revenues	$ 277,121	$ 487,685	$ —	$ —	$ 764,806
Income (loss) before income taxes	$ 131,630	$ (20,670)	$ (14,315)	$ —	$ 96,645
Interest (income) expense, net	(1,071)	237	—	—	(834)
Depreciation and amortization	18,658	59,283	—	—	77,941
Stock compensation expense	2,137	3,361	1,519	—	7,017
Gain on sale of business, net of strategic transaction costs	(7,816)	—	—	—	(7,816)
Strategic transaction costs	329	—	—	—	329
Restructuring and other charges	158	(50)	—	—	108
Adjusted EBITDA [1]	$ 144,025	$ 42,161	$ (12,796)	$ —	$ 173,390
Capital expenditures	$ 17,360	$ 6,959	$ —	$ —	$ 24,319

LOYALTY VENTURES INC.
NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

Year Ended December 31, 2019	AIR MILES Reward Program	BrandLoyalty	Corporate/ Other	Eliminations	Total
			(in thousands)		
Revenues	$ 384,021	$ 649,110	$ —	$ —	$ 1,033,131
Income (loss) before income taxes	$ 137,474	$ (34,409)	$ (14,823)	$ —	$ 88,242
Interest (income) expense, net	(1,722)	4,057	—	—	2,335
Depreciation and amortization	21,088	59,091	—	—	80,179
Stock compensation expense	3,878	3,326	1,872	—	9,076
Strategic transaction costs	963	18	—	—	981
Restructuring and other charges	3,487	47,293	—	—	50,780
Adjusted EBITDA (1)	$ 165,168	$ 79,376	$ (12,951)	$ —	$ 231,593
Capital expenditures	$ 29,094	$ 12,363	$ —	$ —	$ 41,457

(1) Adjusted EBITDA is a non-GAAP financial measure equal to net income, the most directly comparable financial measure based on GAAP, plus (income) loss from investment in unconsolidated subsidiaries – related party, provision for income taxes, interest expense (income), net, depreciation and other amortization, amortization of purchased intangibles, and stock compensation expense. Adjusted EBITDA also excludes the gain on the sale of Precima in 2020, strategic transaction costs, which represent costs for professional services and other costs associated with strategic initiatives, including the spinoff and amounts associated with the Tax Matters and Employee Matters agreement, goodwill impairment, and restructuring and other charges for actions taken in 2019.

The table below reconciles the reportable segments' total assets to consolidated and combined total assets:

	AIR MILES Reward Program	BrandLoyalty	Corporate/ Other	Total
		(in thousands)		
Total Assets				
December 31, 2021	$ 1,290,919	$ 956,740	$ 76,068	$ 2,323,727
December 31, 2020	$ 1,332,388	$ 1,089,937	$ 35,739	$ 2,458,064

With respect to information concerning principal geographic areas, revenues are based on the location of the subsidiary that generally correlates with the location of the customer. Information concerning principal geographic areas is as follows:

	United States	Canada	Europe, Middle East and Africa	Asia Pacific	Other	Total
			(in thousands)			
Revenues						
Year Ended December 31, 2021	$ 2,637	$ 301,614	$ 338,427	$ 81,867	$ 10,762	$ 735,307
Year Ended December 31, 2020	$ 11,090	$ 286,876	$ 332,632	$ 80,546	$ 53,662	$ 764,806
Year Ended December 31, 2019	$ 40,111	$ 352,163	$ 449,140	$ 121,731	$ 69,986	$ 1,033,131
Long Lived Assets						
December 31, 2021	$ 21,428	$ 296,800	$ 596,145	$ 1,075	$ 92	$ 915,540
December 31, 2020	$ —	$ 311,530	$ 714,317	$ 1,902	$ 148	$ 1,027,897

LOYALTY VENTURES INC.
NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

As of December 31, 2021, 2020 and 2019, revenues from the Bank of Montreal were $125.0 million, $117.3 million and $120.9 million, respectively, which represented approximately 17%, 15% and 12% of respective consolidated and combined revenues, and are included in the AIR MILES Reward Program segment.

24. SUPPLEMENTAL CASH FLOW INFORMATION

The following table provides a reconciliation of cash and cash equivalents to the total of the amounts reported in the consolidated and combined statements of cash flows:

	December 31, 2021	December 31, 2020	December 31, 2019
		(in thousands)	
Cash and cash equivalents	$ 167,601	$ 278,841	$ 124,981
Restricted cash included within other current assets [1]	6,249	3,257	10,842
Restricted cash included within redemption settlement assets, restricted [2]	58,752	55,427	39,309
Total cash, cash equivalents and restricted cash	$ 232,602	$ 337,525	$ 175,132

(1) Includes cash restricted for travel deposits within the AIR MILES Reward Program.

(2) See Note 8, "Redemption Settlement Assets," for additional information regarding the nature of restrictions on redemption settlement assets.

The Separation was completed on November 5, 2021 through the non-cash pro rata distribution of 81% of the outstanding shares of Loyalty Ventures to holders of ADS common stock at the close of business on the record date of October 27, 2021, with ADS retaining the remaining 19% of the outstanding shares of Loyalty Ventures. Pursuant to the Separation agreement, the net assets of certain corporate entities associated with the international businesses of $7.6 million were contributed to the Company by ADS. Additionally, the Company established certain contractual and indemnification assets and liabilities pursuant to the Tax Matters Agreement of $29.4 million and $83.6 million, respectively, and the Employee Matters Agreement of $11.9 million and $1.3 million, respectively. See Note 25, "Related Party Transactions," for more information.

25. RELATED PARTY TRANSACTIONS

Transactions between the Company and ADS were considered to be effectively settled at the time the transaction was recorded. The net effect of the settlement of these intercompany transactions is reflected in the consolidated and combined statements of cash flows as a financing activity as net transfers to Parent and in the consolidated and combined balance sheets as Parent's net investment.

ADS allocated $12.6 million, $14.3 million and $14.8 million of corporate overhead costs that directly or indirectly benefit the Company for the years ended December 31, 2021, 2020 and 2019, respectively, that are included in general and administrative expense within the Company's consolidated and combined statements of income. These assessments relate to information technology, finance, accounting, and tax services provided, as well as human resources, and other functional support. These allocations were determined based on management estimates on the number of employees and non-employee costs associated with the use of these functions by the Company and may not be indicative of the costs that the Company would otherwise incur on a standalone basis.

In 2019, the Company received a capital contribution of $288.7 million, and the cash was used to repay certain notes payable due to subsidiaries of ADS. See Note 15, "Debt," for additional information.

In addition, the Company had certain investments in unconsolidated subsidiaries that were consolidated subsidiaries of the Parent. See Note 12, "Investments in Unconsolidated Subsidiaries - Related Party," for additional information.

LOYALTY VENTURES INC.
NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

In January 2021, the Company paid cash dividends to ADS of $124.2 million, of which $4.2 million was withheld for taxes.

In November 2021, in connection with the Separation, the Company made a distribution to ADS of $750.0 million.

Pursuant to the Separation agreement, the assets and liabilities of certain corporate entities associated with the international businesses were contributed to the Company by ADS. The assets and liabilities contributed are as follows:

	November 5, 2021 (in thousands)
Assets:	
Cash and cash equivalents	$ 5,637
Accounts receivable, net	1,996
Right of use assets - operating	10
Total assets	$ 7,643
Liabilities:	
Accrued expenses	$ 17
Current operating lease liabilities	12
Total liabilities	$ 29

Pursuant to the terms of the Tax Matters Agreement, ADS will be responsible for all pre-distribution tax payables and tax reserves but will also be entitled to receive all pre-distribution tax receivables when realized. As a result, the Company established certain indemnification and contractual assets of $29.4 million, which were included in accounts receivables and other non-current assets as well as $83.6 million in contractual liabilities of which $82.6 million were included in accrued expenses and $1.0 million included in other liabilities in the Company's consolidated and combined balance sheet on the date of the Separation. The Company received $5.3 million from ADS and paid ADS $2.7 million in connection with amounts due and owed under the Tax Matters Agreement. It was also determined that $4.0 million of the indemnification asset would not be paid by ADS, as the Company released the associated tax reserve, and as such the indemnification asset was written off and included in general and administrative expenses in the Company's consolidated and combined statement of income for the year ended December 31, 2021. As such, as of December 31, 2021, the assets and liabilities related to the tax matters agreement were $20.1 million and $81.0 million, respectively.

Pursuant to the terms of the Transition Services Agreement, ADS will provide various corporate, administrative and information technology services to the Company, subsequent to the Separation. Amounts incurred during the year ended December 31, 2021, subsequent to the Separation, was $0.5 million and has been included in the general and administrative expenses in the Company's consolidated and combined statement of income.

LOYALTY VENTURES INC.
NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

26. QUARTERLY RESULTS OF OPERATIONS (UNAUDITED)

Unaudited quarterly results of operations for the years ended December 31, 2021 and 2020 are presented below.

	Quarter Ended			
	March 31, 2021	June 30, 2021	September 30, 2021	December 31, 2021
	(in thousands, except per share amounts)			
Revenues	$ 176,554	$ 150,905	$ 169,257	$ 238,591
Operating expenses	148,565	130,418	132,998	267,960
Operating income (loss)	27,989	20,487	36,259	(29,369)
Interest (income) expense, net	(69)	(113)	(136)	5,852
Income (loss) before income taxes and loss (income) from investment in unconsolidated subsidiaries	28,058	20,600	36,395	(35,221)
Provision for income taxes	8,984	6,090	16,542	20,559
Loss (income) from investment in unconsolidated subsidiaries – related party, net of tax	36	5	(4,108)	—
Net income (loss)	$ 19,038	$ 14,505	$ 23,961	$ (55,780)
Net income (loss) per share:				
Basic	$ 0.77	$ 0.59	$ 0.97	$ (2.27)
Diluted	$ 0.77	$ 0.59	$ 0.97	$ (2.27)
Weighted average shares:				
Basic	24,585	24,585	24,585	24,585
Diluted	24,585	24,585	24,585	24,591

	Quarter Ended			
	March 31, 2020	June 30, 2020	September 30, 2020	December 31, 2020
	(in thousands, except per share amounts)			
Revenues	$ 198,105	$ 151,071	$ 184,756	$ 230,874
Operating expenses	166,113	130,795	170,261	212,702
Operating income	31,992	20,276	14,495	18,172
Gain on sale of a business	(10,876)	—	—	—
Interest income, net	(267)	(82)	(167)	(318)
Income before income taxes and loss (income) from investment in unconsolidated subsidiaries	43,135	20,358	14,662	18,490
Provision for income taxes	13,408	441	3,534	3,941
Loss (income) from investment in unconsolidated subsidiaries – related party, net of tax	68	(10)	148	40
Net income	$ 29,659	$ 19,927	$ 10,980	$ 14,509
Net income per share:				
Basic	$ 1.21	$ 0.81	$ 0.45	$ 0.59
Diluted	$ 1.21	$ 0.81	$ 0.45	$ 0.59
Weighted average shares:				
Basic	24,585	24,585	24,585	24,585
Diluted	24,585	24,585	24,585	24,585

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SCHEDULE II

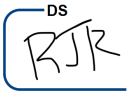
CONSOLIDATED VALUATION AND QUALIFYING ACCOUNTS

Description	Balance at Beginning of Year	Charged to Costs and Expenses	Charged to Other Accounts [1]	Write-Offs Net of Recoveries [2]	Balance at End of Year
			(in thousands)		
Allowance for Doubtful Accounts—Accounts receivable:					
Year Ended December 31, 2021	$ 3,953	$ (906)	$ 1,701	$ (94)	$ 4,654
Year Ended December 31, 2020	$ 3,396	$ 1,128	$ —	$ (571)	$ 3,953
Year Ended December 31, 2019	$ 224	$ 3,600	$ —	$ (428)	$ 3,396

(1) Amounts of certain corporate entities associated with the international businesses contributed to the Company by ADS in connection with the Separation.

(2) Amounts written off during the year, net of recoveries and foreign exchange impact.

This is Exhibit “I” referred to in the Affidavit of Joseph L. Motes III affirmed by Joseph L. Motes III of the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on February 9, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

RJ REID

To: Beberman, Perry[Perry.Beberman@alliancedata.com]; Geoff Ellis[Geoff.Ellis@ey.com]
Cc: Motes, Joseph[joseph.motes@alliancedata.com]
From: K.C. Brechnitz[KC.Brechnitz@ey.com]
Sent: Mon 8/30/2021 4:04:48 AM (UTC)
Subject: RE: EY Deck

⚠ **External Email** ⚠

Looking at these slides - a comparison to what they showed the agencies in the past is not a convincing argument as to why SpinCo needs more cash. There is no evidence of how much the agencies valued the cash as it pertained to the rating. We don't think it matters much which is why we think SpinCo can do with less and get the same B1 rating.

K. C. Brechnitz | Senior Managing Director | Global Head of Capital Markets Advisory

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From: Beberman, Perry <Perry.Beberman@alliancedata.com>
Sent: Sunday, August 29, 2021 9:09 PM
To: K.C. Brechnitz <KC.Brechnitz@ey.com>; Geoff Ellis <Geoff.Ellis@ey.com>
Cc: Motes, Joseph <joseph.motes@alliancedata.com>
Subject: Fwd: EY Deck

Of course they want less cash sweep. And so it begins.

Not really sure there is much for me to react to at this point. Please review and let me know if there is anything material here that changes the targets. We can connect in the morning - but wanted you to have a real time lens into their thinking.

From: Chesnut, Jeff <Jeff.Chesnut@alliancedata.com>
Sent: Sunday, August 29, 2021 11:04 PM
To: Beberman, Perry
Subject: EY Deck

Hi Perry – Thanks for sharing EY's view on the transaction. JT and I reviewed it with Charles and had a couple of observations, which are summarized below and included in the attached deck.

EY's view on the debt is generally aligned with BofA's, which ranged from $600-$650mm and EY is at $650-$700. We'll certainly take $700mm if the market will absorb it, and it's consistent with what the RA's saw.

The cash sweep may be worth a review in the meeting. EY models $100mm and $125mm which based on our cash forecast, would result in less cash at Spinco than was originally conveyed to the RA's. It also means a lower liquidity level at spinco than the RA's saw, and that's with EY's assumption of a $125mm revolver vs. BofA's view of $100mm.

Overall, we'd suggest a cash sweep of ~$50mm vs the $100-$125mm in EY's deck, so Spinco can deliver on the RA model.

That's all recapped in the attached slides:

Page 1, revolver-cash-liquidity analysis

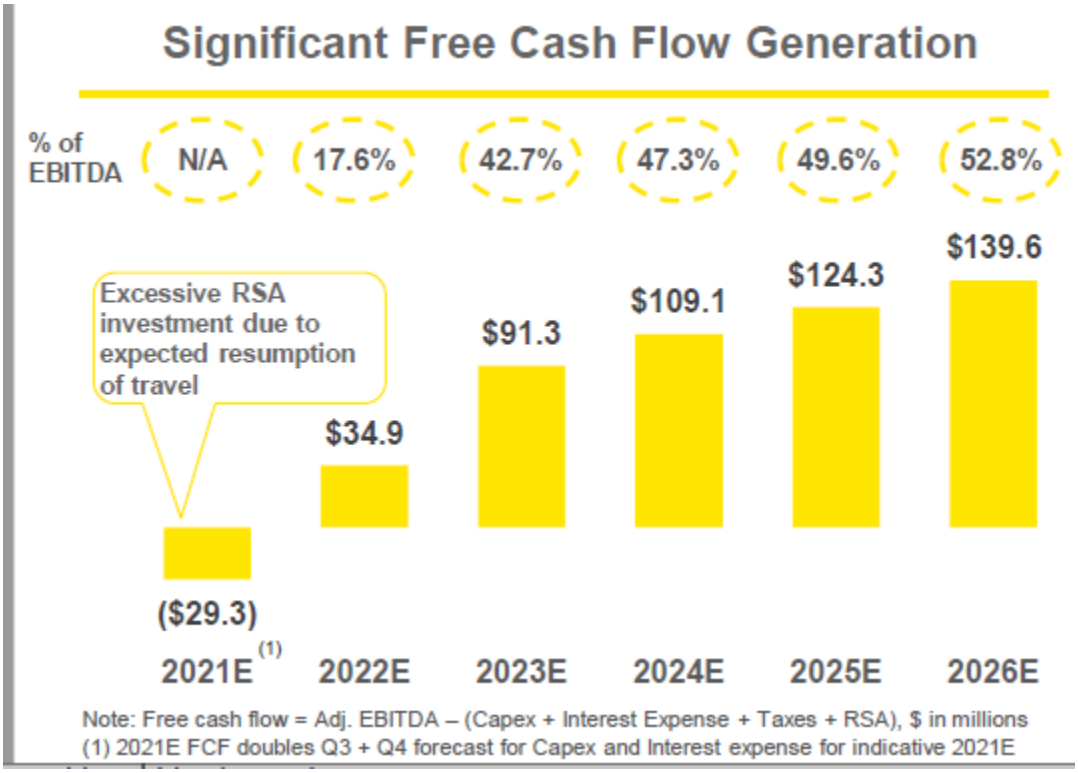
Page 2, cash balance analysis from Audit Comm deck ("Spinco Minimum Estimated Cash" of $116mm)

Page 3, Ratings Agency deck illustrating commitment to minimum cash balance of $100mm

Also, there was a notable development on the Term Loan B front, with BofA projecting that enhanced amortization may be needed to drive demand and help the deal clear the market. Normal annual amortization for TLB's is 1% which would be a $6.5mm - $7mm cash outflow for Spinco. BofA is guiding to 5% amortization, which on $700mm is $35mm/yr of FCF drag or $28mm more than Spinco has modeled. While it may help make the TLB more attractive to investors, it will notably reduce Spinco's FCF and liquidity as a result.

It's unclear if/how EY modeled the typical 1% amortization in their FCF analysis, since it's not included in the calculation on page 5 (pasted below; no deduction for amort is listed). And it may be worthwhile for EY revisit their FCF analysis using the 5% TLB amortization threshold, given the meaningful step-up in cash outflows vs a 1% amort level. That may impact the assessment of Spinco's cash and liquidity needs.

Best regards – JC



Jeff Chesnut

Alliance Data Systems (NYSE: ADS)
SVP & Treasurer
Office: 214.494.3805
Mobile: 214.629.6438

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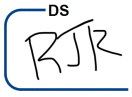
This is Exhibit “J” referred to in the Affidavit of Joseph L. Motes III affirmed by Joseph L. Motes III of the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on February 9, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

RJ REID

Exhibit 99.1

(Subject to Completion, Dated September 21, 2021)

Alliance Data Systems Corporation
3075 Loyalty Circle
Columbus, Ohio 43219

, 2021

Dear ADS Stockholder:

On May 12, 2021, Alliance Data Systems Corporation ("ADS") announced the next step in its strategic transformation and repositioning of ADS through the spinoff of its LoyaltyOne segment from ADS (the "Separation"), which is expected to become effective on , 2021. On the effective date of the Separation, Loyalty Ventures Inc., a Delaware corporation formed in anticipation of the Separation ("Loyalty Ventures"), will become an independent, publicly traded company and will hold, directly or indirectly through its subsidiaries, the assets and liabilities associated with the Loyalty Ventures business.

The Separation is subject to conditions as described in the enclosed information statement. Subject to the satisfaction or waiver of these conditions, the Separation will be completed by way of a pro rata distribution of 81% of the outstanding shares of Loyalty Ventures common stock to ADS' stockholders of record as of the close of business on , 2021, the distribution record date (the "Distribution").

Each ADS stockholder of record will receive one share of Loyalty Ventures common stock, $0.01 par value, for every shares of ADS common stock, par value $0.01 per share, held by such stockholder on the record date. The distribution of these shares will be made in book-entry form, which means that no physical share certificates will be issued. At any time following the Distribution, stockholders may request that their shares of Loyalty Ventures common stock be transferred to a brokerage or other account. No fractional shares of Loyalty Ventures common stock will be issued. The distribution agent for the Distribution will aggregate fractional shares into whole shares, sell the whole shares in the open market at prevailing prices and distribute the net cash proceeds from the sales pro rata to each holder who would otherwise have been entitled to receive a fractional share in the Distribution.

ADS expects to receive a private letter ruling from the Internal Revenue Service ("IRS") and an opinion from counsel to the effect that, among other things, the Distribution, together with certain related transactions, will qualify as a transaction that is tax-free for U.S. federal income tax purposes, except to the extent of any cash received in lieu of fractional shares.

The Distribution does not require ADS stockholder approval, nor do you need to take any action to receive your shares of Loyalty Ventures common stock. ADS' common stock will continue to trade on the New York Stock Exchange under the ticker symbol "ADS." Loyalty Ventures intends to apply to have its shares of common stock listed on the Nasdaq Stock Market under the ticker symbol "LYLT."

The enclosed information statement, which we are mailing to all ADS stockholders, describes the Separation in detail and contains important information about Loyalty Ventures, including the historical combined financial statements prepared on a carve-out basis. We urge you to read this information statement carefully.

We want to thank you for your continued support of ADS.

Sincerely,

Ralph J. Andretta
President and Chief Executive Officer

Loyalty Ventures Inc.
c/o Alliance Data Systems Corporation
7500 Dallas Parkway, Suite 700
Plano, Texas 75024

, 2021

Dear Future Loyalty Ventures Stockholder:

I am excited to welcome you as a future stockholder of our new company, Loyalty Ventures Inc. ("Loyalty Ventures"). Following the spinoff by Alliance Data Systems Corporation ("ADS") of its LoyaltyOne segment as an independent, publicly traded company, we will continue to be a leading provider of tech-enabled, data-driven consumer loyalty solutions.

The spinoff will permit Loyalty Ventures to concentrate on its core competencies and growth opportunities in the loyalty space, and will provide Loyalty Ventures with increased flexibility and speed to design and implement corporate strategies unique to our business separate from the regulatory requirements of ADS. Further, Loyalty Ventures will be able to allocate resources, incentivize employees and deploy capital and reinvest its cash flow to capture our long-term opportunities.

At Loyalty Ventures, we design our loyalty solutions around specific clients' needs and goals, with a focus on helping partners achieve their strategic and financial objectives from increased consumer basket size, shopper traffic and frequency and digital reach to enhanced program reporting and analytics. Loyalty Ventures will own and operate the AIR MILES Reward Program, Canada's most recognized loyalty program, and Netherlands-based BrandLoyalty, a global provider of purpose-driven, tailor-made campaign-based loyalty solutions for grocers and other high-frequency retailers whose network spans across 6 continents and 54 countries.

I encourage you to learn more about Loyalty Ventures and our business by reading the attached information statement. We intend to apply to list our common stock on the Nasdaq Stock Market under the ticker symbol "LYLT." We look forward to earning your continued support for many years to come.

Sincerely,

Charles L. Horn
President and Chief Executive Officer

Preliminary Information Statement
(Subject to Completion, Dated September 21, 2021)

INFORMATION STATEMENT

Loyalty Ventures Inc.

Common Stock
($0.01 Par Value)

Alliance Data Systems Corporation ("ADS") is furnishing this information statement in connection with the separation of its LoyaltyOne segment from its remaining business and the creation of an independent, publicly traded company, named Loyalty Ventures Inc. ("Loyalty Ventures"). Loyalty Ventures, directly or indirectly through its subsidiaries, will hold the assets, liabilities and legal entities comprising the Loyalty Ventures business after certain restructuring transactions are completed (the "Restructuring"). 81% of the outstanding shares of SpinCo common stock owned by ADS will be distributed to the stockholders of ADS (the "Distribution" and, together with the Restructuring, the "Separation"). Loyalty Ventures is currently an indirect, wholly-owned subsidiary of ADS.

Each holder of ADS common stock will receive one share of common stock of Loyalty Ventures for every shares of ADS common stock held as of the close of business on , 2021, the record date for the Distribution.

The distribution of Loyalty Ventures' shares is expected to be completed after the market closing on , 2021 (the "Distribution Date"). Immediately after ADS completes the Distribution, Loyalty Ventures will be an independent, publicly traded company. We expect that, for U.S. federal income tax purposes, no gain or loss will be recognized by you, and no amount will be included in your income in connection with the Distribution, except to the extent of any cash you receive in lieu of fractional shares.

No vote or other action is required by you to receive shares of Loyalty Ventures common stock in the Separation. You will not be required to pay anything for the new shares or to surrender any of your shares of ADS common stock. We are not asking you for a proxy and you should not send us a proxy or your share certificates.

There currently is no trading market for Loyalty Ventures common stock. We expect to apply to have Loyalty Ventures' shares of common stock listed on the Nasdaq Stock Market ("Nasdaq") under the ticker symbol "LYLT." Assuming that Nasdaq authorizes Loyalty Ventures' common stock for listing, we anticipate that a limited market, commonly known as a "when-issued" trading market, for Loyalty Ventures' common stock will commence on , 2021 and will continue up to and including the Distribution Date. We expect the "regular-way" trading of Loyalty Ventures' common stock will begin on the first trading day following the Distribution Date.

In reviewing this information statement, you should carefully consider the matters described under the caption "Risk Factors" beginning on page 17.

We are an "emerging growth company" as defined under the federal securities laws and, as such, may elect, and have elected, to comply with certain reduced public company reporting requirements for future filings.

Neither the U.S. Securities and Exchange Commission ("SEC") nor any state securities commission has approved or disapproved these securities or determined if this information statement is truthful or complete. Any representation to the contrary is a criminal offense.

This information statement does not constitute an offer to sell or the solicitation of an offer to buy any securities.

The date of this information statement is , 2021.

A Notice of Internet Availability of Information Statement Materials containing instructions describing how to access the information statement was first mailed to ADS stockholders on or about , 2021.

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NOT REGARDING THE USE OF CERTAIN TERMS

We use the following terms to refer to the items indicated:

- "We," "us," "our," "Company," "Loyalty Ventures Inc." and "Loyalty Ventures," unless the context otherwise requires, refer to Loyalty Ventures, the entity that at the time of the Distribution will hold, directly or indirectly through its subsidiaries, the assets and liabilities associated with the Spin Business, as defined below, and whose shares ADS will distribute in connection with the Separation. Where appropriate in the context, the foregoing terms also include the subsidiaries of this entity; these terms may be used to describe the Spin Business prior to completion of the Separation.
- The "Spin Business" refers to the business, operations, products, services and activities of ADS' LoyaltyOne segment. See "Business" for more information.
- Except where the context otherwise requires, the term "ADS" refers to Alliance Data Systems Corporation, the entity that owns Loyalty Ventures prior to the Separation and that after the Separation will be a separately traded public company consisting of its remaining operations.
- The term "Distribution" refers to the distribution of 81% of the shares of Loyalty Ventures common stock owned by ADS to stockholders of ADS as of the record date.
- The term "Restructuring" refers to the series of transactions, which will result in all of the assets, liabilities and legal entities comprising the Spin Business being owned directly, or indirectly through its subsidiaries, by Loyalty Ventures.
- Except where the context otherwise requires, the term "Separation" refers to the separation of the Spin Business from ADS and the creation of an independent, publicly traded company, Loyalty Ventures, through (1) the Restructuring and (2) the Distribution.
- The term "Distribution Date" means the date on which the Distribution occurs.

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

We have made statements under the captions "Summary," "Risk Factors," "Management's Discussion and Analysis of Financial Condition and Results of Operations," "Business" and in other sections of this information statement that are forward-looking statements. In some cases, you can identify these statements by forward-looking words such as "may," "might," "will," "should," "expects," "plans," "intends," "anticipates," "believes," "estimates," "predicts," "potential" or "continue," the negative of these terms and other comparable terminology. These forward-looking statements, which are subject to risks, uncertainties and assumptions about us, may include projections, forecasts or assumptions of our future financial performance, our anticipated growth strategies and anticipated trends in our business. These statements are only predictions based on our current expectations and projections about future events. There are important factors that could cause our actual results, level of activity, performance or achievements to differ materially from the results, level of activity, performance or achievements expressed or implied by the forward-looking statements, including the numerous risks discussed under the caption entitled "Risk Factors."

Although we believe the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, level of activity, performance or achievements. Moreover, neither we nor any other person assumes responsibility for the accuracy and completeness of any of these forward-looking statements. Except as required by law, neither ADS nor we are under any duty to update any of these forward-looking statements after the date of this information statement to conform our prior statements to actual results or revised expectations.

SUMMARY

This summary highlights information contained elsewhere in this information statement. This summary does not contain all of the information that you should consider. You should read this entire information statement carefully, especially the risks of owning our common stock discussed under "Risk Factors" and our audited combined financial statements, our unaudited pro forma combined financial statements and the respective notes to those statements appearing elsewhere in this information statement. Except as otherwise indicated or unless the context otherwise requires, the information included in this information statement assumes the completion of all the transactions referred to in this information statement in connection with the Separation.

Overview

We are a leading provider of tech-enabled, data-driven consumer loyalty solutions. Our solutions are focused on helping partners achieve their strategic and financial objectives, from increased consumer basket size, shopper traffic and frequency and digital reach to enhanced program reporting and analytics. We design our loyalty solutions around specific clients' needs and goals, which can be both transactional and emotional. The essence of loyalty is derived from a mix of emotions and memory. By activating these unconscious influences, we help financial services providers, retailers and other consumer-facing businesses create and increase customer loyalty across multiple touch points from traditional to digital to mobile and emerging technologies. We own and operate the AIR MILES Reward Program, Canada's most recognized loyalty program, and Netherlands-based BrandLoyalty, a global provider of purpose-driven, tailor-made campaign-based loyalty solutions for grocers and other high-frequency retailers.

The AIR MILES Reward Program is an end-to-end loyalty platform, combining technology, data/analytics and other solutions to help our clients (who we call sponsors) drive increased engagement by consumers (who we call collectors) with their brand. The AIR MILES Reward Program operates as a full service coalition loyalty program for our sponsors. We provide all marketing, customer service, rewards and redemption management for our sponsors. We typically grant sponsors exclusivity in their market category, enabling them to realize incremental sales and increase market share as a result of their participation in the AIR MILES Reward Program. The AIR MILES Reward Program enables collectors to earn AIR MILES reward miles as they shop across a broad range of sponsors from financial institutions, grocery and liquor, e-commerce, specialty retail, pharmacy, petroleum retail, and home furnishings to hardware, that participate in the AIR MILES Reward Program. These AIR MILES reward miles can be redeemed by collectors for travel, entertainment, experiences, merchandise or other rewards. Through our AIR MILES cash program option, collectors can also instantly redeem their AIR MILES reward miles earned in the AIR MILES cash program option toward in-store purchases at participating sponsors, such as Shell Canada. We estimate approximately two-thirds of Canadian households actively participate in the AIR MILES Reward Program.

BrandLoyalty is a worldwide leader in campaign-based loyalty solutions that positively impact consumer behavior on a mass scale. We pride ourselves on being a business with purpose by connecting high-frequency retailers, supplier partners and consumers to create sustainable solutions for today's challenges. We design, implement, conduct and evaluate innovative, digitally-enhanced, tailor-made loyalty campaigns. These campaigns are tailored for the specific client and are designed to reward key customer segments based on their spending levels during defined campaign periods. At BrandLoyalty, we aim to let all shoppers feel emotionally connected when they shop at our clients, by designing campaigns with the right mechanics and rewards that instantly change shopping behavior and engender loyalty. The rewards we offer come from top brands with high creative standards such as Disney, Zwilling, and vivo | Villeroy & Boch.

We will be headquartered in Dallas, Texas. At December 31, 2020, we had over 1,400 employees. For the year ended December 31, 2020, we generated $764.8 million in revenues, $75.1 million of net income and $173.4 million in adjusted EBITDA. In addition, for the six months ended June 30, 2021, we generated $327.5 million in revenues, $33.5 million of net income and $71.1 million in adjusted EBITDA. Upon our separation from ADS, we expect to trade under the ticker symbol "LYLT" on Nasdaq.

Our strategies

Our goal is to accelerate stakeholder value creation through the continued development of loyalty platforms for the tech-forward business and consumer era. We intend to pursue a variety of new omnichannel

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initiatives, including expanding geographies and verticals; further enriching tech and analytic capabilities; employing sustainable solutions; and seeking additional strategic partnerships.

Attract new clients and grow existing client base

The AIR MILES Reward Program continues to focus on broadening our sponsor base and expanding the network effects of the coalition. We seek to attract new sponsors and deepen existing relationships by enhancing our solutions portfolio. Deployment of enriched marketing and advertising capabilities will further sponsors' ability to reach and engage collectors, increasing the value proposition for sponsors and reward suppliers alike. Diversifying the sponsor network, including expansion to non-traditional partnerships and alliances, including new arrangements with business-to-business e-commerce platforms that enable smaller, local e-commerce partners to incorporate AIR MILES reward miles in their promotional activities, will allow for a stronger and broader ecosystem to capture a larger portion of total consumer spend within the AIR MILES Reward Program. A core advantage to being a part of the AIR MILES Reward Program is the benefit to each partner as the coalition expands.

Similarly, we believe there is market opportunity for BrandLoyalty to grow its client base by adding new grocers in existing markets. Additional opportunity exists in the form of diversification into adjacent segments, such as convenience stores and pharmacies, which are a natural fit for BrandLoyalty due to the high frequency and spend profile of the customer base. Further expansion into new growing verticals like e-commerce and food delivery is also expected to present significant opportunities.

By diversifying and growing our ability to integrate advanced data analytics with marketing and loyalty services, we seek to position ourselves to serve the modern consumer, thus increasing the value proposition for our clients by delivering long-term integrated growth opportunities and ultimately delivering returns for our stakeholders.

Invest in technology to better engage consumers

The AIR MILES Reward Program continues to focus on driving collector engagement to enhance the benefit to the entire coalition of sponsors. The AIR MILES Reward Program has focused on enhancing digital initiatives targeting younger demographic channels as well as the broader collector base as a whole. By providing in-store and mobile access and increasing the relevancy of personalized, targeted, real-time offers, the AIR MILES Reward Program is improving effectiveness of digital campaigns and overall collector engagement. We will continue to invest in technology to deliver new digital products and solutions to improve collector engagement and the sponsor value proposition. An expansive collector and sponsor base results in an expanding database, which can be used to create and monetize new and innovative supplemental solutions for all partners of the ecosystem.

BrandLoyalty has built a first-class technology platform and an array of digital tools, including the Bright Loyalty Platform, the Analytical Framework, StorePal and other features to support its campaign-based loyalty solutions. The Analytical Framework provides full-cycle loyalty program design, real-time feedback and evaluation to adjust programs in progress or apply learnings to future designs. BrandLoyalty's Bright Loyalty Platform provides shoppers the ability to collect and share points digitally, earn badges, play games, view leaderboards and level up to achieve better status and more exclusive perks. BrandLoyalty also offers StorePal to directly support in-store staff with program execution through state-of-the-art A.I. analysis and collaboration to improve in-store marketing, display placement, staff program knowledge and stock availability.

We believe opportunities exist to leverage the digital loyalty capabilities of BrandLoyalty's platform and the highly advanced data science platform of the AIR MILES Reward Program to enhance the digital tools and capabilities of both businesses.

Expand into new geographies

We will seek to expand our geographic reach to accelerate growth. Our client-centered approach and almost 30-year operating history has resulted in unique, rich shopper and market data, which we use to generate insights for brands globally. There is substantial opportunity to reach untapped markets across the

globe, which will serve as a growth lever in the near-term and solidify sustainable sources of revenue going forward. In the near term, BrandLoyalty expects to increase its presence in the United Kingdom, the United States and the Nordic region. We also intend to enhance our product offerings and geographic footprint through opportunistic acquisitions that complement our business. We will consider select acquisition opportunities that expand the breadth of our product portfolio, enhance our market positioning and accelerate our presence in attractive geographies, while maintaining alignment with our culture.

Our competitive strengths

Global tech-enabled loyalty leader

Over the past three decades, the AIR MILES Reward Program has built one of the largest loyalty rewards programs in Canada and established itself as a household name. The AIR MILES Reward Program operates as a unique and differentiated coalition loyalty platform. Through our advanced technological capabilities, our sponsors have access to both an extensive scale of customer insights and digital reach, providing a superior understanding of consumer behavior, media response, and trends. As of December 31, 2020, the AIR MILES Reward Program platform extends across 10 million collector accounts, with a sponsor base of approximately 135 sponsors that covered approximately 80% of the average household spend categories across all regions of Canada. Today, our AIR MILES Reward Program partners with over 300 brands and offers collectors thousands of locations to earn. Our expansive national coverage through sponsor partnerships spans brick & mortar physical locations, online retailers and financial institutions to drive continued value to our collectors and, in turn, added awareness and recognition of the AIR MILES brand. The breadth of sponsors and reward suppliers enables collector engagement on a recurring basis and drives powerful network effects.

BrandLoyalty's global network spans across 6 continents and 54 countries, partnering with approximately 200 retailers worldwide. BrandLoyalty offers thousands of locations for customers to earn and continues to maintain close relationships with retailers and build its client portfolio through its 20 sales offices. While BrandLoyalty operates centrally, understanding and building relationships in the local market enhances our delivery capability all over the world.

Rich consumer data platforms

Our robust data and analytics platforms utilizing SKU-level transactional data allow for personalized offerings to drive loyalty for retailers. The AIR MILES Reward Program data platform enables the collection and synthesis of thousands of attributes per collector, supporting hundreds of advanced analytic, predictive models and machine learning algorithms. Unique identifiers track spend across hundreds of retail partners and digital properties through almost 30 years of history. Our dataset provides visibility into collector activity across the coalition, supplemented with third party data, to gather a holistic view of the collector profile that enables us to benefit collectors with a more personalized experience and benefits sponsors by driving engagement through more effective, highly-targeted, relevant marketing and personalized campaigns and offers.

The BrandLoyalty data and analytics platform is optimized through a large historical database of campaign insights, extensive shopper research and market intelligence. BrandLoyalty's proprietary analytical software is designed to maximize campaign performance by analyzing billions of consumer transactions from campaigns across the world to more accurately identify the appropriate consumer segment, reward product and price point for each retailer. Our data analytics support the retailer from start to finish by identifying the right campaign type, providing predictions and insights on campaigns in execution and evaluating campaigns following completion.

Strong technology platforms

Our technology platforms were built to support the services and solutions we deliver with underlying principles of agility, versatility, scalability, and security at every level. Our platforms allow us to design, adapt and optimize loyalty campaigns and deliver better value to our clients. Our platforms provide the ability to automate workflow and target customers in real time and across multiple collector-facing channels. Our data processing platform enables data science, data sharing, product building and model factory capabilities,

which turn customer data into meaningful insights. Our traditional marketing and AI capabilities identify and match collectors and deliver personalization at scale through multiple digital channels.

We have opportunities to integrate components of each platform within the other, creating meaningful opportunities to cross-sell the AIR MILES Reward Program and BrandLoyalty solutions. The AIR MILES Reward Program's data lake, issuance engine, access to rewards and personalization platform combined with BrandLoyalty's digital platform and campaign-based offerings gives us a unique position from which to offer a full suite of capabilities, both short-term and long-term, globally, while adhering to privacy laws, consumer expectations and client contract terms.

Deep, long-term relationships with clients and sponsors

We have maintained deep, long-standing relationships with large consumer-based businesses, including well-known worldwide brands, such as Shell Canada, Sobeys Inc., Bank of Montreal, Rewe and Albert Heijn.

For the AIR MILES Reward Program, we utilize our large collector base together with our data and analytical capabilities to deepen our existing relationships with our sponsors, some of which have been part of the program for almost 30 years, and continue to drive powerful benefits to collectors in the program. By continuing to engage our collectors with personalized marketing experiences and scaled rewards, our sponsors recognize the significant benefit to staying in the AIR MILES Reward Program and increasing their customer spend (issuance) opportunity. We believe that our success with sponsors and our ability to offer a variety of redemption options, both aspirational and instant, drive the appeal of AIR MILES Reward Program to collectors. By delivering a personalized and seamless digital experience, we provide collectors the ability to earn AIR MILES reward miles across an increasing network of sponsors and by offering them attractive redemption options, we create an efficient sales channel that brings brand awareness to reward suppliers.

At BrandLoyalty, we have had longstanding relationships with both the world's leading grocery retailers who value our broad portfolio of offerings and full service approach as well as our high-quality rewards suppliers. We believe we have well-established positions with our clients, who have for many years entrusted us to enhance critical relationships with their customers and manage sensitive customer transaction data. We expect our strong client relationships will continue to drive our recurring revenue base, which we believe will contribute to our success and growth. The result is proven sales growth for retailers and strong connections between those retailers, their consumers and our exclusive merchandise and other reward suppliers.

Experienced management team with deep industry expertise

We have a strong executive management team with a proven track record, including decades of demonstrated leadership at the company. Our current executive management team has an average of over 13 years of industry experience. Charles Horn, who will serve as our president and chief executive officer following the Distribution, is currently an executive vice president at ADS and has overseen the LoyaltyOne segment since August 2019, in addition to the oversight of numerous other ADS board initiatives to include service as interim chief executive officer of ADS prior to Mr. Andretta's appointment. Prior to 2019, Mr. Horn spent nearly a decade in the role of executive vice president and chief financial officer for ADS where his primary responsibilities included providing strategic direction to executive management and the board of directors, as well as evaluation and control of the capital structure of ADS, ensuring the company maintained transparency and consistency in financial reporting and accounting practices across the enterprise while serving as the key contact with the investment community. Blair Cameron will continue to serve as president of the AIR MILES Reward Program, overseeing the entire operations and strategy of the program. Mr. Cameron first joined the AIR MILES Reward Program team over 16 years ago, serving in roles of increasing responsibility. Claudia Mennen will continue to serve as BrandLoyalty's chief executive officer. Following nearly 10 years of experience at PricewaterhouseCoopers and as chief financial officer and vice president of finance at two other companies, Ms. Mennen joined BrandLoyalty as its chief financial officer in early 2012 before also taking on the role of chief financial officer of the LoyaltyOne segment for ADS in 2018. In 2019, she became chief executive officer of BrandLoyalty, where she has led retail and loyalty strategies and operations.

The Separation

On May 12, 2021, ADS announced a plan to distribute to ADS' stockholders 81% of the shares of common stock of a newly formed company, Loyalty Ventures, that would hold the Spin Business. Loyalty Ventures is currently an indirect, wholly-owned subsidiary of ADS and, at the time of the Distribution will hold, directly or indirectly through its subsidiaries, the assets and liabilities associated with the Spin Business.

The Separation will be achieved through the transfer of all the assets and liabilities of the Spin Business to Loyalty Ventures or its subsidiaries in the Restructuring and the distribution of 81% of the outstanding capital stock of Loyalty Ventures pro rata to holders of ADS common stock as of the close of business on , 2021, the record date for the Distribution. At the effective time of the Distribution, ADS stockholders will receive one share of Loyalty Ventures common stock for every shares of ADS common stock held on the record date. The Separation is expected to be completed on , 2021. Immediately following the Separation, ADS stockholders as of the record date for the Distribution will own 81% of the outstanding shares of common stock of Loyalty Ventures. ADS will retain a 19% ownership interest in Loyalty Ventures. ADS will vote its Loyalty Ventures common stock in the same proportion as the votes cast in respect of the common stock not owned by ADS on any matter presented for a vote of Loyalty Ventures' stockholders. ADS may transfer all or a portion of such retained ownership interest in Loyalty Ventures to one or more of ADS' creditors in satisfaction of ADS' third party debt within one year of the Distribution, and any remaining ownership interest in Loyalty Ventures will be disposed by ADS no later than 5 years after the Distribution.

Before the Distribution, we will enter into a Separation and Distribution Agreement and several other ancillary agreements with ADS to effect the Separation and provide a framework for our relationship with ADS after the Separation. These agreements will provide for the allocation between Loyalty Ventures and ADS of ADS' assets, liabilities and obligations (including with respect to employee matters, intellectual property matters, tax matters and certain other matters). Loyalty Ventures and ADS will also enter into a Transition Services Agreement, which will provide for various corporate, administrative and information technology services.

The ADS board of directors believes separating the Spin Business from ADS is in the best interests of ADS and its stockholders and has concluded the Separation will provide ADS and Loyalty Ventures with a number of potential opportunities and benefits, including the following:

- ***Strategic and Management Focus***. Permit the management team of each company to focus on its own strategic priorities with financial targets that best fit its own business, opportunities, market development and geographical focus. We believe the Separation will enable each company's management team to better position its businesses to capitalize on developing macroeconomic trends, increase managerial focus to pursue its individual strategies and leverage its key strengths to drive performance. The management of each resulting company will be able to concentrate on its core competencies and growth opportunities, and will have increased flexibility and speed to design and implement corporate strategies based on the characteristics of its business.
- ***Resource Allocation and Capital Deployment***. Allow each company to allocate resources, incentivize employees and deploy capital to capture the significant long-term opportunities in their respective markets. The Separation will enable each company's management team to implement a capital structure, dividend policy and growth strategy tailored to each unique business. Both businesses are expected to have direct access to the debt and equity capital markets to fund their respective growth strategies.
- ***Investor Choice***. Provide investors, both current and prospective, with the ability to value the two companies based on their distinct business characteristics and make more targeted investment decisions based on those characteristics. Separating the two businesses will provide investors with a discrete investment opportunity so that investors interested in companies in our business will have the opportunity to acquire stock of Loyalty Ventures.

The distribution of our common stock as described in this information statement is subject to the satisfaction or waiver of certain conditions. For more information, see "Risk Factors — Risks relating to

the Separation" and "The Separation — Conditions to the Distribution" included elsewhere in this information statement.

Corporate information

Loyalty Ventures was incorporated in Delaware on June 21, 2021. Loyalty Ventures does not currently have any operations, has no assets and is not expected to conduct any operations until the completion of the Restructuring on or prior to the Distribution Date, pursuant to which the Spin Business assets will be contributed to and the Spin Business liabilities will be assumed by Loyalty Ventures in accordance with the Separation and Distribution Agreement and other agreements entered into in connection with the Separation. We are currently in the process of identifying office space for our corporate headquarters in the United States. For the time being, our principal executive offices are located at c/o Alliance Data Systems Corporation, 7500 Dallas Parkway, Suite 700, Plano, Texas 75024 and our telephone number is (214) 494-3000. Our website is . Our website and the information to be contained therein or connected thereto is not incorporated into this information statement or the registration statement of which it forms a part.

QUESTIONS AND ANSWERS ABOUT THE SEPARATION

Please see "The Separation" for a more detailed description of the matters summarized below.

Q: Why am I receiving this document?

A: You are receiving this document because you are a holder of shares of ADS common stock on the record date for the Distribution and, as such, will be entitled to receive shares of Loyalty Ventures common stock upon completion of the transactions described in this information statement. We are sending you this document to inform you about the Separation and to provide you with information about Loyalty Ventures and its business and operations upon completion of the Separation.

Q: What do I have to do to participate in the Separation?

A: Nothing. You will not be required to pay any cash or deliver any other consideration in order to receive the shares of Loyalty Ventures common stock that you will be entitled to receive upon completion of the Separation. In addition, no stockholder approval will be required for the Separation and therefore you are not being asked to provide a proxy with respect to any of your shares of ADS common stock in connection with the Separation and you should not send us a proxy.

Q: Why is ADS separating the Spin Business from its other businesses?

A: The ADS board of directors believes separating our business from ADS' other business will provide both companies with a number of potential opportunities and benefits, such as enabling (1) the management team of each company to focus on its own strategic priorities with financial targets that best fit its own business, opportunities, market development and geographical focus; (2) each company to allocate resources and deploy capital in a manner consistent with its own priorities; and (3) investors, both current and prospective, to value the two companies based on their distinct business characteristics and make more targeted investment decisions based on those characteristics.

Q: What is Loyalty Ventures?

A: Loyalty Ventures is a newly formed Delaware corporation that will hold the Spin Business, directly or indirectly through its subsidiaries, and be publicly traded on Nasdaq following the Separation.

Q: How will ADS accomplish the Separation of Loyalty Ventures?

A: The Separation involves the Restructuring (i.e., the transfer of the assets and liabilities related to the Spin Business to Loyalty Ventures or its subsidiaries) and the Distribution (i.e., ADS' distribution to its stockholders of 81% of the outstanding shares of Loyalty Ventures' common stock). Following this Restructuring and Distribution, Loyalty Ventures will be a publicly traded company independent from ADS, and ADS will retain a 19% ownership interest in Loyalty Ventures. ADS' Loyalty Ventures common stock will be voted in the same proportion as the votes cast in respect of the common stock not owned by ADS on any matter presented for a vote of Loyalty Ventures' stockholders.

Q: What will I receive in the Distribution?

A: At the effective time of the Distribution, you will be entitled to receive one share of Loyalty Ventures common stock for every shares of ADS common stock held by you on the record date.

Q: How does my ownership in ADS change as a result of the Separation?

A: Your ownership of ADS stock will not be affected by the Separation.

Q: What is the record date for the Distribution?

A: The record date for the Distribution is , 2021, and ownership will be determined as of the close of business on that date. When we refer to the record date in this information statement, we are referring to that time and date.

Q: When will the Distribution occur?

A: The Distribution is expected to occur on , 2021.

Q: As a holder of shares of ADS common stock as of the record date for the Distribution, how will shares of Loyalty Ventures be distributed to me?

A: At the effective time, we will instruct our transfer agent and distribution agent to make book-entry credits for the shares of Loyalty Ventures common stock that you are entitled to receive. Since shares of Loyalty Ventures common stock will be in uncertificated book-entry form, you will receive share ownership statements in place of physical share certificates.

Q: What if I hold my shares through a broker, bank or other nominee?

A: ADS stockholders who hold their shares through a broker, bank or other nominee will have their brokerage account credited with Loyalty Ventures common stock. For additional information, those stockholders should contact their broker or bank directly.

Q: Why is no ADS stockholder vote required to approve the Separation and its material terms?

A: ADS is incorporated in Delaware. Delaware law does not require a stockholder vote to approve the Separation because the Separation will be effected by a stock dividend and does not constitute a sale, lease or exchange of all or substantially all of the assets of ADS.

Q: How will fractional shares be treated in the Distribution?

A: You will not receive fractional shares of Loyalty Ventures common stock in the Distribution. The distribution agent will aggregate and sell on the open market the fractional shares of Loyalty Ventures common stock that would otherwise be issued in the Distribution, and if you would otherwise be entitled to receive a fractional share of Loyalty Ventures common stock in connection with the Distribution, you will instead receive the net cash proceeds of the sale attributable to such fractional share.

Q: What are the U.S. federal income tax consequences to me of the Distribution?

A: A condition to the closing of the Separation is ADS' receipt of a private letter ruling from the IRS and an opinion of Davis Polk & Wardwell LLP to the effect that the Distribution, together with certain related transactions, will qualify under the Internal Revenue Code of 1986, as amended (the "Code"), as a transaction that is tax-free to ADS and to its stockholders. On the basis that the Distribution so qualifies, for U.S. federal income tax purposes, you will not recognize any gain or loss, and no amount will be included in your income in connection with the Distribution, except with respect to any cash received in lieu of fractional shares. You should review the section entitled "The Separation—material U.S. federal income tax consequences of the Distribution" for a discussion of the material U.S. federal income tax consequences of the Distribution.

Q: How will I determine the tax basis I will have in my ADS shares after the Distribution and the Loyalty Ventures shares I receive in the Distribution?

A: Generally, for U.S. federal income tax purposes, your aggregate basis in your shares of ADS common stock and the shares of Loyalty Ventures common stock you receive in the Distribution (including any fractional shares for which cash is received) will equal the aggregate basis of ADS common stock held by you immediately before the Distribution. This aggregate basis should be allocated between your shares of ADS common stock and the shares of Loyalty Ventures common stock you receive in the Distribution (including any fractional shares for which cash is received) in proportion to the relative fair market value of each immediately following the Distribution. See "The Separation—Material U.S. federal income tax consequences of the Distribution."

Q: How will ADS' common stock and Loyalty Ventures' common stock trade after the Separation?

A: There is currently no public market for Loyalty Ventures' common stock. We expect to have Loyalty Ventures' shares of common stock listed on Nasdaq under the ticker symbol "LYLT." ADS common stock will continue to trade on the New York Stock Exchange ("NYSE") under the ticker symbol "ADS."

Q: If I sell my shares of ADS common stock before or on the Distribution Date, will I still be entitled to receive Loyalty Ventures shares in the Distribution with respect to the sold shares?

A: Beginning on or shortly before the record date and continuing up to and including the Distribution Date, we expect there will be two markets in ADS common stock: a "regular-way" market and an "ex-distribution" market. Shares of ADS common stock that trade on the "regular-way" market will trade with an entitlement to receive shares of our common stock to be distributed in the Distribution. Shares that trade on the "ex-distribution" market will trade without an entitlement to receive shares of our common stock to be distributed in the Distribution, so that holders who initially sell ADS shares ex-distribution will still be entitled to receive shares of Loyalty Ventures common stock even though they have sold their shares of ADS common stock before the Distribution, because the ADS shares were sold after the record date. Therefore, if you owned shares of ADS common stock on the record date and sell those shares on the "regular-way" market before the Distribution Date, you will also be selling the right to receive the shares of our common stock that would have been distributed to you in the Distribution. If you own shares of ADS common stock as of the close of business on the record date and sell these shares in the "ex-distribution" market on any date up to and including the Distribution Date, you will still receive the shares of our common stock that you would be entitled to receive in respect of your ownership of the shares of ADS common stock that you sold. You are encouraged to consult with your financial advisor regarding the specific implications of selling your ADS common stock prior to or on the Distribution Date.

Q: Will I receive a stock certificate for Loyalty Ventures shares distributed as a result of the Distribution?

A: No. Registered holders of ADS common stock who are entitled to participate in the Distribution will receive a book-entry account statement reflecting their ownership of Loyalty Ventures common stock. For additional information, registered stockholders in the U.S., Canada or Puerto Rico should contact ADS' transfer agent, Computershare Trust Company, N.A. ("Computershare"), in writing at: Computershare Inc., Computershare Trust Company, 150 Royall Street, Canton MA 02021, Toll Free at 1-877-373-6374 or through its website at www.computershare.com/investor. Stockholders from outside the U.S., Canada and Puerto Rico may call 1-781-575-2879. See "The Separation—When and how you will receive the Distribution of Loyalty Ventures' shares."

Q: Can ADS decide to cancel the Distribution of the Loyalty Ventures' common stock even if all the conditions have been met?

A: Yes. ADS has the right to terminate, or modify the terms of, the Separation at any time prior to the Distribution, even if all of the conditions to the Distribution are satisfied.

Q: Do I have appraisal rights?

A: No, ADS stockholders do not have any appraisal rights in connection with the Separation.

Q: Will Loyalty Ventures incur any debt in connection with the Separation?

A: Yes. We intend to enter into new financing arrangements in anticipation of the Separation consisting of a term loan B facility (the ''new term loan facility''). We expect to incur approximately $675.0 million of new debt from the proceeds of the new term loan facility, the net proceeds of which we intend to use to fund a portion of a cash transfer of $750.0 million to ADS, or one or more of its subsidiaries, as part of the Restructuring. See "The Separation—Incurrence of debt."

Following the Separation, our debt obligations could restrict our business and may adversely impact our financial condition, results of operations or cash flows. In addition, our separation from ADS may increase the overall cost of debt funding and decrease the overall debt capacity and commercial credit available to the businesses collectively. Also, our business, financial condition, results of operations and cash flows could be harmed by a deterioration of our credit profile or by factors adversely affecting the credit markets generally. See "Risk Factors—Risks relating to the Separation."

Q: Does Loyalty Ventures intend to pay cash dividends?

A: We do not currently intend to pay any cash dividends on our capital stock in the foreseeable future. We currently intend to retain all available funds and any future earnings to reduce our debt as well as

fund the development and expansion of our business. The declaration and amount of any dividends to holders of our common stock will be at the discretion of our board of directors and will depend upon many factors, including our financial condition, earnings, cash flows, capital requirements of our business, covenants associated with our debt obligations, legal requirements, industry practice and any other factors the board of directors deems relevant. See "Dividend Policy."

Q: Will the Separation affect the trading price of my ADS stock?

A: Yes. The trading price of shares of ADS common stock immediately following the Distribution is expected to be lower than immediately prior to the Distribution because the trading price will no longer reflect the value of the Spin Business. We cannot provide you with any assurance regarding the price at which the ADS shares will trade following the Separation.

Q: What will happen to outstanding ADS equity awards?

A: In connection with the Separation, outstanding ADS equity awards will generally be adjusted, amended or otherwise addressed in a manner that is intended to preserve the value of such awards as of immediately before and after the Distribution.

Specifically, we intend that, in connection with the Separation, (i) outstanding ADS equity awards held by individuals who will continue to be employed by or provide services to ADS will be equitably adjusted to reflect the difference in the value of ADS common stock before and after the Distribution in a manner that is intended to preserve the overall intrinsic value of the awards, and (ii) certain outstanding ADS equity awards held by individuals who are employed by or otherwise providing services to Loyalty Ventures, or whose employment or engagement will be transferred to Loyalty Ventures in connection with the Separation, will either be accelerated and settled or canceled and replaced in a manner that is intended to generally preserve the intrinsic value of the awards.

The specific adjustment mechanics will be agreed between Loyalty Ventures and ADS and set forth in the Employee Matters Agreement that we intend to enter into with ADS prior to the Separation.

Q: What will the relationship between ADS and Loyalty Ventures be following the Separation?

A: After the Separation, ADS will retain a 19% ownership interest in Loyalty Ventures common stock, while each of ADS and Loyalty Ventures will be independent, publicly traded companies with their own management teams and boards of directors. ADS' Loyalty Ventures common stock will be voted in the same proportion as the votes cast in respect of the common stock not owned by ADS on any matter presented for a vote of Loyalty Ventures' stockholders. The chair of ADS' board is expected to be the chair of Loyalty Ventures' board for a single fixed term of up to three years, subject to IRS approval. In connection with the Separation, we will enter into a number of agreements with ADS that, among other things, govern the Separation and allocate responsibilities for obligations arising before and after the Separation, including, among others, obligations relating to our employees, taxes, liabilities and real and intellectual property. See "The Separation—Agreements with ADS."

Q: Who is the transfer agent for Loyalty Ventures common stock?

A: Computershare will be the transfer agent for Loyalty Ventures common stock. Computershare's mailing address is C/O: Shareholder Services, P.O. Box 505000, Louisville, Kentucky 40233-5000 and Computershare's phone number for stockholders in the U.S., Canada or Puerto Rico is Toll Free 1-800-446-2617 and for stockholders from outside the U.S., Canada and Puerto Rico is .

Q: Who is the distribution agent for the Distribution?

A: Computershare Trust Company, N.A.

Q: Who can I contact for more information?

A: If you have questions relating to the mechanics of the distribution of Loyalty Ventures shares, you should contact the distribution agent:

Computershare Inc.
Computershare Trust Company,
150 Royall Street
Canton, Massachusetts 02021
Toll-Free: 1-877-373-6374
International: 1-781-575-2879

Before the Separation, if you have questions relating to the transactions described herein, you should contact ADS at:

Brian Vereb
Alliance Data Systems Corporation
3075 Loyalty Circle
Columbus, Ohio 43219
investorrelations@alliancedata.com

After the Separation, if you have questions relating to the transactions described herein, you should contact Loyalty Ventures at:

John J. Chesnut
Loyalty Ventures
7500 Dallas Parkway, Suite 700
Plano, Texas 75024
investorrelations@loyalty.com

SUMMARY OF THE SEPARATION

The following is a summary of the material terms of the Separation, including the Restructuring, the Distribution and certain other related transactions.

Distributing Company	ADS, a Delaware corporation. After the Distribution, ADS will retain a 19% ownership interest in Loyalty Ventures common stock.
Distributed Company	Loyalty Ventures, a Delaware corporation, is a wholly owned subsidiary of ADS and, at the time of the Distribution, will hold, directly or indirectly through its subsidiaries, all of the assets and liabilities of the Spin Business. After the Distribution, Loyalty Ventures will be an independent, publicly traded company.
Distributed Company Structure	Loyalty Ventures is a parent company. At the time of the Distribution it will own the shares of a number of subsidiaries operating its businesses.
Record Date	The record date for the Distribution is on the close of business on , 2021.
Distribution Date	The Distribution Date is , 2021.
Distributed Securities	ADS will distribute 81% of the shares of Loyalty Ventures common stock outstanding immediately prior to the Distribution. Based on the approximately shares of ADS common stock outstanding on , 2021, and applying the distribution ratio of one share of Loyalty Ventures common stock for every shares of ADS common stock, ADS will distribute approximately shares of Loyalty Ventures common stock to ADS stockholders who hold ADS common stock as of the record date.
Distribution Ratio	Each holder of ADS common stock will receive one share of Loyalty Ventures common stock for every shares of ADS common stock held as of the close of business on , 2021.
Fractional Shares	ADS will not distribute any fractional shares of Loyalty Ventures common stock to ADS stockholders. Instead, as soon as practicable after the Distribution Date, the distribution agent will aggregate fractional shares into whole shares, sell the whole shares in the open market at prevailing prices and distribute the net cash proceeds, net of brokerage fees and commissions, transfer taxes and other costs and after making appropriate deductions of the amounts required to be withheld for U.S. federal income tax purposes, if any, from the sales pro rata to each holder who would otherwise have been entitled to receive a fractional share in the Distribution. The distribution agent will determine when, how, through which broker-dealers and at what prices to sell the aggregated fractional shares. Recipients of cash in lieu of fractional shares will not be entitled to any minimum sale price for the fractional shares or to any interest on the amounts of payments made in lieu of fractional shares. The receipt of cash in lieu of fractional shares generally will be taxable to the recipient stockholders for U.S. federal income tax purposes as described in "The Separation—Material U.S. federal income tax consequences of the Distribution."

Distribution Method	Loyalty Ventures common stock will be issued only by direct registration in book-entry form. Registration in book-entry form is a method of recording stock ownership when no physical paper share certificates are issued to stockholders, as is the case in this Distribution.
Conditions to the Distribution	The Distribution is subject to the satisfaction or waiver by ADS of the following conditions, as well as other conditions described in this information statement in "The Separation—Conditions to the Distribution": • The board of directors of ADS will have approved the Distribution. • The SEC will have declared effective our registration statement on Form 10, of which this information statement is a part, under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), no stop order suspending the effectiveness of our registration statement on Form 10 will be in effect, and no proceedings for such purpose will have been instituted or threatened by the SEC, and this information statement, or a notice of Internet availability thereof, will have been mailed to the holders of ADS common stock as of the record date for the Distribution; • Our common stock to be delivered in the Distribution will have been approved for listing on Nasdaq, subject to official notice of issuance; • ADS will have received a private letter ruling from the IRS and an opinion of Davis Polk & Wardwell LLP, in each case reasonably satisfactory to ADS, to the effect that, for U.S. federal income tax purposes, the Distribution, together with certain related transactions, will qualify as a tax-free "reorganization" within the meaning of Section 368(a)(1)(D) of the Code and a tax-free distribution within the meaning of Section 355 of the Code; • Any material governmental approvals and consents and any material permits, registrations and consents from third parties, in each case, necessary to effect the distribution and to permit the operations of our business after the Distribution Date substantially as conducted as of the date of the Separation and Distribution Agreement will have been obtained; and • No event or development will have occurred or exist that, in the judgment of the ADS board of directors, in its sole and absolute discretion, makes it inadvisable to effect the Separation or other transactions contemplated by the Separation and Distribution Agreement or by any of the ancillary agreements contemplated by the Separation and Distribution Agreement. The fulfillment of the conditions to the Distribution will not create any obligations on ADS' part to effect the Separation, and the ADS board of directors has reserved the right, in its sole discretion, to abandon, modify or change the terms of the Separation, including by accelerating or delaying the timing of

	the consummation of all or part of the Distribution, at any time prior to the Distribution Date.
Stock Exchange Listing	We expect to apply to have our shares of common stock listed on Nasdaq under the ticker symbol "LYLT."
Dividend Policy	We do not currently intend to pay any cash dividends on our capital stock in the foreseeable future. We currently intend to retain all available funds and any future earnings to fund the reduction of our debt as well as the development and expansion of our business. The declaration and amount of any dividends to holders of our common stock will be at the discretion of our board of directors and will depend upon many factors, including our financial condition, earnings, cash flows, capital requirements of our business, covenants associated with our debt obligations, legal requirements, regulatory constraints, industry practice and any other factors the board of directors deems relevant. For more information, see "Dividend Policy."
Transfer Agent	Computershare Trust Company, N.A.
U.S. Federal Income Tax Consequences	A condition to the closing of the Separation is ADS' receipt of a private letter ruling from the IRS and an opinion of Davis Polk & Wardwell LLP to the effect that the Distribution, together with certain related transactions, will qualify under the Code as a transaction that is tax-free to ADS and to its stockholders. You should review the section entitled "The Separation—Material U.S. federal income tax consequences of the Distribution" for a discussion of the material U.S. federal income tax consequences of the Distribution.

SUMMARY RISK FACTORS

We are subject to a number of risks, including risks related to the Separation, including the Restructuring and the Distribution, and other related transactions. The following summary of our principal risks provides an overview of the uncertainty inherent in investing in us presents and is not exhaustive. This summary is qualified in its entirety by reference to the complete description of our risk factors set forth immediately below. Please read "Risk Factors" carefully for a more thorough description of these and other risks. With regard to strategic business risks and our competitive environment, we caution that the pervasive impacts of COVID-19 on the macroeconomic environment will continue to heighten all of our risks for an indeterminate duration.

Risks relating to the separation include failure to realize anticipated benefits, expenditure of limited resources, lack of independent operating history, incurrence of additional debt, discretionary actions of the ADS board of directors, inequitable indemnities, insufficient remedies or markets for our equity securities, conflicts of interest, and potential tax-related liabilities.

- Our business may be harmed if anticipated benefits from the Separation fail to materialize or their realization is delayed.
- Without history operating as an independent company, our historical combined financials and unaudited pro forma financial information may not necessarily be representative of the results we would have achieved as an independent, publicly traded company and may not be indicative of our future prospects.
- We may incur significant costs and diversion of executive management and other resources to create the infrastructure necessary to operate as an independent publicly traded company, or experience operational disruptions in connection with the Separation.
- Until the Distribution occurs, the ADS board of directors in its sole discretion may change the terms of the Separation to be less favorable to us.
- Following the Separation, our newly incurred debt obligations may restrict our business, increase our cost of debt funding and/or decrease our overall debt capacity and commercial credit availability.
- Reciprocal indemnifications with ADS in connection with the Separation may not equitably allocate responsibility, may be insufficient to insure us for liabilities incurred or may require us to divert cash to fund obligations to ADS.
- Without rights to approve or dissenter's rights in connection with the Separation, ADS stockholders may seek to sell their ADS and/or Loyalty Ventures shares, and the post-Distribution value may not equal or exceed the pre-Distribution value and there may not be a sufficient trading market for one or both companies.
- Certain Loyalty Ventures directors, executive officers and other personnel may continue to own significant positions in ADS relative to their assets, giving rise to conflicts of interest during the transition.
- If the Restructuring, Separation and Distribution fail to qualify as tax-free due to a prior breach of any covenant or representation by us or if we fail to comply with the restrictions placed on us for subsequent periods, we may be responsible for significant tax-related liabilities.

Risks relating to our business strategy, competitive environment and operations include client concentration, loss of sponsors, clients, rewards suppliers or collector engagement, disruptions in reward quality or availability, failure to identify new business opportunities, changes in consumer preference or behavior, potential for data breach or other restrictions on the use of consumer information, operating in complex global legal environments and fluctuations in global economic conditions.

- Our ten largest clients represented just over half of our combined revenue in 2020, and BrandLoyalty's client commitments are not long-term.
- Loss of sponsors, business by our clients, relationships with rewards suppliers or changes in collector redemption amounts or patterns may limit both growth and profitability.

- Airline or travel industry disruptions, including airline competition, market availability, operating restrictions, restructurings or insolvencies, could limit collector engagement in the AIR MILES Reward Program.
- Failure to accurately forecast consumer demand for our BrandLoyalty campaigns could result in excess inventories or inventory shortages.
- Inability to anticipate and respond to market trends and changes in consumer preferences for loyalty program features or rewards could reduce demand for our services.
- Failure of rewards suppliers to deliver in contracted quantities, in a timely manner and meeting quality standards could adversely affect our reputation with sponsors, clients and loyalty program participants.
- Opportunities to grow our business may be limited by inability to identify suitable acquisitions or new business opportunities, or to effectively integrate businesses we acquire.
- Failures in data protection, cyber and information security and protection of intellectual property rights could critically impair our products, services and ability to conduct business as well as expose us to legal claims.
- Consumer protection, data protection and data privacy and security laws restrict functionality that enhance loyalty and marketing program capabilities and their appeal to sponsors, clients and loyalty program participants.
- Complex international laws as well as operating in jurisdictions lacking developed regulatory and legal systems requires extensive effort to manage compliance.
- Global economic factors beyond our control may impact demand for our services and cause fluctuations in foreign currency exchange rates that impact our results of operations.

Risks relating to our indebtedness include maintaining adequate liquidity and servicing our outstanding indebtedness.

- High levels of indebtedness may restrict our ability to compete, react to changes in our business and incur additional indebtedness to fund future needs.

Risks relating to our common stock include lack of an existing trading market, differences in our profile from that of ADS, restrictive provisions in our charter documents and potential for dilution.

- No public market currently exists for our common stock, and the market price and trading volume of our common stock may be volatile, making resale of your Loyalty Ventures shares at or above the initial market price following the Separation difficult.
- Because our common stock will not be included in the Standard & Poor's Midcap 400 Index, or other stock indices, and is not expected to pay a recurring dividend, significant amounts of our common stock distributed to current ADS investors with defined investment policies requiring such features will likely need to be sold in the open market where there may not be offsetting demand.
- Provisions in our amended and restated certificate of incorporation and amended and restated bylaws and certain provisions of Delaware law could delay or prevent a change in control of Loyalty Ventures.
- A large number of our shares are or will be eligible for future sale, which may dilute your percentage ownership in Loyalty Ventures and cause the market price of our common stock to decline.

RISK FACTORS

You should carefully consider each of the following risks and all of the other information contained in this information statement. Some of these risks relate principally to our separation from ADS, while others relate principally to our business and the industry in which we operate or to the securities markets generally and ownership of our common stock. Our business, prospects, results of operations, financial condition or cash flows could be materially and adversely affected by any of these risks, and, as a result, the trading price of our common stock could decline.

Risks relating to the separation

We may not realize the anticipated benefits from the Separation, and the Separation could harm our business.

We may not be able to achieve the full strategic and financial benefits expected to result from the Separation, or such benefits may be delayed. The Separation is expected to enhance strategic and management focus, provide a distinct investment identity and allow us to efficiently allocate resources and deploy capital. We may not achieve these and other anticipated benefits for a variety of reasons, including, among others:

- The Separation will require significant amounts of management's time and effort, which may divert management's attention from operating and growing our business;
- Following the Separation, we may be more susceptible to economic downturns and other adverse events than if we were still a part of ADS;
- Following the Separation, our business will be less diversified than ADS' business prior to the Separation and also experience a loss of scale and access to certain financial, managerial and professional resources that may have benefited us in the past; and
- The other actions required to separate the respective businesses could disrupt our operations.

If we fail to achieve some or all of the benefits expected to result from the Separation, or if such benefits are delayed, our business could be harmed.

We have no history of operating as an independent, publicly traded company, and our historical combined financials and unaudited pro forma financial information is not necessarily representative of the results that we would have achieved as an independent, publicly traded company and may not be a reliable indicator of our future results.

Our historical combined and unaudited pro forma combined financial information included in this information statement have been derived from ADS' consolidated financial statements and accounting records and are not necessarily indicative of our future results of operations, financial condition or cash flows, nor do they reflect what our results of operations, financial condition or cash flows would have been as an independent public company during the periods presented. In particular, the historical combined financial information included in this information statement is not necessarily indicative of our future results of operations, financial condition or cash flows primarily because of the following factors:

- Prior to the Separation, our business has been operated by ADS as part of its broader corporate organization, rather than as an independent company. ADS or one of its affiliates provide support for various functions including internal audit, finance, accounting, tax, human resources, procurement, information technology, and public company reporting functions ;
- Our historical combined financial results reflect the direct, indirect and allocated costs for such services historically provided by ADS, and these costs may significantly differ from the comparable expenses we would have incurred as an independent, publicly traded company;
- Our cost of debt and other capital may significantly differ from that which is reflected in our historical combined financial statements;

- The historical combined financial information may not fully reflect the costs associated with the Separation, including the costs related to being an independent public company;
- Our historical combined financial information does not reflect our obligations under the various transitional and other agreements we will enter into with ADS in connection with the Separation; and
- Currently, our business is integrated with that of ADS and we benefit from ADS' size and scale in costs, employees and vendor and customer relationships. Thus, costs we will incur as an independent company may significantly exceed comparable costs we would have incurred as part of ADS and some of our customer relationships may be weakened or lost. For example, some of our contract counterparties may have contracted with us because we were part of ADS, and we may have difficulty obtaining favorable terms in our contractual arrangements in the future as a result of our separation from ADS.

We based the pro forma adjustments included in this information statement on available information and assumptions that we believe are reasonable and factually supportable; actual results, however, may vary. In addition, our unaudited pro forma combined financial information included in this information statement may not give effect to various ongoing additional costs we may incur in connection with being an independent public company. Accordingly, our unaudited pro forma combined financial statements do not reflect what our results of operations, financial condition or cash flows would have been as an independent public company and are not necessarily indicative of our future financial condition or results of operations.

Please refer to "Unaudited Pro Forma Combined Financial Statements," "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our historical combined financial statements and the notes to those statements included elsewhere in this information statement.

We will incur significant costs to create the corporate infrastructure necessary to operate as an independent public company.

ADS currently performs all or part of certain corporate functions for us, including internal audit, finance, accounting, tax, human resources, procurement, information technology, and public company reporting functions. The cost of these services allocated to us in our historical combined financial statements was based on management estimates and may not be indicative of the costs had we operated on a standalone basis, independent of ADS. Following the Separation, ADS will continue to provide certain of these services to us on a transitional basis, for a period of up to two years following the Distribution pursuant to a Transition Services Agreement that we will enter into with ADS. See "The Separation—Agreements with ADS—Transition Services Agreement." ADS may not successfully execute all of these functions during the transition period or we may have to expend significant efforts or costs materially in excess of those estimated under the Transition Services Agreement. Any interruption in these services could have a material adverse effect on our business, results of operations, financial condition and cash flows.

In addition, at the end of this transition period, we will need to perform these functions ourselves or hire third parties to perform these functions on our behalf. The costs associated with performing or outsourcing these functions are not reflected in our historical combined financial statements. We expect to incur costs beginning in the fourth quarter of 2021 to establish the necessary infrastructure. A significant increase in the costs of performing or outsourcing these functions could materially and adversely affect our business, results of operations, financial condition and cash flows.

Furthermore, we may experience certain operational disruptions in connection with the Separation as we transition to operating as an independent public company, including information technology disruptions with respect to our public company reporting functions as certain data, software, information technology hardware and other information technology assets and systems are transitioned or re-allocated between us and ADS, or as we implement new systems or upgrades in connection with such transition. Our ability to effectively manage and meet our public company reporting obligations depends significantly on information technology systems, and any failure, disruption, interruption, malfunction or other issue with respect to such systems could have a material adverse effect on our business and results of operations.

The obligations associated with being a public company will require significant resources and management attention.

Currently, we are not directly subject to the reporting and other requirements of the Exchange Act. Following the effectiveness of the registration statement of which this information statement forms a part, we will be directly subject to such reporting and other obligations under the Exchange Act and the rules of Nasdaq. As an independent public company, we are required to, among other things:

- Prepare and distribute periodic reports, proxy statements and other stockholder communications in compliance with the federal securities laws and rules as well as Nasdaq requirements;
- Have our own board of directors and committees thereof, which comply with federal securities laws and rules as well as Nasdaq requirements;
- Institute our own financial reporting and disclosure compliance functions;
- Establish an investor relations function;
- Establish internal policies and procedures, including those relating to trading in our securities, disclosure controls and procedures and other domestic and international laws and regulations applicable to our business; and
- Comply with the financial reporting rules and regulations implemented by the SEC, the Sarbanes-Oxley Act, the Dodd-Frank Act and the Public Company Accounting Oversight Board.

These reporting and other regulatory and compliance obligations will place significant demands on our management and our administrative and operational resources, including accounting resources, and we expect to face increased legal, accounting, administrative and other costs and expenses relating to these demands that we had not incurred as a segment of ADS. Our investment in compliance with existing and evolving regulatory requirements will result in increased administrative expenses and a diversion of management's time and attention from revenue-generating activities, which could have a material adverse effect on our business, results of operations, financial condition and cash flows.

Our accounting and other management systems and resources may not be adequately prepared to meet the financial reporting and other requirements to which we will be subject following the Separation.

Prior to the Separation, our financial results were included within the consolidated results of ADS, and we were not directly subject to reporting and other requirements of the Exchange Act. These and other obligations will place significant demands on our management, administrative, and operational resources, including accounting and information technology resources. To comply with these requirements, we anticipate that we will need to duplicate information technology infrastructure, implement additional financial and management controls, reporting systems and procedures and hire additional accounting, finance, tax, treasury and information technology staff. If we are unable to do this in a timely and effective fashion, our ability to comply with our financial reporting requirements and other rules that apply to reporting companies could be impaired and our business could be harmed.

If we fail to maintain effective internal controls, we may not be able to report our financial results accurately or timely, or prevent or detect fraud, which could have a material adverse effect on our business or the market price of our securities.

In accordance with Section 404 of the Sarbanes-Oxley Act, our management will be required to conduct an annual assessment of the effectiveness of our internal control over financial reporting and include a report on these internal controls in the annual reports we will file with the SEC on Form 10-K. Due to our "emerging growth company" status as defined in the Jumpstart Our Business Startups Act, or JOBS Act, our independent registered public accounting firm will not be required to formally attest to the effectiveness of our internal controls until the later of our second annual report following the completion of the Separation or the date we no longer qualify as an "emerging growth company." When required, this process will require significant documentation of policies, procedures and systems, review of that documentation by management and by our outside independent registered public accounting firm, and

testing of our internal controls over financial reporting by our staff and our outside independent registered public accounting firm. This process will involve considerable time and attention, may strain our internal resources, and will increase our operating costs. We may experience higher than anticipated operating expenses and outside auditor fees during the implementation of these changes and thereafter. If management or our independent registered public accounting firm determines that our internal control over financial reporting is not effective, investors may lose confidence in the accuracy and completeness of our financial reports and the market price of our common stock could be negatively affected, and we could become subject to investigations by Nasdaq, the SEC or other regulatory authorities, which could require additional financial and management resources. In addition, if our controls are not effective, our ability to accurately and timely report our financial position could be impaired, which could result in late filings of our annual and quarterly reports under the Exchange Act, restatements of our consolidated financial statements, a decline in our stock price, suspension or delisting of our common stock from Nasdaq, and could have a material adverse effect on our business, financial condition, prospects and results of operations.

Until the Distribution occurs, ADS has sole discretion to change the terms of the Separation in ways that may be unfavorable to us.

Until the Distribution occurs, Loyalty Ventures' business will remain a segment of ADS. Completion of the Separation remains subject to the satisfaction or waiver of certain conditions, some of which are in the sole and absolute discretion of ADS, including final approval by the ADS board of directors. Additionally, ADS has the sole and absolute discretion to change certain terms of the Separation, including the amount of any cash transfer we make to ADS, the amount of our indebtedness and the allocation of contingent liabilities, which changes could be unfavorable to us. In addition, ADS may decide at any time prior to the completion of the Separation not to proceed with the Separation and Distribution.

In connection with the Separation, ADS will indemnify us for certain liabilities and we will indemnify ADS for certain liabilities. If we are required to act under these indemnities to ADS, we may need to divert cash to meet those obligations, which could adversely affect our financial results. Moreover, the ADS indemnity may not be sufficient to insure us against the full amount of liabilities for which ADS will be allocated responsibility, and ADS may not be able to satisfy its indemnification obligations to us in the future.

Pursuant to the Separation and Distribution Agreement and other agreements with ADS, ADS will agree to indemnify us for certain liabilities, and we will agree to indemnify ADS for certain liabilities, as discussed further in "The Separation—Agreements with ADS." Payments that we may be required to provide under indemnities to ADS are not subject to any cap, may be significant and could negatively affect our business, particularly under indemnities relating to our actions that could affect the tax-free nature of the Separation. Third parties could also seek to hold us responsible for any liabilities that ADS has agreed to retain, and under certain circumstances, we may be subject to continuing contingent liabilities of ADS following the Separation that arise relating to the operations of the Spin Business during the time that it was a business segment of ADS prior to the Separation, such as certain tax liabilities which relate to periods during which taxes of the Spin Business were reported as a part of ADS; any liabilities retained by ADS which relate to contracts or other obligations entered into jointly by the Spin Business and ADS' retained business; and any liabilities arising from third-party claims in respect of contracts in which both ADS and the Spin Business supply goods or provide services.

After the Separation, we will only have limited access to the insurance policies maintained by ADS for events occurring prior to the Separation and ADS' insurers may deny coverage to us under such policies. Furthermore, there can be no assurance that we will be able to obtain insurance coverage following the Separation on terms that justify its purchase, and any such insurance may not be adequate to offset costs associated with certain events.

In connection with the Separation, we will enter into agreements with ADS to address several matters associated with the Separation, including insurance coverage. The Separation and Distribution Agreement will provide that following the Distribution, Loyalty Ventures will no longer have insurance coverage under ADS insurance policies in connection with events occurring before, as of or after the Distribution, other than coverage for (i) events occurring prior to the Distribution and covered by occurrence-based policies of

ADS as in effect as of the Distribution and (ii) events or acts occurring prior to the Distribution and covered by claims-made policies of ADS as in effect as of the Distribution. However, after the Separation, ADS' insurers may deny coverage to us for losses associated with occurrences prior to the Separation. Accordingly, we may be required to temporarily or permanently bear the costs of such lost coverage. In addition, we will have to obtain our own insurance policies after the Distribution is complete.

Although we expect to have insurance policies in place as of the Distribution that cover certain, but not all, hazards that could arise from our operations, we can provide no assurance that we will be able to obtain such coverage, that the cost of such coverage will be similar to those incurred by ADS or that such coverage will be adequate to protect us from costs incurred with certain events. The occurrence of an event that is not insured or not fully insured could have a material adverse effect on our results of operations, financial condition and cash flows in the future. See "The Separation—Agreements with ADS."

Transfer or assignment to us of some contracts and other assets will require the consent of a third-party. If such consent is not given, we may not be entitled to the benefit of such contracts, investments and other assets in the future.

Transfer or assignment of some of the contracts and other assets in connection with the Separation will require the consent of a third-party to the transfer or assignment. Similarly, in some circumstances, we are joint beneficiaries of contracts, and we will need to enter into a new agreement with the third-party to replicate the existing contract or assign the portion of the existing contract related to our business. While we anticipate that most of these contract assignments and new agreements will be obtained prior to the Separation, we may not be able to obtain all required consents or enter into all such new agreements, as applicable, until after the Distribution Date. Some parties may use the requirement of a consent to seek a fee or more favorable contractual terms from us, which could include our having to obtain letters of credit or other forms of credit support. If we are unable to obtain such consents or such credit support on commercially reasonable and satisfactory terms, we may be unable to obtain some of the benefits, assets and contractual commitments that are intended to be allocated to us as part of the Separation. In addition, where we do not intend to obtain consent from third-party counterparties based on our belief that no consent is required, the third-party counterparties may challenge the transaction on the basis that the terms of the applicable commercial arrangements require their consent. We may incur substantial litigation and other costs in connection with any such claims and, if we do not prevail, our ability to use these assets could be adversely impacted.

We cannot provide assurance that all such required third-party consents and new agreements will be procured or put in place, as applicable, prior to the Distribution Date. Consequently, we may not realize certain of the benefits that are intended to be allocated to us as part of the Separation.

After the Separation, some of our directors and officers may have actual or potential conflicts of interest because of their equity ownership in ADS.

Because of their current or former positions with ADS, following the Separation, some of our directors, executive officers and other employees may own shares of ADS common stock, and the individual holdings may be significant for some of these individuals compared to their total assets. This ownership may create, or may create the appearance of, conflicts of interest when these individuals are faced with decisions that could have different implications for ADS or us. For example, potential conflicts of interest could arise in connection with the resolution of any dispute that may arise between ADS and us regarding the terms of the agreements governing the Separation and the relationship thereafter between the companies.

The combined post-Distribution value of ADS and Loyalty Ventures shares may not equal or exceed the pre-Distribution value of ADS shares.

After the Separation, we expect that ADS common stock will continue to be traded on the NYSE. We expect to apply to list the shares of our common stock on Nasdaq. We cannot assure you that the combined trading prices of ADS common stock and our common stock after the Separation, as adjusted for any changes in the combined capitalization of both companies, will be equal to or greater than the trading price of ADS common stock prior to the Separation. Until the market has fully evaluated the business of ADS

without our business and potentially thereafter, the price at which ADS common stock trades may fluctuate significantly. Similarly, until the market has fully evaluated our business operated as an independent, publicly traded company and potentially thereafter, the price at which our common stock trades may fluctuate significantly.

We potentially could have received better terms from unaffiliated third parties than the terms we received in our agreements with ADS.

The agreements we entered into with ADS in connection with the Separation were negotiated while we were still part of ADS' business. See "The Separation—Agreements with ADS." Accordingly, during the period in which the terms of those agreements will have been negotiated, we did not have an independent board of directors or a management team independent of ADS. The terms of the agreements negotiated in the context of the Separation relate to, among other things, the allocation of assets, intellectual property, liabilities, rights and other obligations between ADS and us, and arm's-length negotiations between ADS and an unaffiliated third-party in another form of transaction, such as a buyer in a sale of a business transaction, may have resulted in more favorable terms to the unaffiliated third-party.

ADS stockholders do not have dissenters' rights with respect to the Separation.

ADS stockholders do not have any dissenters' rights in connection with the Separation. Therefore, any ADS stockholders who disagree with the Separation will be left without recourse other than selling their Loyalty Ventures and/or ADS shares. Further, such stockholders may be unable to subsequently sell their shares at the prices they desire or at all.

If the Restructuring and Distribution, together with certain related transactions, do not qualify as transactions that are tax-free for U.S. federal income tax purposes or non-U.S. tax purposes, ADS and/or holders of ADS common stock could be subject to significant tax liability.

It is intended that the Distribution, together with certain related transactions, will qualify as a tax-free "reorganization" within the meaning of Section 368(a)(1)(D) of the Code and a tax-free distribution within the meaning of Section 355 of the Code. The consummation of the Separation and the related transactions is conditioned upon the receipt of a private letter ruling from the IRS and opinion of Davis Polk & Wardwell LLP to the effect that such transactions will qualify for this intended tax treatment. In addition, it is intended that the Restructuring steps will qualify as transactions that are tax-free for U.S. federal income tax purposes. The private letter ruling and the opinion will rely on certain representations, assumptions and undertakings, including those relating to the past and future conduct of our business, and neither the private letter ruling nor the opinion would be valid if such representations, assumptions and undertakings were incorrect. Moreover, the private letter ruling does not address all the issues that are relevant to determining whether the Distribution will qualify for tax-free treatment. Notwithstanding the private letter ruling and the opinion, the IRS could determine that the Distribution should be treated as a taxable transaction for U.S. federal income tax purposes if it determines that any of the representations, assumptions or undertakings that were included in the request for the private letter ruling are false or have been violated or if it disagrees with the conclusions in the opinion that are not covered by the IRS ruling. For more information regarding the private letter ruling and the opinion see "The Separation—Material U.S. federal income tax consequences of the Distribution—Private letter ruling and tax opinion."

If the Restructuring and Distribution fail to qualify for tax-free treatment, for any reason, ADS and/or holders of ADS common stock would be subject to substantial U.S. federal income taxes as a result of the Restructuring, Distribution and certain related transactions. See "The Separation—Material U.S. federal income tax consequences of the Distribution."

If the Restructuring or Distribution is taxable to ADS as a result of a breach by us of any covenant or representation made by us in the Tax Matters Agreement (as defined below), we will generally be required to indemnify ADS and this indemnification obligation, or the payment thereof, could have a material adverse effect on us.

As described above, it is intended that the Restructuring and Distribution, together with certain related transactions, will qualify as tax-free transactions to ADS and to holders of ADS common stock, except with respect to any cash received in lieu of fractional shares. If the Restructuring, Distribution and/or related transactions are not so treated or are taxable to ADS (see "The Separation—Material U.S. federal income tax consequences of the Distribution") due to a breach by us (or any of our subsidiaries) of any covenant or representation made by us in the Tax Matters Agreement, we will generally be required to indemnify ADS for all tax-related losses suffered by ADS. In addition, we will not control the resolution of any tax contest relating to taxes suffered by ADS in connection with the Separation, and we may not control the resolution of tax contests relating to any other taxes for which we may ultimately have an indemnity obligation under the Tax Matters Agreement. In the event that ADS suffers tax-related losses in connection with the Separation that must be indemnified by us under the Tax Matters Agreement, the indemnification liability, or the payment thereof, could have a material adverse effect on us.

We will be subject to significant restrictions on our actions following the Separation in order to avoid triggering significant tax-related liabilities.

The Tax Matters Agreement generally will prohibit us from taking certain actions that could cause the Distribution and certain related transactions to fail to qualify as tax-free transactions, including:

- During the two-year period following the Distribution Date (or otherwise pursuant to a "plan" within the meaning of Section 355(e) of the Code), we may not cause or permit certain business combinations or transactions to occur;
- During the two-year period following the Distribution Date, we may not discontinue the active conduct of our business (within the meaning of Section 355(b)(2) of the Code);
- During the two-year period following the Distribution Date, we may not sell or otherwise issue our common stock in certain circumstances;
- During the two-year period following the Distribution Date, we may not redeem or otherwise acquire any of our common stock, other than pursuant to open-market repurchases of less than 20% of our common stock (in the aggregate);
- During the two-year period following the Distribution Date, we may not amend our certificate of incorporation (or other organizational documents) or take any other action, whether through a stockholder vote or otherwise, affecting the voting rights of our common stock; and
- More generally, we may not take any action that could reasonably be expected to cause the Separation and certain related transactions to fail to qualify as tax-free transactions for U.S. federal income tax purposes or for non-U.S. tax purposes.

If we take any of the actions above and such actions result in tax-related losses to ADS, we generally will be required to indemnify ADS for such tax-related losses under the Tax Matters Agreement. See "The Separation—Agreements with ADS—Tax Matters Agreement." Due to these restrictions and indemnification obligations under the Tax Matters Agreement, we may be limited in our ability to pursue strategic transactions, equity or convertible debt financings or other transactions that may otherwise be in our best interests. Also, our potential indemnity obligation to ADS might discourage, delay or prevent a change of control that our stockholders may consider favorable.

Risks relating to our business strategy and operations

Impacts related to the COVID-19 pandemic are expected to continue to pose risks to our business for the foreseeable future, heighten many of our known risks and may have a material adverse impact on our results of operations, financial condition and liquidity.

Following the declaration by the WHO in the first quarter of 2020 of COVID-19 as a global pandemic and the rapid spread of COVID-19, international, provincial, federal, state and local government or other authorities have instituted certain preventative measures, including border closures, travel bans, prohibitions on group events and gatherings, shutdowns or other operational restrictions on certain businesses, curfews, shelter-in-place orders, quarantines and recommendations to practice social distancing. Certain jurisdictions have begun reopening only to return to more stringent restrictions where increases in COVID-19 cases occur. These restrictions have continued to disrupt economic activity worldwide, resulting in volatility in the global capital markets, instability in the credit and financial markets, reduced commercial and consumer confidence and spending, widespread furloughs and layoffs, closure or restricted operating conditions for retail stores, labor shortages, disruption in supply chains (including availability of raw materials, ability to manufacture goods and delivery of finished products to suppliers and retailers), and near complete cessation of many hospitality and travel industry operations. Even as vaccines are introduced and administered, governmental restrictions are lifted and economies gradually reopen, the ongoing economic impacts, including government economic stimulus, and health concerns associated with the pandemic, the emergence of more transmissible variants and the global availability and efficacy of vaccines, may continue to affect consumer behavior, spending levels and retail preferences.

Specific impacts on our operations and financial results include, but are not limited to, the following:

- Short and long-term difficulties of our retail partners in consumer-based businesses due to restricted foot traffic, limitations of our e-commerce platform, trouble maintaining supply chain integrity for both availability of desired products and delivery to end consumers, and reduced consumer confidence and spending may result in reduced sales for our retail partners.
- Deferral of campaign-based loyalty programs or the inability to source or deliver rewards for these programs across borders may reduce or defer revenue or increase our costs of operations. We estimate that revenue declined 15% in our BrandLoyalty segment in 2020 due to campaigns postponed by retailers and reduced foot traffic. In 2021, supply chain capacity limitations continue and logistical expenses remain elevated, with shipping container costs increasing over 500%.
- Reduced demand for hospitality, airline and other travel-related rewards within the AIR MILES Reward Program due to the various COVID-19 restrictions negatively impacts redemption revenue as collectors both changed existing reward travel and are unable to schedule future reward travel with any certainty as to the duration of restrictions. In 2020, redemptions associated with travel declined by 1.7 billion AIR MILES reward miles, although we were able to offset part of this decline with additional merchandise reward options that increased redemptions by approximately 400 million AIR MILES reward miles.
- Volatility in the financial markets may increase our cost of capital and/or limit its availability.
- Increased operational risk, including impacts to our data, customer care center and other network integrity and availability in addition to heightened cybercriminal activity and other cyberfraud risk, may affect our ability to timely and effectively meet the needs of our sponsors, collectors, retailers or other consumers across our lines of business.
- Increased risks to the health and safety of our associates and that of our third-party vendors may impact our ability to maintain service levels for our partners.

Despite the emergence of vaccines, surges in COVID-19 cases, including variants of the strain, may cause people to self-quarantine or governments to shut down nonessential businesses again. The broad availability of COVID-19 vaccines globally and the willingness of individuals to be vaccinated are difficult to predict. The pace and shape of the COVID-19 recovery as well as the impact and extent of potential resurgences is not presently known. We continue to evaluate the nature and extent of changes to the

market and economic conditions related to the COVID-19 pandemic and current and potential impact on our business and financial position. However, given the dynamic nature of this situation, we cannot reasonably estimate the impacts of COVID-19 on our future results of operations or cash flows at this time.

To the extent the COVID-19 pandemic continues to adversely affect our business, results of operations, financial condition and liquidity, many of the other risks described in this "Risk Factors" section may also be heightened.

Our 10 largest clients represented 55% and 46%, respectively, of our combined revenue for the years ended December 31, 2020 and 2019, and the loss of any of these clients could cause a significant reduction in our combined revenue.

We depend on a limited number of large clients for a significant portion of our combined revenue. Our 10 largest clients represented approximately 55% and 46%, respectively, of our revenue for the years ended December 31, 2020 and 2019. The Bank of Montreal represented approximately 15% and 12%, respectively, of our combined revenue for the years ended December 31, 2020 and 2019. Our contract with Bank of Montreal expires in 2023, subject to further automatic renewals as well as certain rights of either party to terminate following notice of default and cure provisions. A decrease in revenue from any of our significant clients, including Bank of Montreal, for any reason, including a decrease in pricing or activity, or a decision either to utilize another service provider or to no longer procure the services we provide, could have a material adverse effect on our combined revenue.

If redemptions by the AIR MILES Reward Program collectors are greater than expected, or if the costs related to redemption of AIR MILES reward miles increase, our profitability could be adversely affected.

Although our AIR MILES reward miles do not expire with the exception of cases of inactivity, as described in "Management's Discussion and Analysis—Discussion of Critical Accounting Estimates," a portion of our revenue is based on our estimate of the number of AIR MILES reward miles that will go unused by the collector base. The percentage of AIR MILES reward miles not expected to be redeemed is known as "breakage."

Breakage is based on management's estimate after viewing and analyzing various historical trends including vintage analysis, current run rates and other pertinent factors, such as the impact of macroeconomic factors and changes in the program structure, the introduction of new program options and changes to rewards offered. If there is any significant change in or failure by management to reasonably estimate breakage, or if actual redemptions are greater than our estimates, our profitability could be adversely affected. The AIR MILES Reward Program also exposes us to risks arising from potentially increasing reward costs. Our profitability could be adversely affected if costs related to redemption of AIR MILES reward miles increase. A 10% increase in the cost of redemptions would have resulted in a decrease in pre-tax income of $21.6 million for the year ended December 31, 2020.

The loss of our most active AIR MILES Reward Program collectors could adversely affect our growth and profitability.

Our most active AIR MILES Reward Program collectors drive a disproportionately large percentage of our AIR MILES reward miles issued. Historically, approximately 15% of our collectors — who utilize one of several credit card programs offered by sponsors in the AIR MILES Reward Program — generate approximately 70% of annual AIR MILES reward miles issuance. The loss of a significant portion of these collectors, for any reason, could impact our ability to generate significant revenue from sponsors. The continued appeal of our loyalty and rewards programs will depend in large part on our ability to remain affiliated with sponsors that are desirable to both existing and future collectors and to offer rewards that are both attainable and attractive.

Airline or travel industry disruptions, such as an airline insolvency, could negatively affect the AIR MILES Reward Program, our revenues and profitability.

Air travel is one of the appeals of the AIR MILES Reward Program to collectors. If one or more of our airline suppliers sharply reduces its fleet capacity and route network, we may not be able to satisfy our collectors' demands for airline tickets. Tickets or other travel arrangements, if available, could be more expensive than a comparable airline ticket under our current supply agreements with existing suppliers, and the routes offered by other airlines or travel services may be inadequate, inconvenient or undesirable to the redeeming collectors. As a result, we may experience higher air travel redemption costs, and collector satisfaction with the AIR MILES Reward Program might be adversely affected.

As a result of airline or travel industry disruptions, including, but not limited to, the current impacts of COVID-19, political instability, terrorist acts or war, some collectors could determine that air travel is too dangerous, burdensome or otherwise undesirable. Consequently, collectors might forego redeeming AIR MILES reward miles for air travel and therefore might not participate in the AIR MILES Reward Program to the extent they previously did, which could adversely affect our business, results of operations, financial condition and liquidity.

Our BrandLoyalty business does not generally have long-term agreements with its clients.

Our agreements for BrandLoyalty campaigns are generally short-term and must be renegotiated for each campaign. As a result, our relationship with our BrandLoyalty clients may change on short notice. Future agreements with respect to volume, pricing or new campaign rewards, among other things, are subject to negotiation with each client for each campaign. No assurance can be given that our clients will continue to do business with us at prior levels, if at all, and the loss of campaigns from certain retailers could have a material adverse effect on our business, results of operations, financial condition and liquidity.

If we fail to accurately forecast consumer demand for our BrandLoyalty campaigns we could experience excess inventories or inventory shortages, which could result in reduced operating margins and cash flows and adversely affect our business.

To meet anticipated demand for our campaign rewards, BrandLoyalty sources rewards inventory from key manufacturers and other suppliers in advance of client programs. There is a risk we may be unable to sell excess products ordered from manufacturers. Inventory levels in excess of consumer demand may result in inventory write-downs, and the sale of excess inventory at discounted prices could have a material adverse effect on our operating results, financial condition and cash flows. For example, in the year ended December 31, 2019, BrandLoyalty wrote down inventory by $18.4 million for the discontinuance of certain campaign rewards product lines. Conversely, if we underestimate consumer demand for our campaign rewards or if our key suppliers fail to timely supply campaign rewards, BrandLoyalty may experience inventory shortages. Inventory shortages might delay shipments or the ability to offer or the success of campaign-based loyalty programs, negatively impacting retailer and consumer relationships. A failure to accurately predict the level of demand for our campaign rewards could adversely affect BrandLoyalty's business, results of operations, financial condition and liquidity.

Our AIR MILES Reward Program and BrandLoyalty businesses rely on relationships with the sponsors and rewards suppliers, respectively, with which we partner and a failure to maintain or renew relationships with our sponsors and suppliers could negatively affect our revenues and profitability.

The success of each of our AIR MILES Reward Program and BrandLoyalty businesses is dependent on maintaining relationships with their respective sponsors and rewards suppliers. These relationships are governed by agreements with fixed terms and varying provisions regarding termination, ranging from notice to events of default and cure. If we are unable to maintain or renew our relationships with our most significant sponsors and reward suppliers, the value proposition for sponsors and collectors in the AIR MILES Reward Program coalition and demand for BrandLoyalty's campaign-based loyalty programs may be impacted; further, our sponsors and clients may elect an alternative provider for their loyalty programs, each of which could have a material adverse effect on our business, results of operations, financial condition and liquidity.

Competition in the markets for the services that we offer is intense and we expect it to intensify.

The markets for our loyalty program products and services are highly competitive and we expect the continued evolution of loyalty products and services, including the technological capabilities associated therewith, and competition to provide the same to intensify. We generally compete with advertising and other promotional and loyalty programs, both traditional and online, for a portion of a client's total marketing budget. Competition may intensify as more competitors enter our market. Competitors may target our sponsors, collectors, clients and their consumers as well as draw rewards from our rewards suppliers. The continued attractiveness of our loyalty and rewards programs will also depend on our ability to remain affiliated with sponsors and clients that are desirable to consumers and to offer rewards that are both attainable and attractive. Our ability to generate significant revenue from sponsors and clients will depend on our ability to differentiate ourselves through the loyalty program products and services we provide and the attractiveness of our programs to collectors and consumers, including our ability to adapt to new or even disruptive technological developments. We may not be able to continue to compete successfully against current and emerging loyalty program providers in our space.

Our inability to anticipate and respond to market trends and changes in consumer preferences could adversely affect our financial results.

Our continued success depends on our ability to anticipate, gauge and react in a timely and cost-effective manner to changes in market trends and consumer preference for loyalty programs, their rewards and the associated technological capabilities. We must continually adapt our services to evolving distribution channels, relentlessly pursue a favorable mix of reward options, successfully manage our inventories, and consistently update and refine our approach with respect to how and where we offer our loyalty programs and services, including our ability to adapt to new or even disruptive technological developments. For example, within our AIR MILES Reward Program, failure to drive innovation to meet the evolving needs of sponsors and collectors with competitive program design and reward elements that offer sufficient flexibility to permit different segments of sponsors and collectors to reward their customers, meet their service expectations or offer desired rewards to remain their preferred loyalty program will limit engagement with the program. Engagement and issuance growth from current sponsors and collectors provides the necessary momentum to be successful expanding to new sponsors and collectors. Within BrandLoyalty, consumer preference and behavior evolve with the latest commercial trends and the popularity of characters and shows. This progression requires BrandLoyalty to constantly adapt its offering — to innovate and invest to maintain the relevance and strength of its campaign-based loyalty programs and associated rewards. Failure to do so could have a material adverse effect on our results of operations and financial condition.

The failure of our rewards suppliers to deliver products and services at contracted service levels or standards or in sufficient quantities and in a timely manner could adversely affect our relationship with our sponsors and clients, our reputation with loyalty program participants, and the financial results of our business.

The success of our loyalty programs requires that collectors redeeming AIR MILES reward miles and consumers seeking BrandLoyalty rewards receive timely delivery of any product or access of any service that constitutes the reward. The failure of our rewards suppliers to deliver products and services at contracted service levels or standards or in sufficient quantities and in a timely manner could adversely affect our relationship with our sponsors and clients and our reputation with loyalty program participants. BrandLoyalty works with contractors outside of the United States to manufacture or contract to manufacture certain reward products. We have in the past, and may in the future face unanticipated interruptions and delays. In that respect, we are subject to risks related to supply chains on a global scale, including industrial accidents, environmental events, strikes and other labor disputes, disruption in information systems, political instability, rapid changes in trade regulations or enforcement, shipping or other customs delays, product quality control, safety and environmental compliance issues and other regulatory issues, as well as natural disasters, global or local health crises international conflicts, terrorist acts and other external factors over which we have no control, such as closures or restricted operating conditions for manufacturers and the resultant supply chain disruptions. Any delay in the provision of rewards could damage our reputation, leading to a decrease in participation in our loyalty programs. We may also be required to find alternative, more expensive suppliers at short notice or otherwise incur other expenses to remediate the delay or failure in

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performance by the supplier. In addition, if a third party vendor fails to meet contractual requirements, such as compliance with our code of conduct, applicable laws or regulations and standards, including environmental, health and safety standards as well as product safety standards, our business operations could suffer economic or reputational harm that could result in an adverse effect on the financial results of our business.

Economic factors beyond our control, and changes in the global economic environment, including fluctuations in inflation and currency exchange rates, could result in lower revenues, higher costs and reduced operating margins and earnings.

Downturns in the economy or the performance of retailers, due to economic factors beyond our control including the impact of COVID-19, may result in a decrease in the demand for our products and services. Virtually all of our loyalty program services are sold outside of the United States, and we conduct purchase and sale transactions in multiple currencies, which exposes our results to the volatility of global economic conditions, including inflation and fluctuations in foreign currency exchange rates. Additionally, there has been, and may continue to be, volatility in currency exchange rates as a result of the United Kingdom's exit from the European Union, commonly referred to as "Brexit" or new or proposed U.S. policy changes that impact the U.S. Dollar value relative to other international currencies. Our international revenues and expenses generally are derived from sales and operations in foreign currencies, and these revenues and expenses could be affected by currency fluctuations, specifically amounts recorded in foreign currencies and translated into U.S. Dollars for consolidated financial reporting, as weakening of foreign currencies relative to the U.S. Dollar adversely affects the U.S. Dollar value of the Company's foreign currency-denominated sales and earnings. Currency exchange rate fluctuations could also disrupt the business of the independent manufacturers that produce our rewards products by making their purchases of raw materials more expensive and more difficult to finance. Foreign currency fluctuations have adversely affected and could continue to have an adverse effect on our results of operations and financial condition.

We may hedge certain foreign currency exposures to lessen and delay, but not to completely eliminate, the effects of foreign currency fluctuations on our financial results. Since the hedging activities are designed to lessen volatility, they not only reduce the negative impact of a stronger U.S. Dollar or other trading currency, but they also reduce the positive impact of a weaker U.S. Dollar or other trading currency. Our future financial results could be significantly affected by the value of the U.S. Dollar in relation to the foreign currencies in which we conduct business. The degree to which our financial results are affected for any given time period will depend in part upon our hedging activities.

If we fail to identify suitable acquisitions or new business opportunities, or to effectively integrate the businesses we acquire it could negatively affect our business.

We believe that acquisitions and the identification and pursuit of new business opportunities will be a component of our growth strategy. However, we may not be able to locate and secure future acquisition candidates or to identify and implement new business opportunities on terms and conditions that are acceptable to us. If we are unable to identify attractive acquisition candidates or accretive new business opportunities, our growth could be limited.

In addition, there are numerous risks associated with acquisitions and the implementation of new businesses, including, but not limited to:

- the difficulty and expense that we incur in connection with the acquisition or new business opportunity;
- the inability to satisfy pre-closing conditions preventing consummation of the acquisition or new business opportunity;
- the potential for adverse consequences when conforming the acquired company's accounting policies to ours;
- the diversion of management's attention from other business concerns;
- the potential loss of customers or key employees of the acquired company;

- the impact on our financial condition due to the timing of the acquisition or new business implementation or the failure of the acquired or new business to meet operating expectations;
- the assumption of unknown liabilities of the acquired company;
- the uncertainty of achieving expected benefits of an acquisition including revenue, human resources, technological or other cost savings, operating efficiencies or synergies;

Furthermore, if the operations of an acquired or new business do not meet expectations, our profitability may decline and we may seek to restructure the acquired business or to impair the value of some or all of the assets of the acquired or new business.

Risks related to information technology, cybersecurity and privacy matters

Loss of data center or cloud computing capacity, interruption due to cyber-attacks, loss of network connectivity or inability to utilize proprietary software of third-party vendors could affect our ability to timely meet the needs of our clients and their customers.

Our ability, and that of our third-party service providers, to protect our data centers against damage, loss or performance degradation from fire, power loss, network failure, cyber-attacks, including ransomware or denial of service attacks, and other disasters is critical. In order to provide many of our services, we must be able to store, retrieve, process and manage large amounts of data as well as periodically expand and upgrade our technology capabilities. Any damage to our data centers or cloud computing environments, or those of our third-party service providers, any failure of our network links that interrupts our operations or any impairment of our ability to use our software or the proprietary software of third party vendors, including impairments due to cyber-attacks, could adversely affect our ability to meet our clients' needs and their confidence in utilizing us for future services.

Failure to safeguard data could affect our reputation and may expose us to legal claims.

Information security risks for those businesses like us that hold and rely on large amounts of data continue to increase. Although we have extensive physical and cyber security controls and associated procedures, our networks have in the past been, and in the future may be, subject to unauthorized access or access attempts. In such instances of unauthorized access or access attempts, the integrity of our data has been and may again be affected. Should our sponsors, collectors, or our customers or their consumers, have security and privacy concerns that lead them to resist providing the personal data necessary to support our loyalty and marketing programs, our business would be negatively impacted. In addition, any unauthorized release of customer information or any public perception that we released consumer information without authorization could subject us to legal claims or regulatory enforcement actions.

Legislation relating to consumer privacy and data security may affect our ability to collect data that we use in providing our loyalty and marketing services, which, among other things, could negatively affect our ability to satisfy our clients' needs.

Data protection and consumer privacy laws and regulations continue to evolve, increasing restrictions on our ability to collect and disseminate customer information. In addition, the enactment of new or amended legislation or industry regulations pertaining to consumer, public or private sector privacy issues could have a material adverse impact on our marketing services, including placing restrictions upon the collection, sharing and use of information that is currently legally permissible.

In the United States, the federal Do-Not-Call Implementation Act makes it more difficult to telephonically communicate with prospective and existing customers. Similar measures were implemented in Canada beginning September 1, 2008. Regulations in both the United States and Canada give consumers the ability to "opt out," through a national do-not-call registry and state do-not-call registries, of having telephone solicitations placed to them by companies that do not have an existing business relationship with the consumer. In addition, regulations require companies to maintain an internal do-not-call list for those who do not want the companies to solicit them through telemarketing. These regulations could limit our ability to provide services and information to our clients. Failure to comply with these regulations could have

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a negative impact on our reputation and subject us to significant penalties. Further, the Federal Communications Commission has approved interpretations of rules related to the federal Telephone Consumer Protection Act defining robo-calls broadly, which may affect our ability to contact customers and may increase our litigation exposure.

In the United States, the federal Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 restricts our ability to send commercial electronic mail messages, the primary purpose of which is advertising or promoting a commercial product or service, to our customers and prospective customers. The act requires that a commercial electronic mail message provide the customers with an opportunity to opt-out from receiving future commercial electronic mail messages from the sender.

In the United States, California enacted the California Consumer Privacy Act, or CCPA, which went into effect on January 1, 2020. The CCPA provides individual privacy rights for California consumers and places increased privacy and security obligations on entities handling certain personal data of consumers and households. The CCPA requires disclosures to consumers about companies' data collection, use and sharing practices; provides consumers ways to opt-out of certain sales or transfers of personal information; and provides consumers with additional causes of action. The CCPA prohibits companies from discriminating against consumers who have opted out of the sale of their personal information, subject to a narrow exception. The CCPA provides for certain monetary penalties and for enforcement of the statute by the California Attorney General or by consumers whose rights under the law are not observed. It also provides for damages, as well as injunctive or declaratory relief, if there has been unauthorized access, theft or disclosure of personal information due to failure to implement reasonable security procedures.

In November 2020, California voters passed Proposition 24, known as the California Privacy Rights Act or CPRA. The CPRA, which will amend existing CCPA requirements, and goes into effect in most meaningful respects on January 1, 2023 with a one-year lookback period, includes limitations on the sharing of personal information for cross context behavioral advertising and the use of "sensitive" personal information; the creation of a new correction right; and the establishment of a new agency to enforce California privacy law.

The enactment of the CCPA is prompting similar legislative developments in other states in the United States, creating the potential for a patchwork of overlapping but different state laws. These developments could mark the beginning of a trend toward more stringent privacy legislation in the United States, which could increase our potential liability and adversely affect our business, results of operations, and financial condition. For example, in March 2021, Virginia enacted the Virginia Consumer Data Protection Act, and in June 2021, Colorado passed the Colorado Privacy Act, comprehensive privacy statutes that share similarities with the CCPA and CPRA and are set to become effective on January 1, 2023 and July 1, 2023, respectively. Many other states are currently reviewing or proposing the need for greater regulation of the collection, sharing, use and other processing of consumer data for marketing purposes or otherwise, and there remains increased interest at the federal level as well, including two federal privacy regulations introduced in Congress in late 2020.

In Canada, the Personal Information Protection and Electronic Documents Act, or PIPEDA, requires an organization to obtain a consumer's consent to collect, use or disclose personal information. Under this act, consumer personal information may be used only for the purposes for which it was collected. We allow our customers to voluntarily "opt-out" from receiving either one or both promotional and marketing mail or promotional and marketing electronic mail. Heightened consumer awareness of, and concern about, privacy may result in customers "opting-out" at higher rates than they have historically. This would mean that a reduced number of customers would receive bonus and promotional offers and therefore those customers may collect fewer AIR MILES reward miles. The Government of Canada has tabled the Digital Charter Implementation Act to modernize Canada's existing private sector privacy law (PIPEDA).

Canada's Anti-Spam Legislation, or CASL, may restrict our ability to send "commercial electronic messages," defined to include text, sound, voice and image messages to email, or similar accounts, where the primary purpose is advertising or promoting a commercial product or service to our customers and

prospective customers. CASL requires, in part, that a sender have consent to send a commercial electronic message, and provide the customers with an opportunity to opt out from receiving future commercial electronic email messages from the sender.

On May 25, 2018, the General Data Protection Regulation, or GDPR, a European Union-wide legal framework to govern data collection, use and sharing and related consumer privacy rights came into force. The GDPR replaced the European Union Directive 95/46/EC and applies to and binds the EU Member States and the European Economic Area countries, which includes a total of 30 countries. The GDPR details greater compliance obligations on organizations, including the implementation of a number of processes and policies around data collection and use. These, and other terms of the GDPR, could limit our ability to provide services and information to our customers. In addition, the GDPR includes significant penalties for non-compliance.

In general, the GDPR, and other European Union and Member State specific privacy and data governance laws, could also lead to adaptation of our technologies or practices to satisfy local privacy requirements and standards that may be more stringent than in the U.S. Similarly, it is possible that in the future, U.S. and foreign jurisdictions may adopt legislation or regulations that impair our ability to effectively track consumers' use of our advertising services, such as the FTC's proposed "Do-Not-Track" standard or other legislation or regulations similar to EU Directive 2009/136/EC, commonly referred to as the "Cookie Directive," which directs EU Member States to ensure that accessing personal information on an internet user's computer, such as through a cookie, is allowed only if the internet user has given his or her consent. Changes in technology from technology manufacturers and web browser providers, like Apple and Google, may also impact our tracking abilities and advertising services.

In July 2020, the Court of Justice of the European Union, or CJEU, ruled the EU-US Privacy Shield Framework, one of the primary safeguards that allowed U.S. companies to import personal data from the EU to the U.S., was invalid. The CJEU's decision also raised questions about whether the most commonly used mechanism for cross-border transfers of personal data out of the European Economic Area, namely, the European Commission's Standard Contractual Clauses, can lawfully be used for personal data transfers from the EU to the U.S. or other third countries the European Commission has determined do not provide adequate data protections under their laws. On June 4, 2021, the European Commission adopted new Standard Contractual Clauses, which impose on companies additional obligations relating to data transfers, including the obligation to conduct a transfer impact assessment and, depending on a party's role in the transfer, to implement additional security measures and to update internal privacy practices. If we elect to rely on the new Standard Contractual Clauses for data transfers, we may be required to incur significant time and resources to update our contractual arrangements and to comply with new obligations. If we are unable to implement a valid mechanism for personal data transfers from the EU, we will face increased exposure to regulatory actions, substantial fines and injunctions against processing personal data from the EU. Additionally, other countries outside of the EU have enacted or are considering enacting similar cross-border data transfer restrictions and laws requiring local data residency, which could increase the cost and complexity of delivering our services and operating our business. The type of challenges we face in the EU will likely also arise in other jurisdictions that adopt regulatory frameworks of equivalent complexity.

On January 31, 2020, the United Kingdom left the European Union and entered into a Brexit transition period. Following December 31, 2020, and the expiry of transitional arrangements between the UK and EU, the data protection obligations provided in the GDPR continue to apply to UK-related processing of personal data in substantially unvaried form under the so-called 'UK GDPR' (i.e., the GDPR as it continues to form part of UK law by virtue of section 3 of the EU (Withdrawal) Act 2018, as amended). However, going forward, there is increasing risk for divergence in application, interpretation and enforcement of the data protection laws as between the UK and EU.

In addition to the jurisdictions noted above, there is also rapid development of new privacy laws and regulations elsewhere around the globe, including amendments of existing data protection laws, to the scope of such laws and penalties for noncompliance. Failure to comply with these international data protection laws and regulations could have a negative impact on our reputation and subject us to significant penalties.

While all 50 U.S. states and the District of Columbia have enacted data breach notification laws, there is currently no such U.S. federal law generally applicable to our businesses. Data breach notification legislation and regulations relating to mandatory reporting came into force in Canada on November 1, 2018. Data breach notification laws have been proposed widely and exist in other specific countries and jurisdictions in which we conduct business. Legislative and regulatory measures, such as mandatory breach notification provisions, impose, among other elements, strict requirements on reporting time frames and providing notice to individuals.

All of these evolving compliance and operational requirements impose significant costs, such as costs related to organizational changes, implementing additional protection technologies, training employees and engaging consultants, which are likely to increase over time. In addition, such requirements may require us to modify or restrict our data processing practices and policies, distract management or divert resources from other initiatives and projects, all of which could have a material adverse effect on our business, financial condition, results of operations and prospects. Any failure or perceived failure by us to comply with any applicable federal, state or similar foreign laws and regulations relating to data privacy and security could result in damage to our reputation, as well as proceedings or litigation by governmental agencies or other third parties, including class action privacy litigation in certain jurisdictions, which would subject us to significant fines, sanctions, awards, damages, penalties or judgments, all of which could have a material adverse effect on our business, financial condition, results of operations and prospects.

Risks related to other legal and regulatory matters

Legislation relating to consumer protection may affect our ability to provide our loyalty and marketing services, which, among other things, could negatively affect our ability to satisfy our clients' needs.

The enactment of new or amended legislation or industry regulations pertaining to consumer protection, or any failure to comply with such changes, could have a material adverse impact on our loyalty and marketing services. Such changes could result in a negative impact to our reputation, an adverse effect on our profitability or an increase in our litigation exposure.

For example, Ontario's Protecting Rewards Points Act (Consumer Protection Amendment), 2016, and additional related regulations, prohibit suppliers from entering into or amending consumer agreements to provide for the expiry of rewards points due to the passage of time alone, while permitting the expiry of rewards points if the underlying consumer agreement is terminated and that agreement provides that reward points expire upon termination. Similar legislation pertaining to the expiry of rewards points due to the passage of time alone is also in effect in Quebec as well as limitations on changes to the valuation of rewards points.

Our failure to protect our intellectual property rights may harm our competitive position, litigation to protect our intellectual property rights or defend against third party allegations of infringement or license violations may be costly, any of which could negatively impact our business, results of operations and profitability.

Third parties may infringe or misappropriate our trademarks or other intellectual property rights, which could have a material adverse effect on our business, financial condition or operating results. The actions we take to protect our trademarks and other proprietary rights may not be adequate. Litigation may be necessary to enforce our intellectual property rights, protect our trade secrets or determine the validity and scope of the proprietary rights of others. Any infringement or misappropriation could harm any competitive advantage we currently derive or may derive from our proprietary rights. Third parties may also assert claims for infringement or violation of the terms of a license agreement to which we are a party against us. Any claims and an adverse determination in any resulting litigation could subject us to significant liability for damages and require us to either design around a third party's patent or license alternative technology from another party. In addition, litigation is time consuming and expensive to defend and could result in the diversion of our time and resources. Further, our competitors or other third parties may independently design around or develop similar technology, or otherwise duplicate our services or products in a way that would preclude us from asserting our intellectual property rights against them. In addition, our contractual arrangements may not effectively prevent disclosure of our intellectual property or confidential

and proprietary information or provide an adequate remedy in the event of an unauthorized disclosure, any of which could result in liability to us and negatively impact our business, results of operations, financial condition and profitability.

Litigation, regulatory actions and compliance issues could subject us to significant fines, penalties, judgments, remediation costs and/or requirements resulting in increased expenses.

We are involved, from time to time, in litigation, other legal claims, regulatory actions or other proceedings or actions by governmental authorities involving matters associated with or incidental to our business in the ordinary course, including, among other things, matters involving customer or vendor disputes, breaches of contractual obligations, class actions or purported class actions, trademark and other intellectual property protection and licensing disputes, import/export regulations, taxation, and employment matters. The resolution of currently pending matters could subject us to significant fines, penalties, obligations to change our business practices or other requirements resulting in increased expenses, diminished earnings and damage to our reputation. We contest liability and/or the amount of damages as appropriate in each pending matter. The outcome of pending and future matters could be material to our results of operations, financial condition and cash flows depending on, among other factors, the level of our earnings for that period.

We are subject to risks related to our international operations.

We maintain significant operations internationally, operating in greater than 50 countries. As of December 31, 2020, substantially all of our revenues and long-lived assets were attributable to our operations outside the United States. Our international operations are subject to many risks and uncertainties, including:

- fluctuations in foreign currency exchange rates, which have affected and may in the future affect our results of operations, reported earnings, the value of our foreign assets, the relative prices at which we and foreign competitors offer solutions in the same markets and the cost of certain inventory and non-inventory items required by our operations;
- changes in foreign laws, regulations and policies, including restrictions on foreign investment, trade, import and export license requirements, quotas, trade barriers and other protection measures imposed by foreign countries, as well as changes in U.S. laws and regulations relating to tariffs and taxes, foreign trade and investment by our international operations;
- lack of a developed legal system, elevated levels of corruption, strict currency controls, adverse tax consequences or foreign ownership requirements, difficult or lengthy regulatory approvals, or lack of enforcement for non-compete agreements in certain jurisdictions;
- difficulties and costs associated with complying with, and enforcing remedies under, a wide variety of complex, and potentially conflicting, domestic and international laws, treaties and regulations, including the European Union's General Data Protection Regulation ("GDPR"), the U.S. Foreign Corrupt Practices Act ("FCPA"), Canada's *Corruption of Foreign Public Officials Act* ("CFPOA"), the U.K. Bribery Act 2010 ("UKBA") and different regulatory structures and changes in regulatory environments;
- potentially reduced protection for, and difficulty enforcing, intellectual property rights, especially in jurisdictions that do not respect and protect intellectual property rights to the same extent as the United States;
- failure to effectively and immediately implement processes and policies across our diverse operations and employee base;
- adverse weather conditions, social, economic and geopolitical conditions, such as political instability, environmental hazards, natural disasters, terrorist attacks, war or other military action or violent revolution;
- significant health hazards or pandemics, which could result in closed factories, reduced workforces, scarcity of raw materials, and scrutiny or embargoing of goods produced in certain areas;

- industry and contractual standards that are specific by region and which may generate different or additional business risk to operate; and
- disruption due to labor disputes.

We are also subject to the interpretation and enforcement by governmental agencies of international laws, rules, regulations or policies, including any changes thereto, such as restrictions on trade, import and export license requirements, privacy and data protection laws, and tariffs and taxes, which may require us to adjust our operations in certain markets where we do business. We face legal and regulatory risks in all jurisdictions where we operate; in particular, we cannot predict with certainty the outcome of various contingencies or the impact that pending or future legislative and regulatory changes may have on our business.

Furthermore, our extensive international operations may result in violations, or allegations of violations, of the FCPA, UKBA or CFPOA and similar international anti-bribery laws, which could adversely affect our reputation and business. These laws generally prohibit companies and their intermediaries from making improper payments to government officials or other third parties for the purpose of obtaining or retaining business. As part of our business, we or our partners may do business with state-owned enterprises, the employees and representatives of which may be considered foreign officials for purposes of the FCPA, UKBA or CFPOA. There can be no assurance that our policies, procedures, training and compliance programs will effectively prevent violation of all U.S. and international laws and regulations with which we are required to comply. Violations of such laws and regulations, or any of the other factors outlined above, could subject us to penalties that could adversely affect our reputation, business, financial condition or results of operations.

Risks relating to our indebtedness

Our level of indebtedness could materially adversely affect our ability to generate sufficient cash to repay our outstanding debt, our ability to react to changes in our business and our ability to incur additional indebtedness to fund future need.

We will have a high level of indebtedness, which requires a high level of interest and principal payments. Subject to the limits contained in our debt instruments, we may be able to incur substantial additional indebtedness from time to time to finance working capital, capital expenditures, investments or acquisitions, or for other purposes. If we do so, the risks related to our level of indebtedness could intensify. Our level of indebtedness increases the possibility that we may be unable to generate cash sufficient to pay, when due, the principal of, interest on or other amounts due in respect of our indebtedness. Our higher level of indebtedness, combined with our other financial obligations and contractual commitments, could:

- make it more difficult for us to satisfy our obligations with respect to our indebtedness, and any failure to comply with the obligations under any of our debt instruments, including restrictive covenants, could result in an event of default under the agreements governing our indebtedness;
- require us to dedicate a substantial portion of our cash flow from operations to payments on our indebtedness, thereby reducing funds available for working capital, capital expenditures, acquisitions or other new business and other corporate purposes;
- increase our vulnerability to adverse economic and industry conditions, which could place us at a competitive disadvantage or require us to dispose of assets to raise funds if needed for working capital;
- limit our flexibility in planning for, or reacting to, changes in our business and the industries in which we operate;
- limit our ability to borrow additional funds, or to dispose of assets to raise funds, if needed, for working capital, capital expenditures, acquisitions or other new business and other corporate purposes;
- delay investments and capital expenditures;
- cause any refinancing of our indebtedness to be at higher interest rates and require us to comply with more onerous covenants, which could further restrict our business operations; and

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- prevent us from raising the funds necessary to repurchase all notes tendered to us upon the occurrence of certain changes of control.

Restrictions imposed by the agreements governing our outstanding or future indebtedness may limit our ability to operate our business and to finance our future operations or capital needs or to engage in other business activities.

The terms of the agreements governing our debt limit us and our subsidiaries from engaging in specified types of transactions. These covenants limit our and our subsidiaries' ability, among other things, to:

- incur additional debt;
- declare or pay dividends, redeem stock or make other distributions to stockholders
- make investments;
- create liens or use assets as security in other transactions;
- merge or consolidate, or sell, transfer, lease or dispose of substantially all of our assets;
- enter into transactions with affiliates;
- sell or transfer certain assets; and
- enter into any consensual encumbrance or restriction on the ability of certain of our subsidiaries to pay dividends or make loans or sell assets to us.

As a result of these covenants and restrictions, we may be limited in how we conduct our business and we may be unable to raise additional indebtedness to compete effectively or to take advantage of new business opportunities. The terms of any future indebtedness we may incur could include more restrictive covenants. We cannot assure you that we will be able to maintain compliance with these covenants in the future and, if we fail to do so, that we will be able to obtain waivers from the lenders and/or amend the covenants.

Risks relating to our common stock

Because there has not been any public market for our common stock, the market price and trading volume of our common stock may be volatile and you may not be able to resell your shares at or above the initial market price of our common stock following the Separation.

Prior to the Separation, there will have been no trading market for shares of our common stock. An active trading market may not develop or be sustained for our common stock after the Separation, and we cannot predict the prices at which our common stock will trade after the Separation. The market price of our common stock could fluctuate significantly due to a number of factors, many of which are beyond our control, including:

- Our different profile from ADS, such as not being included in Standard & Poor's Midcap 400 Index or similar index, not paying a recurring dividend and not being a financial institution;
- Fluctuations in our quarterly or annual earnings results or those of other companies in our industry;
- Failures of our operating results to meet the estimates of securities analysts or the expectations of our stockholders, or changes by securities analysts in their estimates of our future earnings;
- Announcements by us or our sponsors, clients, suppliers or competitors;
- Changes in market valuations or earnings of other companies in our industry;
- Changes in laws or regulations which adversely affect our industry or us;
- General economic, industry and stock market conditions;
- Future significant sales of our common stock by our stockholders or the perception in the market of such sales;

- Future issuances of our common stock by us; and
- The other factors described in these "Risk Factors" and elsewhere in this information statement.

These and other factors may cause the market price and demand for our common stock to fluctuate substantially, which may limit or prevent investors from readily selling their shares of common stock and may otherwise negatively affect the liquidity of our common stock. In addition, in the past, when the market price of a stock has been volatile, holders of that stock have instituted securities class action litigation against the company that issued the stock. If any of our stockholders brought a lawsuit against us, we could incur substantial costs defending the lawsuit. Such a lawsuit could also divert the time and attention of our management from our business.

The trading market for our common stock may also be influenced by the research and reports that industry or securities analysts publish about us or our business. If one or more of these analysts cease coverage of our company or fail to publish reports on us regularly, we could lose visibility in the financial markets, which in turn could cause our stock price or trading volume to decline. Moreover, if one or more of the analysts who cover us downgrade our stock, or if our results of operations do not meet their expectations, our stock price could decline.

We are an "emerging growth company" and we cannot be certain if the reduced disclosure requirements applicable to emerging growth company status will make our common stock less attractive to investors.

We are an "emerging growth company," as defined in the JOBS Act, and we intend to take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not "emerging growth companies" including, but not limited to, not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act, and reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements. We cannot predict if investors will find our common stock less attractive if we rely on these exemptions. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and our stock price may be more volatile.

A large number of our shares are or will be eligible for future sale, which may cause the market price of our common stock to decline.

Upon completion of the Separation, we estimate that we will have outstanding an aggregate of approximately shares of our common stock (based on shares of ADS common stock outstanding on , 2021). All of those shares (other than those held by our "affiliates") will be freely tradable without restriction or registration under the Securities Act of 1933, as amended (the "Securities Act"). Shares held by our affiliates, which include our directors and executive officers, can be sold subject to volume, manner of sale and notice provisions of Rule 144 under the Securities Act. We estimate that our directors and executive officers, who may be considered "affiliates" for purposes of Rule 144, will beneficially own approximately shares of our common stock immediately following the Separation. We are unable to predict whether large amounts of our common stock will be sold in the open market following the Separation. We are also unable to predict whether a sufficient number of buyers will be in the market at that time. As discussed in the immediately following risk factor, certain index funds will likely be required to sell shares of our common stock that they receive in the Separation. In addition, other ADS stockholders may sell the shares of our common stock they receive in the Separation for various reasons. For example, such stockholders may not believe our business profile or level of market capitalization as an independent company fits their investment profile.

Because our common stock will not be included in the Standard & Poor's Midcap 400 Index, and it may not be included in other stock indices, significant amounts of our common stock will likely need to be sold in the open market where there may not be offsetting demand.

A portion of ADS' outstanding common stock is held by index funds tied to the Standard & Poor's Midcap 400 Index and other stock indices. Based on a review of publicly available information as of , 2021, we believe approximately % of ADS' outstanding common stock is held by index funds. Because our common stock will not be included in the Standard & Poor's Midcap 400 Index, and it may not be included in other stock indices at the time of the Separation, index funds currently holding shares of ADS common stock will likely be required to sell the shares of our common stock they receive in the

Separation. There may not be sufficient buying interest to offset sales by those index funds. Accordingly, our common stock could experience a high level of volatility immediately following the Separation and, as a result, the price of our common stock could be adversely affected.

Provisions in our amended and restated certificate of incorporation and amended and restated bylaws and certain provisions of Delaware law could delay or prevent a change in control of Loyalty Ventures.

The existence of certain provisions of our amended and restated certificate of incorporation and amended and restated bylaws and Delaware law could discourage, delay or prevent a change in control of Loyalty Ventures that a stockholder may consider favorable. These include provisions:

- Providing for a classified board of directors (until after our seventh annual meeting);
- Providing that our directors may be removed by our stockholders only for cause while our board is classified;
- Providing that the removal of our directors without cause after our board is de-classified must be approved by the holders of not less than a majority of the total voting power of Loyalty Ventures;
- Providing the right to our board of directors to issue one or more classes or series of preferred stock without stockholder approval;
- Authorizing a large number of shares of stock that are not yet issued, which would allow our board of directors to issue shares to persons friendly to current management, thereby protecting the continuity of our management, or which could be used to dilute the stock ownership of persons seeking to obtain control of us;
- Prohibiting stockholders from calling special meetings of stockholders (until after our seventh annual meeting) or taking action by written consent; and
- Establishing advance notice and other requirements for nominations of candidates for election to our board of directors or for proposing matters that can be acted on by stockholders at the annual stockholder meetings.

We believe these provisions will protect our stockholders from coercive or otherwise unfair takeover tactics by requiring potential acquirers to negotiate with our board of directors and by providing our board of directors with more time to assess any acquisition proposal. These provisions are not intended to make us immune from takeovers. However, these provisions apply even if a takeover offer may be considered beneficial by some stockholders and could delay or prevent an acquisition that our board of directors determines is not in our and our stockholders' best interests. See "Description of Capital Stock."

Our amended and restated certificate of incorporation will designate Delaware as the exclusive forum for certain litigation that may be initiated by our stockholder and will contain an exclusive federal forum provision for certain claims under the Securities Act, which could limit our stockholders' ability to obtain a favorable judicial forum for disputes with us and limit the market price of our common stock.

Pursuant to our amended and restated certificate of incorporation, as will be in effect upon the completion of the Separation, unless we consent in writing to the selection of an alternative forum, a state court located within the state of Delaware (or, if no state court located within the state of Delaware has jurisdiction, the federal court for the district of Delaware) shall be the sole and exclusive forum for (i) any derivative action or proceeding brought on our behalf; (ii) any action asserting a claim for or based on a breach of a fiduciary duty owed by any of our directors or officers or other employees or agents to us or to our stockholders, including a claim alleging the aiding and abetting of such a breach of fiduciary duty; (iii) any action asserting a claim against us or any of our directors or officers or other employees or agents arising pursuant to any provision of the Delaware General Corporation Law or our certificate of incorporation or bylaws; (iv) any action asserting a claim related to or involving us that is governed by the internal affairs doctrine; or (v) any action asserting an "internal corporate claim" as that term is defined in Section 115 of the Delaware General Corporation Law. Our amended and restated bylaws provide that the foregoing Delaware exclusive forum provisions do not apply to any action asserting claims under the Exchange Act or the

Securities Act. The forum selection clause in our amended and restated certificate of incorporation may limit our stockholders' ability to obtain a favorable judicial forum for disputes with us and limit the market price of our common stock.

For claims brought under the Securities Act, Section 22 of the Securities Act creates concurrent jurisdiction for federal and state courts over all claims brought to enforce any duty or liability created by the Securities Act or the rules and regulations thereunder and our amended and restated certificate of incorporation will provide that the federal district courts of the United States of America will, to the fullest extent permitted by law, be the sole and exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act (the "Federal Forum Provision"). Application of our Federal Forum Provision means that suits brought by our stockholders to enforce any duty or liability created by the Securities Act must be brought in federal court and cannot be brought in state court. This provision will not apply to suits brought to enforce any duty or liability created by the Exchange Act, or the rules and regulations thereunder.

The Federal Forum Provision described above is intended to apply to the fullest extent permitted by law. However, the enforceability of forum selection provisions in the governing documents of other companies has been challenged in legal proceedings, and it is possible that a court could find the Federal Forum Provision to be inapplicable or unenforceable with respect to actions arising under the Securities Act.

Your percentage ownership in Loyalty Ventures may be diluted in the future.

In the future, your percentage ownership in Loyalty Ventures may be diluted because of equity issuances for acquisitions, strategic investments, capital market transactions or otherwise, including equity awards that we may grant to our directors, officers and employees. Our compensation committee may grant additional equity awards to our employees after the Separation. These awards would have a dilutive effect on our earnings per share, which could adversely affect the market price of our common stock.

In addition, our amended and restated certificate of incorporation authorize us to issue, without the approval of our stockholders, one or more classes or series of preferred stock having such designations, powers, preferences and relative, participating, optional and other rights, and such qualifications, limitations or restrictions as our board of directors generally may determine. The terms of one or more classes or series of preferred stock could dilute the voting power or reduce the value of our common stock. For example, we could grant holders of preferred stock the right to elect some number of our directors in all events or on the happening of specified events or the right to veto specified transactions. Similarly, the repurchase or redemption rights or dividend, distribution or liquidation preferences we could assign to holders of preferred stock could affect the residual value of the common stock. See "Description of Capital Stock—Preferred stock."

Our common stock is and will be subordinate to all of our future indebtedness and any preferred stock, and effectively subordinated to all indebtedness and preferred equity claims against our subsidiaries.

Shares of our common stock are common equity interests in us and, as such, will rank junior to all of our future indebtedness and other liabilities. Additionally, holders of our common stock may become subject to the prior dividend and liquidation rights of holders of any class or series of preferred stock that our board of directors may designate and issue without any action on the part of the holders of our common stock. Furthermore, our right to participate in a distribution of assets upon any of our subsidiaries' liquidation or reorganization is subject to the prior claims of that subsidiary's creditors and preferred stockholders, if any.

We cannot assure you that our board of directors will declare dividends in the foreseeable future.

We do not currently intend to pay any cash dividends on our capital stock for the foreseeable future. The declaration and payment of dividends, if any, will always be subject to the discretion of our board of directors. The timing and amount of any dividends declared will depend on, among other things, our earnings, financial condition and cash requirements and availability, our ability to obtain debt and equity financing on acceptable terms as contemplated by our growth strategy and the terms of our outstanding indebtedness. We may incur expenses or liabilities or be subject to other circumstances in the future that reduce or eliminate the amount of cash that we have available for distribution as dividends, including as a result of the risks described herein.

THE SEPARATION

General

On May 12, 2021, ADS announced that it was moving forward with a plan to distribute to ADS' stockholders 81% of the shares of common stock of Loyalty Ventures through the Separation, including the Restructuring and the Distribution. Loyalty Ventures is currently a wholly owned subsidiary of ADS and, at the time of the Distribution, ADS will hold, through its subsidiaries, the assets and liabilities associated with the Spin Business. The Separation will be achieved through the transfer of all the assets and liabilities of the Spin Business to Loyalty Ventures or its subsidiaries through the Restructuring and the distribution of 81% of the outstanding capital stock of Loyalty Ventures to holders of ADS common stock on the record date of , 2021 through the Distribution. At the effective time of the Distribution, ADS stockholders will receive one share of Loyalty Ventures common stock for every shares of ADS common stock held on the record date. The Separation is expected to be completed on , 2021. Immediately following the Separation, ADS stockholders as of the record date will own 81% of the outstanding shares of common stock of Loyalty Ventures. ADS will retain a 19% ownership interest in Loyalty Ventures. ADS will vote its Loyalty Ventures common stock in the same proportion as the votes cast in respect of the common stock not owned by ADS on any matter presented for a vote of Loyalty Ventures' stockholders. ADS may transfer all or a portion of this retained ownership interest in Loyalty Ventures to one or more of ADS' creditors in satisfaction of ADS third party debt within one year of the Distribution. ADS will dispose of any remaining ownership interest in Loyalty Ventures as soon as is warranted consistent with the business reasons for the retention but, in any event, not later than 5 years after the Distribution.

As part of the Separation, we will enter into a Separation and Distribution Agreement and several other agreements to effect the Separation and provide a framework for our relationship with ADS after the Separation. These agreements will provide for the allocation between us and ADS of the assets, liabilities and obligations of ADS and its subsidiaries, and will govern the relationship between Loyalty Ventures and ADS after the Separation. At the Effective Time and subject to IRS approval, the chair of the board of ADS will be the chair of the Company's board. In addition to the Separation and Distribution Agreement, the other principal agreements to be entered into with ADS include:

- A Tax Matters Agreement;
- A Transition Services Agreement; and
- An Employee Matters Agreement.

The Separation as described in this information statement is subject to the satisfaction or waiver of certain conditions. For a more detailed description of these conditions, see "—Conditions to the Distribution" below. We cannot provide any assurances that ADS will complete the Separation.

Reasons for the Separation

The ADS board of directors believes separating the Spin Business from ADS is in the best interests of ADS and its stockholders and has concluded the Separation will provide ADS and Loyalty Ventures with a number of potential opportunities and benefits, including the following:

- ***Strategic and Management Focus.*** Permit the management team of each company to focus on its own strategic priorities with financial targets that best fit its own business and opportunities, market development and geographical focus. We believe the Separation will enable each company's management team to better position its businesses to capitalize on developing macroeconomic trends, increase managerial focus to pursue its individual strategies and leverage its key strengths to drive performance. The management of each resulting company will be able to concentrate on its core competencies and growth opportunities, and will have increased flexibility and speed to design and implement corporate strategies based on the characteristics of its unique business.
- ***Resource Allocation and Capital Deployment.*** Allow each company to allocate resources, incentivize employees and deploy capital to capture the significant long-term opportunities in their respective markets. The Separation will enable each company's management team to implement a capital

structure, dividend policy and growth strategy tailored to each unique business. Both businesses are expected to have direct access to the debt and equity capital markets to fund their respective growth strategies.

- ***Investor Choice***. Provide investors, both current and prospective, with the ability to value the two companies based on their distinct business characteristics and make more targeted investment decisions based on those differences. Separating the two businesses will provide investors with a more targeted investment opportunity so that investors interested in companies in the loyalty space will have the opportunity to acquire stock of Loyalty Ventures while those focused on financial institutions may acquire stock of ADS.

The financial terms of the Separation, including the new indebtedness expected to be incurred by Loyalty Ventures or entities that are, or will become, prior to the completion of the Separation, subsidiaries of Loyalty Ventures, and the amount of the cash transfer to ADS has been, or will be, determined by the ADS board of directors based on a variety of factors, including establishing an appropriate pro forma capitalization for Loyalty Ventures as a stand-alone company considering the historical earnings of the Spin Business and the level of indebtedness relative to earnings of comparable companies.

The number of shares you will receive

For every shares of ADS common stock you own as of the close of business on , 2021, the record date for the Distribution, you will receive one share of Loyalty Ventures common stock on the Distribution Date for the Separation.

Treatment of fractional shares

The distribution agent will not distribute any fractional shares of our common stock to ADS stockholders. Instead, as soon as practicable on or after the Distribution Date for the Separation, the distribution agent for the Distribution will aggregate fractional shares into whole shares, sell the whole shares in the open market at prevailing prices and distribute the net cash proceeds from the sales, net of brokerage fees and commissions, transfer taxes and other costs and after making appropriate deductions of the amounts required to be withheld for U.S. federal income tax purposes, if any, pro rata to each holder who would otherwise have been entitled to receive a fractional share in the Distribution. The distribution agent will determine when, how, through which broker-dealers and at what prices to sell the aggregated fractional shares. Recipients of cash in lieu of fractional shares will not be entitled to any minimum sale price for the fractional shares or to any interest on the amounts of payments made in lieu of fractional shares. The receipt of cash in lieu of fractional shares generally will be taxable to the recipient stockholders for U.S. federal income tax purposes as described below in "The Separation—Material U.S. federal income tax consequences of the Distribution—The Distribution."

When and how you will receive the distribution of Loyalty Ventures shares

ADS will distribute the shares of our common stock on , 2021 to holders of record as of the close of business on the record date for the Distribution. The Distribution is expected to be completed following the market closing on the Distribution Date for the Separation. ADS' transfer agent and registrar, Computershare, will serve as transfer agent and registrar for the Loyalty Ventures common stock and as distribution agent in connection with the Distribution.

If you own ADS common stock as of the close of business on the record date for the Distribution, the shares of Loyalty Ventures common stock that you are entitled to receive in the Distribution will be issued electronically, as of the Distribution Date for the Separation, to your account as follows:

- ***Registered Stockholders***. If you own your shares of ADS stock directly, either in book-entry form through an account at Computershare and/or if you hold paper stock certificates, you will receive your shares of Loyalty Ventures common stock by way of direct registration in book-entry form. Registration in book-entry form is a method of recording stock ownership when no physical paper share certificates are issued to stockholders, as will be the case in the Distribution.

On or shortly after the Distribution Date for the Separation, the distribution agent will mail to you an account statement that indicates the number of shares of Loyalty Ventures common stock that have been registered in book-entry form in your name.

Stockholders having any questions concerning the mechanics of having shares of our common stock registered in book-entry form may contact Computershare at the address set forth in "Summary—Questions and Answers About the Separation" in this information statement.

- ***Beneficial Stockholders***. Many ADS stockholders hold their shares of ADS common stock beneficially through a bank or brokerage firm. In such cases, the bank or brokerage firm would be said to hold the stock in "street name" and ownership would be recorded on the bank or brokerage firm's books. If you hold your ADS common stock through a bank or brokerage firm, your bank or brokerage firm will credit your account for the shares of Loyalty Ventures common stock that you are entitled to receive in the Distribution. If you have any questions concerning the mechanics of having shares of common stock held in "street name," we encourage you to contact your bank or brokerage firm.

Results of the Separation

After the Separation, we will be an independent, publicly traded company that directly or indirectly holds the assets and liabilities of the Spin Business. Immediately following the Separation, we expect to have approximately stockholders of record, based on the number of registered stockholders of ADS common stock on , 2021, applying a distribution ratio of one share of our common stock for every shares of ADS common stock. We expect to have approximately shares of Loyalty Ventures common stock outstanding. The actual number of shares to be distributed will be determined on the record date.

Before the completion of the Separation, we will enter into a Separation and Distribution Agreement and several other agreements with ADS to effect the Separation and provide a framework for our relationship with ADS after the Separation. These agreements will provide for the allocation between Loyalty Ventures and ADS of ADS' assets, liabilities and obligations subsequent to the Separation (including with respect to transition services, employee matters, intellectual property matters and tax matters). At the Effective Time and subject to IRS approval, the chair of the board of ADS will be the chair of the Company's board.

For a more detailed description of these agreements, see "—Agreements with ADS" below. The Separation will not affect the number of outstanding shares of ADS common stock or any rights of ADS stockholders.

Incurrence of debt

We intend to enter into new financing arrangements in anticipation of the Separation. We expect to incur approximately $675.0 million of new debt from the proceeds of the new term loan facility, the net proceeds of which we intend to use to fund a portion of a cash transfer of $750.0 million to ADS as part of the Restructuring, which ADS will use to pay down a portion of the outstanding term loans under its credit agreement.

Costs of the Separation

Subject to the terms of the Separation and Distribution Agreement, each of ADS and Loyalty Ventures will pay certain non-recurring third-party costs and expenses related to the Separation and incurred prior to the completion of the Separation. Such non-recurring amounts are expected to include investment banker fees (other than fees and expenses in connection with the debt financing), third-party legal and accounting fees, consent fees and similar costs. It is preliminarily estimated that the costs related to the Separation to be incurred during Loyalty Ventures' transition to being a stand-alone public company will be approximately $33.0 million to $36.0 million, of which approximately $10.0 million will be paid by Loyalty Ventures and the remainder of such costs will be paid by ADS. See "—Agreements with ADS—Transition Services Agreement" for fees related to the Transition Services Agreement.

Material U.S. federal income tax consequences of the Distribution

The following is a discussion of the material U.S. federal income tax consequences of the Distribution to U.S. Holders (as defined below) of ADS common stock. This discussion is based on the Code, applicable Treasury regulations, administrative interpretations and court decisions as in effect as of the date of this information statement, all of which may change, possibly with retroactive effect. For purposes of this discussion, a "U.S. Holder" is a beneficial owner of ADS common stock that is for U.S. federal income tax purposes:

- A citizen or resident of the U.S.;
- A corporation, or other entity taxable as a corporation for U.S. federal income tax purposes, created or organized in or under the laws of the U.S., any state therein or the District of Columbia; or
- An estate or trust the income of which is subject to U.S. federal income taxation regardless of its source.

This discussion addresses only the consequences of the Distribution to U.S. Holders that hold ADS common stock as a capital asset. It does not address all aspects of U.S. federal income taxation that may be important to a U.S. Holder in light of that stockholder's particular circumstances or to a U.S. Holder subject to special rules, such as:

- A financial institution, regulated investment company or insurance company;
- A tax-exempt organization;
- A dealer or broker in securities, commodities or foreign currencies;
- A stockholder that holds ADS common stock as part of a hedge, appreciated financial position, straddle, conversion, or other risk reduction transaction;
- A stockholder that holds ADS common stock in a tax-deferred account, such as an individual retirement account; or
- A stockholder that acquired ADS common stock pursuant to the exercise of options or similar derivative securities or otherwise as compensation.

If a partnership, or any entity treated as a partnership for U.S. federal income tax purposes, holds ADS common stock, the tax treatment of a partner in such partnership generally will depend on the status of the partners and the activities of the partnership. A partner in a partnership holding ADS common stock should consult its tax advisor.

A U.S. Holder who acquired different blocks of ADS common stock at different times and at different prices generally must apply the rules described in the following sections separately to each identifiable block of shares of ADS common stock. A U.S. Holder who holds ADS common stock with differing bases or holding periods should consult its tax adviser.

This discussion of material U.S. federal income tax consequences is not a complete analysis or description of all potential U.S. federal income tax consequences of the Distribution. This discussion does not address tax consequences that may vary with, or are contingent on, individual circumstances. In addition, it does not address any U.S. federal, estate, gift or other non-income tax or any non-U.S., state or local tax consequences of the Distribution. **Accordingly, each holder of ADS common stock should consult his, her or its tax advisor to determine the particular U.S. federal, state or local or non-U.S. income or other tax consequences of the Distribution to such holder.**

Private letter ruling and tax opinion

The consummation of the Separation, along with certain related transactions, is conditioned upon the receipt of a private letter ruling from the IRS. Although a private letter ruling from the IRS generally is binding on the IRS, if the factual representations or assumptions made in the private letter ruling request are inaccurate or incomplete in any material respect, ADS will not be able to rely on the ruling. Furthermore,

the IRS will not rule on whether a distribution such as the Distribution satisfies certain legal requirements necessary to obtain tax-free treatment under Section 355 of the Code. Rather, the private letter ruling will be based on representations by ADS that those requirements have been satisfied, and any inaccuracy in those representations could invalidate the ruling.

The consummation of the Separation, along with certain related transactions, is further conditioned upon the receipt of opinion of Davis Polk & Wardwell LLP substantially to the effect that the Distribution, together with certain related transactions, will qualify as a tax-free "reorganization" within the meaning of Section 368(a)(1)(D) of the Code and a tax-free distribution within the meaning of Section 355 of the Code, which we refer to as the "Tax Opinion." In rendering the Tax Opinion to be given as of the closing of the Separation, which we refer to as the "Closing Tax Opinion," Davis Polk & Wardwell LLP will rely on (i) customary representations and covenants made by us and ADS, including those contained in certificates of officers of us and ADS, and (ii) specified assumptions, including an assumption regarding the completion of the Separation and certain related transactions in the manner contemplated by the transaction agreements. In addition, Davis Polk & Wardwell's ability to provide the Closing Tax Opinion will depend on the absence of changes in existing facts or law between the date of this information statement and the closing date of the Distribution. If any of the representations, covenants or assumptions on which Davis Polk & Wardwell LLP will rely is inaccurate, Davis Polk & Wardwell LLP may not be able to provide the Closing Tax Opinion or the tax consequences of the Separation could differ from those described below. The opinion of Davis Polk & Wardwell LLP does not preclude the IRS or the courts from adopting a contrary position.

The Distribution

Assuming that the Distribution, together with certain related transactions, will qualify as a tax-free "reorganization" within the meaning of Section 368(a)(1)(D) of the Code and a tax-free distribution within the meaning of Section 355 of the Code, and that the Restructuring steps will qualify as transactions that are tax-free for U.S. federal income tax purposes, in general, for U.S. federal income tax purposes:

- The Separation will not result in the recognition of income, gain or loss to ADS or us;
- No gain or loss will be recognized by, and no amount will be included in the income of, U.S. Holders of ADS common stock upon the receipt of our common stock in the Distribution;
- The aggregate tax basis of the shares of our common stock (including fractional shares deemed received and exchanged for cash, as described below) distributed in the Distribution to a U.S. Holder of ADS common stock will be determined by allocating the aggregate tax basis such U.S. Holder has in the shares of ADS common stock immediately before such Distribution between such ADS common stock and our common stock in proportion to the relative fair market value of each immediately following the Distribution;
- The holding period of any shares of our common stock received by a U.S. Holder of ADS common stock in the Distribution will include the holding period of the shares of ADS common stock held by a U.S. Holder prior to the Distribution; and
- A U.S. Holder of ADS common stock that receives cash in lieu of a fractional share of our common stock will recognize capital gain or loss, measured by the difference between the cash received for such fractional share and the U.S. Holder's tax basis in that fractional share, determined as described above, and such gain or loss will be long-term capital gain or loss if the U.S. Holder's holding period in the ADS common stock is more than one year as of the closing date of the Distribution.

In general, if the Distribution, together with certain related transactions, does not qualify as a tax-free "reorganization" within the meaning of Section 368(a)(1)(D) of the Code and a tax-free distribution within the meaning of Section 355 of the Code, the Distribution will be treated as a taxable dividend to holders of ADS common stock in an amount equal to the fair market value of our common stock received, to the extent of such holder's ratable share of ADS' earnings and profits. In addition, if the Separation does not qualify as a tax-free transaction, ADS will recognize taxable gain, which could result in significant tax to ADS.

Even if the Separation were otherwise to qualify as a tax-free transaction, the Distribution will be taxable to ADS under Section 355(e) of the Code if 50% or more of either the total voting power or the total fair market value of the stock of ADS or our common stock is acquired as part of a plan or series of related transactions that includes the Distribution. If Section 355(e) applies as a result of such an acquisition, ADS would recognize taxable gain as described above, but the Distribution would generally be tax-free to you. Under some circumstances, the Tax Matters Agreement would require us to indemnify ADS for the tax liability associated with the taxable gain. See "—Agreements with ADS—Tax Matters Agreement."

Under the Tax Matters Agreement, we will generally be required to indemnify ADS for the resulting taxes in the event that the Separation and/or related transactions fail to qualify for their intended tax treatment due to any action by us or any of our subsidiaries (see "—Agreements with ADS—Tax Matters Agreement"). If the Separation were to be taxable to ADS, the liability for payment of such tax by ADS or by us under the Tax Matters Agreement could have a material adverse effect on ADS or us, as the case may be.

Information reporting and backup withholding

U.S. Treasury regulations generally require holders who own at least 5% of the total outstanding stock of ADS (by vote or value) and who receive our common stock pursuant to the Distribution to attach to their U.S. federal income tax return for the year in which the Distribution occurs a detailed statement setting forth certain information relating to the tax-free nature of the Distribution. ADS and/or we will provide the appropriate information to each holder upon request, and each such holder is required to retain permanent records of this information. In addition, payments of cash to a U.S. Holder of ADS common stock in lieu of fractional shares of our common stock in the Distribution may be subject to information reporting. Such payments that are subject to information reporting may also be subject to backup withholding, unless such U.S. Holder provides the withholding agent with a correct taxpayer identification number and otherwise complies with the requirements of the backup withholding rules. Backup withholding does not constitute additional tax, but merely an advance payment, which may be refunded or credited against a U.S. Holder's U.S. federal income tax liability, provided the required information is timely supplied to the IRS.

Appraisal rights

No ADS stockholder will have any appraisal rights in connection with the Separation.

Listing and trading of our common stock

As of the date of this information statement, there is no public market for our common stock. We expect to apply for listing of our common stock on Nasdaq under the ticker symbol "LYLT."

Trading between record date and Distribution Date

Beginning on the record date for the Distribution and continuing up to and including the Distribution Date for the Separation, we expect there will be two markets in ADS common stock: a "regular-way" market and an "ex-distribution" market. Shares of ADS common stock that trade on the "regular-way" market will trade with an entitlement to receive shares of Loyalty Ventures common stock in the Distribution. Shares that trade on the "ex-distribution" market will trade without an entitlement to receive shares of Loyalty Ventures common stock in the Distribution. Therefore, if you sell shares of ADS common stock in the "regular-way" market after the close of business on the record date for the Distribution and up to and including through the Distribution Date, you will be selling your right to receive shares of Loyalty Ventures common stock in the Distribution. If you own shares of ADS common stock as of the close of business on the record date for the Distribution and sell those shares in the "ex-distribution" market, up to and including through the Distribution Date, you will still receive the shares of Loyalty Ventures common stock that you would be entitled to receive in respect of your ownership, as of the record date, of the shares of ADS common stock that you sold.

Furthermore, beginning on , 2021 and continuing up to and including the Distribution Date for the Separation, we expect there will be a "when-issued" market in our common stock. "When-issued"

trading refers to a sale or purchase made conditionally because the security has been authorized but not yet issued. The "when-issued" trading market will be a market for shares of Loyalty Ventures common stock that will be distributed to ADS stockholders on the Distribution Date. If you own shares of ADS common stock as of the close of business on the record date, you would be entitled to receive shares of our common stock in the Distribution. You may trade this entitlement to receive shares of Loyalty Ventures common stock, without trading the shares of ADS common stock you own, in the "when-issued" market. On the first trading day following the Distribution Date, we expect "when- issued" trading with respect to Loyalty Ventures common stock will end and "regular-way" trading in Loyalty Ventures common stock will begin.

Conditions to the Distribution

We expect the Distribution will be effective on , 2021, the Distribution Date, provided that, among other conditions described in the Separation and Distribution Agreement, the following conditions will have been satisfied or waived by ADS in its sole discretion:

- The Separation-related restructuring transactions contemplated by the Separation and Distribution Agreement (the "Restructuring Transactions") and the consummation of certain new Loyalty Ventures financing arrangements contemplated by the Separation and Distribution Agreement will each have been completed;
- The ADS board of directors will have approved the Distribution and will not have abandoned the Distribution or terminated the Separation and Distribution Agreement at any time prior to the Distribution;
- The SEC will have declared effective our registration statement on Form 10, of which this information statement is a part, under the Exchange Act, no stop order suspending the effectiveness of our registration statement on Form 10 will be in effect and no proceedings for such purpose will have been instituted or threatened by the SEC, and this information statement, or a notice of Internet availability thereof, will have been mailed to the holders of ADS common stock as of the record date for the Distribution;
- All actions and filings necessary or appropriate under applicable federal, state or other securities laws or "blue sky" laws and the rules and regulations thereunder will have been taken and, where applicable, become effective or accepted;
- Our common stock to be delivered in the Distribution will have been approved for listing on Nasdaq, subject to official notice of issuance;
- The Loyalty Ventures board of directors, as named in this information statement, will have been duly appointed;
- Each of the ancillary agreements contemplated by the Separation and Distribution Agreement will have been executed and delivered by the parties thereto;
- ADS will have received a private letter ruling from the IRS and an opinion of Davis Polk & Wardwell LLP (each of which will not have been revoked or modified in any material respect), in each case reasonably satisfactory to ADS, to the effect that, for U.S. federal income tax purposes, the Distribution, together with certain related transactions, will qualify as a tax-free "reorganization" within the meaning of Section 368(a)(1)(D) of the Code and a tax-free distribution within the meaning of Section 355 of the Code;
- No applicable law will have been adopted, promulgated or issued that prohibits the consummation of the distribution or any of the transactions contemplated by the Separation and Distribution Agreement;
- Any material governmental approvals and consents and any material permits, registrations and consents from third parties, in each case, necessary to effect the distribution and to permit the operation of the Spin Business after the Distribution substantially as conducted as of the date of the Separation and Distribution Agreement will have been obtained;

- No event or development will have occurred or exist that, in the judgment of the ADS board of directors, in its sole and absolute discretion, makes it inadvisable to effect the Distribution or other transactions contemplated by the Separation and Distribution Agreement; and
- Certain necessary actions to complete the Separation will have occurred, including (a) the amended and restated certificate of incorporation and amended and restated bylaws of Loyalty Ventures, in substantially the form attached as exhibits to the registration statement of which this information statement forms a part, will be in effect and (b) ADS will have entered into a distribution agent agreement with a distribution agent or otherwise provided instructions to a distribution agent regarding the Distribution.

The fulfillment of the foregoing conditions will not create any obligations on ADS' part to effect the Separation, and the ADS board of directors has reserved the right, in its sole discretion, to abandon, modify or change the terms of the Separation, including by accelerating or delaying the timing of the consummation of all or part of the Distribution, at any time prior to the Distribution Date.

Agreements with ADS

As part of the Separation, we will enter into a Separation and Distribution Agreement and several other agreements with ADS to effect the Separation and provide a framework for our relationships with ADS after the Separation. These agreements will provide for the allocation between us and ADS of the assets, liabilities and obligations of ADS and its subsidiaries, and will govern the relationships between Loyalty Ventures and ADS subsequent to the Separation (including with respect to transition services, employee matters, intellectual property matters and tax matters).

In addition to the Separation and Distribution Agreement (which will contain many of the key provisions related to our Separation from ADS and the distribution of our shares of common stock to ADS stockholders), these agreements include, among others:

- A Tax Matters Agreement;
- A Transition Services Agreement; and
- An Employee Matters Agreement.

The forms of the principal agreements described below have been filed as exhibits to the registration statement of which this information statement forms a part. The following descriptions of these agreements are summaries of the material terms of these agreements.

The Separation and Distribution Agreement

The Separation and Distribution Agreement will govern the overall terms of the Separation. Generally, the Separation and Distribution Agreement will include ADS' and our agreements relating to the restructuring steps to be taken to complete the Separation, the assets and rights to be transferred, liabilities to be assumed and related matters.

Subject to the receipt of required governmental and other consents and approvals and the satisfaction of other closing conditions, in order to accomplish the Separation, the Separation and Distribution Agreement will provide for ADS and us to transfer specified assets between the companies that will operate the Spin Business after the Distribution, on the one hand, and ADS' remaining businesses, on the other hand. The Separation and Distribution Agreement will require ADS and us to use reasonable efforts to obtain consents, approvals and amendments required to assign the assets and liabilities that are to be transferred pursuant to the Separation and Distribution Agreement.

Unless otherwise provided in the Separation and Distribution Agreement or any of the related ancillary agreements, all assets will be transferred on an "as is, where is" basis. Generally, if the transfer of any assets or any claim or right or benefit arising thereunder requires a consent that will not be obtained before the distribution for the Separation, or if the transfer or assignment of any such asset or such claim or right or benefit arising thereunder would be ineffective or would adversely affect the rights of the transferor

thereunder so that the intended transferee would not in fact receive all such rights, the party retaining any asset that otherwise would have been transferred shall hold such asset in trust for the use and benefit of the party entitled thereto and retain such liability for the account of the party by whom such liability is to be assumed, and take such other action as may be reasonably requested by the party to which such asset is to be transferred, or by whom such liability is to be assumed, as the case may be, in order to place such party, insofar as reasonably possible, in the same position as would have existed had such asset or liability been transferred prior to the Distribution.

The Separation and Distribution Agreement will specify those conditions that must be satisfied or waived by ADS prior to the completion of the Separation, which are described further above in "— Conditions to the Distribution." In addition, ADS will have the right to determine the date and terms of the Separation, and will have the right, at any time until completion of the distribution, to determine to abandon or modify the distribution and to terminate the Separation and Distribution Agreement.

In addition, the Separation and Distribution Agreement will govern the treatment of indemnification, insurance and litigation responsibility and management. Generally, the Separation and Distribution Agreement will provide for uncapped cross-indemnities principally designed to place financial responsibility for the obligations and liabilities of our business with us and financial responsibility for the obligations and liabilities of ADS' retained businesses with ADS. The Separation and Distribution Agreement will also establish procedures for handling claims subject to indemnification and related matters.

Tax Matters Agreement

In connection with the Separation, we and ADS will enter into a tax matters agreement (the "Tax Matters Agreement") that will govern the parties' respective rights, responsibilities and obligations with respect to taxes, including taxes arising in the ordinary course of business, and taxes, if any, incurred as a result of the failure of the Distribution (and certain related transactions) to qualify for tax-free treatment for U.S. federal income tax purposes. The Tax Matters Agreement will also set forth the respective obligations of the parties with respect to the filing of tax returns, the administration of tax contests and assistance and cooperation on tax matters.

In general, the Tax Matters Agreement will govern the rights and obligations that we and ADS have after the Separation with respect to taxes for both pre- and post-closing periods. Under the Tax Matters Agreement, ADS generally will be responsible for all of our pre-closing income taxes. We will generally be responsible for all other income taxes and all non-income taxes primarily related to Loyalty Ventures that are due and payable after the Separation.

The Tax Matters Agreement will further provide that:

- Without duplication for our indemnification obligations described in the prior paragraph, we will generally indemnify ADS against (i) taxes arising in the ordinary course of business for which we are responsible (as described above), (ii) any liability or damage resulting from a breach by us or any of our affiliates of a covenant or representation made in the Tax Matters Agreement and (iii) taxes resulting from the failure of the Distribution (and certain related transactions) to qualify for tax-free treatment that are attributable to certain of our actions; and
- ADS will indemnify us against (i) taxes for which ADS is responsible under the Tax Matters Agreement (as described above) and (ii) any liability or damage resulting from a breach by ADS or any of its affiliates of a covenant or representation made in the Tax Matters Agreement.

In addition to the indemnification obligations described above, the indemnifying party will generally be required to indemnify the indemnified party against any interest, penalties, additions to tax, losses, assessments, settlements or judgments arising out of or incident to the event giving rise to the indemnification obligation, along with costs incurred in any related contest or proceeding.

Further, the Tax Matters Agreement generally will prohibit us and our affiliates from taking certain actions that could cause the Separation and certain related transactions to fail to qualify for their intended tax treatment, including:

- During the two-year period following the Distribution Date (or otherwise pursuant to a "plan" within the meaning of Section 355(e) of the Code), we may not cause or permit certain business combinations or transactions to occur;
- During the two-year period following the Distribution Date, we may not discontinue the active conduct of our business (within the meaning of Section 355(b)(2) of the Code);
- During the two-year period following the Distribution Date, we may not sell or otherwise issue our common stock in certain circumstances;
- During the two-year period following the Distribution Date, we may not redeem or otherwise acquire any of our common stock, other than pursuant to open-market repurchases of less than 20% of our common stock (in the aggregate);
- During the two-year period following the Distribution Date, we may not amend our certificate of incorporation (or other organizational documents) or take any other action, whether through a stockholder vote or otherwise, affecting the voting rights of our common stock; and
- More generally, we may not take any action that could reasonably be expected to cause the Separation and certain related transactions to fail to qualify as tax-free transactions for U.S. federal income tax purposes or non-U.S. tax purposes.

In the event that the Separation and certain related transactions fail to qualify for their intended tax treatment, in whole or in part, and ADS is subject to tax as a result of such failure, the Tax Matters Agreement will determine whether ADS must be indemnified for any such tax by us. As a general matter, under the terms of the Tax Matters Agreement, we are required to indemnify ADS for any tax-related losses in connection with the Separation due to any action by us or any of our subsidiaries following the Separation. Therefore, in the event that the Separation and/or related transactions fail to qualify for their intended tax treatment due to any action by us or any of our subsidiaries, we will generally be required to indemnify ADS for the resulting taxes.

Transition Services Agreement

The Transition Services Agreement will set forth the terms on which ADS will provide to us, and we will provide to ADS, on a transitional basis, certain services or functions that the companies historically have shared. Transition services will include various corporate, administrative and information technology services. The Transition Services Agreement will provide for the provision of specified transition services, generally for a period of up to two years following the Distribution. Compensation for transition services will be determined using an internal cost allocation methodology based on cost or cost plus a margin. We estimate the fees associated with the Transition Services Agreement to be approximately $2.4 million annually. See "— Costs of the Separation" for other anticipated costs associated with the Separation and Distribution.

Employee Matters Agreement

We intend to enter into an Employee Matters Agreement with ADS prior to the Separation that will govern each company's respective compensation and benefit obligations with respect to current and former employees, directors and consultants. The Employee Matters Agreement will set forth general principles relating to employee matters in connection with the Separation, such as the placement of employees, the assumption and retention of liabilities and related assets, expense reimbursements, workers' compensation, leaves of absence, the provision of comparable benefits, employee service credit, the sharing of employee information and duplication or acceleration of benefits.

The Employee Matters Agreement generally will allocate liabilities and responsibilities relating to employee compensation and benefit plans and programs with ADS retaining liabilities (both pre- and post-Distribution) and responsibilities with respect to ADS participants who will remain with ADS and Loyalty Ventures assuming liabilities and responsibilities with respect to participants who will transfer to or be immediately employed by Loyalty Ventures in connection with the Separation. The Employee Matters Agreement will provide that, following the Distribution and an agreed upon transition period during which ADS will be providing employment-related transition services to U.S. based employees, Loyalty Ventures

active employees generally will no longer participate in benefit plans sponsored or maintained by ADS and will commence participation in Loyalty Ventures benefit plans.

The Employee Matters Agreement will also provide that (i) the Distribution does not constitute a change in control under ADS' plans, programs, agreements or arrangements and (ii) unless specifically set out in the Employee Matters Agreement,the Distribution and the assignment, transfer or continuation of the employment of employees with another entity will not constitute a severance event under applicable plans, programs, agreements or arrangements.

Transferability of shares of our common stock

The shares of our common stock that you will receive in the Distribution will be freely transferable, unless you are considered an "affiliate" of ours under Rule 144 under the Securities Act. Persons who can be considered our affiliates after the Separation generally include individuals or entities that directly, or indirectly through one or more intermediaries, control, are controlled by or are under common control with us, and may include certain of our officers and directors. In addition, individuals who are affiliates of ADS on the Distribution Date may be deemed to be affiliates of ours. We estimate that our directors and executive officers, who may be considered "affiliates" for purposes of Rule 144, will beneficially own approximately shares of our common stock immediately following the Separation. See "Ownership of Common Stock by Certain Beneficial Owners and Management" included elsewhere in this information statement. Our affiliates may sell shares of our common stock received in the Distribution only:

- Under a registration statement that the SEC has declared effective under the Securities Act; or
- Under an exemption from registration under the Securities Act, such as the exemption afforded by Rule 144.
- In general, under Rule 144 as currently in effect, an affiliate will be entitled to sell, within any three-month period, a number of shares of our common stock that does not exceed the greater of:
- One percent of our common stock then outstanding; or
- The average weekly trading volume of our common stock during the four calendar weeks preceding the filing of a notice on Form 144 for the sale.

Rule 144 also includes notice requirements and restrictions governing the manner of sale for sales by our affiliates. Sales may not be made under Rule 144 unless certain information about us is publicly available.

Reason for furnishing this information statement

This information statement is being furnished solely to provide information to ADS stockholders who are entitled to receive shares of our common stock in the Distribution. The information statement is not, and is not to be construed as, an inducement or encouragement to buy, hold or sell any of our securities. We believe the information contained in this information statement is accurate as of the date set forth on the cover. Changes may occur after that date and neither ADS nor we undertake any obligation to update such information except in the normal course of our respective public disclosure obligations.

DIVIDEND POLICY

We do not currently intend to pay any cash dividends on our capital stock in the foreseeable future. We currently intend to retain all available funds and any future earnings to pay down our outstanding indebtedness and fund the development and expansion of our business. The declaration and amount of any dividends to holders of our common stock will be at the discretion of our board of directors and will depend upon many factors, including our financial condition, earnings, cash flows, capital requirements of our business, covenants associated with our debt obligations, legal requirements, regulatory constraints, industry practice and any other factors the board of directors deems relevant. In addition, our ability to pay cash dividends on our capital stock may be limited by the terms of any future debt or preferred securities we issue or any credit facilities we enter into.

CAPITALIZATION

The following table sets forth our cash and equivalents and our capitalization as of June 30, 2021 on a historical and pro forma basis to give effect to the Separation, the incurrence of debt and other matters, as discussed in "The Separation."

The pro forma adjustments are based upon available information and assumptions that management believes are reasonable; however, such adjustments are subject to change based on the finalization of the terms of the Separation and the agreements which define our relationship with ADS after the completion of the Separation. In addition, such adjustments are estimates and may not prove to be accurate.

You should read the information in the following table together with "Management's Discussion and Analysis of Financial Condition and Results of Operations," "Unaudited Pro Forma Combined Financial Statements" and our historical combined financial statements and the related notes included elsewhere in this information statement.

We are providing the capitalization table for information purposes only. The capitalization table below may not reflect the capitalization or financial condition that would have resulted had we been operating as an independent, publicly traded company on June 30, 2021 and is not necessarily indicative of our future capitalization or financial condition.

	As of June 30, 2021	
	Actual	Pro Forma (Unaudited)
	(in thousands, except share amounts)	
Cash and equivalents[1]	$ 205,715	$118,970
Indebtedness:		
Current portion of debt[2]:		
Short-term borrowings	—	6,750
Long-term:		
Long-term debt[2]	—	649,801
Total indebtedness[2]	—	656,551
Equity:		
Common stock, par value $0.01; shares authorized, shares issued and outstanding, pro forma[3]	—	
Additional paid-in-capital	—	200,177
Parent's net investment	1,012,586	—
Accumulated other comprehensive loss	(25,571)	(25,571)
Total equity	$ 987,015	$174,606
Total capitalization	$ 987,015	$174,606

(1) Reflects pro forma cash following receipt of debt proceeds and the net cash transfer to ADS. See "Notes to Unaudited Pro Forma Combined Financial Statements of Loyalty Ventures" for additional information.

(2) Reflects an estimated $675.0 million of new long-term debt from the proceeds of the new term loan facility we expect to incur in connection with the Separation, less an estimated debt discount of $10.1 million and estimated debt issuance costs of $8.3 million.

(3) At Separation, ADS' net investment in us will be reduced to 19%, reflecting the distribution of our common stock to ADS' stockholders at a distribution ratio of one share of our common stock for every shares of ADS common stock.

UNAUDITED PRO FORMA COMBINED FINANCIAL STATEMENTS

The unaudited pro forma combined financial statements (the "Unaudited Pro Forma Combined Financial Statements") of Loyalty Ventures have been derived from the historical combined financial statements (the "Combined Financial Statements") included elsewhere in this information statement. The Unaudited Pro Forma Combined Financial Statements of Loyalty Ventures should be read in conjunction with the Combined Financial Statements and accompanying notes, "Capitalization" and "Management's Discussion and Analysis of Financial Condition and Results of Operations" included elsewhere in this information statement. The Unaudited Pro Forma Combined Financial Statements of Loyalty Ventures constitute forward-looking information and are subject to certain risks and uncertainties that could cause actual results to differ materially from those anticipated. See "Risk Factors" and "Special Note Regarding Forward-Looking Statements" included elsewhere in this information statement.

The unaudited pro forma combined statement of operations (the "Unaudited Pro Forma Combined Statement of Operations") of Loyalty Ventures for the six months ended June 30, 2021 and the fiscal year ended December 31, 2020 have been prepared as though the Separation and Distribution occurred on January 1, 2020. The unaudited pro forma combined balance sheet (the "Unaudited Pro Forma Combined Balance Sheet") of Loyalty Ventures as of June 30, 2021 has been prepared as though the Separation and Distribution occurred on June 30, 2021. The Unaudited Pro Forma Combined Financial Statements of Loyalty Ventures are for illustrative purposes only, and do not reflect what Loyalty Ventures' financial position and results of operations would have been had the Separation and Distribution occurred on the dates indicated and are not necessarily indicative of Loyalty Ventures' future financial position and future results of operations.

The following Unaudited Pro Forma Combined Financial Statements of Loyalty Ventures give effect to the Separation and Distribution and related adjustments in accordance with Article 11 of the Securities and Exchange Commission's Regulation S-X. In May 2020, the SEC adopted Release No.33-10786, "Amendments to Financial Disclosures about Acquired and Disposed Businesses," or the Final Rule. The Final Rule is effective on January 1, 2021 and the unaudited pro forma condensed combined financial information herein is presented in accordance therewith.

The Unaudited Pro Forma Combined Financial Statements have been adjusted to give effect of the following transactions:

- The anticipated post-Separation capital structure, including the incurrence of debt and the distribution of cash to ADS;
- the distribution of shares of Loyalty Ventures' common stock by ADS to its stockholders and the elimination of the Parent's net investment;
- the impact of, and transactions contemplated by, the Separation Agreement and the other transaction agreements to be entered into by ADS and Loyalty Ventures in connection with the Separation and Distribution; and
- the impact of certain transactions that are not expected to have a continuing effect on our results of operations.

A final determination regarding our capital structure has not yet been made, and the Separation and Distribution Agreement, Tax Matters Agreement, Transition Services Agreement, Employee Matters Agreement, and any other transaction agreements have not been finalized. As such, the Unaudited Pro Forma Combined Financial Statements may be revised in future amendments to reflect the changes on our proposed capital structure and the final form of those agreements, to the extent any such changes would be deemed material.

Subject to the terms of the Separation and Distribution Agreement, each of ADS and Loyalty Ventures will pay certain non-recurring third-party costs and expenses related to the Separation and incurred prior to the completion of the Separation. Such non-recurring amounts are expected to include investment banker fees (other than fees and expenses in connection with the debt financing), third-party legal and accounting fees, consent fees and similar costs. It is preliminarily estimated that the costs related to the Separation to be incurred during Loyalty Ventures' transition to being a stand-alone public company will be

approximately $33.0 million to $36.0 million, of which approximately $10.0 million will be paid by Loyalty Ventures and the remainder of such costs will be paid by ADS. See "The Separation—Costs of the Separation."

To operate as an independent, publicly traded company, we expect our recurring costs to replace certain services to approximate those costs historically allocated to us from ADS. The significant assumptions involved in determining our estimates of the recurring costs of being an independent, publicly traded company include, but are not limited to, costs to perform financial reporting, tax, corporate governance, treasury, legal, internal audit and investor relations activities; compensation expense, including equity-based awards, and benefits; and incremental third-party costs with respect to insurance, audit services, tax services, employee benefits and legal services. The operating expenses reported in our historical combined statements of operations include allocations of certain ADS costs. These costs include allocation of ADS corporate costs that benefit us, including corporate governance, executive management, finance, legal, information technology, human resources, and other general and administrative costs. We estimate the costs to operate as an independent, publicly traded company approximate the amount of allocated costs that have been presented in our historical combined statements of operations and as such an autonomous entity pro forma adjustment has not been made to the accompanying Unaudited Pro Forma Combined Statement of Operations. Certain factors could impact these stand-alone public company costs, including the finalization of our staffing and infrastructure needs.

Unaudited Pro Forma Combined Balance Sheet of Loyalty Ventures
As of June 30, 2021

	Transaction Pro Forma Adjustments	Adjusted		
		(in thousands)		
ASSETS				
Cash and cash equivalents	$ 205,715	$ (86,745)	(a)	$ 118,970
Accounts receivable, net	265,729	36,510	(c)	302,239
Inventories	162,254	—		162,254
Redemption settlement assets, restricted	745,086	—		745,086
Other current assets	21,262	—		21,262
Total current assets	1,400,046	(50,235)		1,349,811
Property and equipment, net	90,329	—		90,329
Right of use assets – operating	107,916	18	(c)	107,934
Deferred tax asset, net	66,839	—	(f)	66,839
Intangible assets, net	4,102	—		4,102
Goodwill	725,632	—		725,632
Investment in unconsolidated subsidiaries – related party	2	(2)	(d)	—
Other non-current assets	3,774	1,244	(b)	5,018
Total assets	$2,398,640	$ (48,975)		$2,349,665
LIABILITIES AND EQUITY				
Accounts payable	$ 65,831	$ 2	(c)	$ 65,833
Accrued expenses	53,439	29	(c)	53,468
Deferred revenue	942,154	—		942,154
Current operating lease liabilities	9,888	26	(c)	9,914
Current portion of debt	—	6,750	(b)	6,750
Other current liabilities	103,384	—		103,384
Total current liabilities	1,174,696	6,807		1,181,503
Deferred revenue	100,630	—		100,630
Long-term operating lease liabilities	111,727	—		111,727
Long-term and other debt	—	649,801	(b)	649,801
Other liabilities	24,572	106,826	(c)	131,398
Total liabilities	1,411,625	763,434		2,175,059
Commitments and contingencies				
Stockholders' equity:				
Common stock, par value $0.01	—		(e)	
Additional paid-in capital	—	200,177	(e)	200,177
Parent's net investment	1,012,586	(1,012,586)	(e)	—
Accumulated other comprehensive income (loss)	(25,571)	—		(25,571)
Total equity	987,015	(812,409)		174,606
Total liabilities and equity	$2,398,640	$ (48,975)		$2,349,665

See Notes to Unaudited Pro Forma Combined Financial Statements of Loyalty Ventures.

Unaudited Pro Forma Combined Statement of Operations of Loyalty Ventures

	For The Six Months Ended June 30, 2021			
	Historical	Transaction Pro Forma Adjustments		Adjusted
		(in thousands)		
Revenues				
Redemption, net	$183,695	$ —		$183,695
Services	133,438	—		133,438
Other	10,326	—		10,326
Total revenue	327,459	—		327,459
Operating expenses				
Cost of operations (exclusive of depreciation and amortization disclosed separately below)	252,937	—		252,937
General and administrative	7,590	—		7,590
Depreciation and other amortization	17,571	—		17,571
Amortization of purchased intangibles	883	—		883
Total operating expenses	278,981	—		278,981
Operating income	48,478	—		48,478
Interest (income) expense, net	(182)	19,161	(g)	18,979
Income before income taxes and loss from investment in unconsolidated subsidiaries	48,660	(19,161)		29,499
Provision (benefit) for income taxes	15,074	—	(h)	15,074
Loss from investment in unconsolidated subsidiaries – related party, net of tax	42	(42)	(d)	—
Net income	$ 33,544	$(19,119)		$ 14,425
Pro forma earnings per share				
Basic				
Diluted				
Pro forma weighted average shares outstanding:				
Basic			(i)	
Diluted			(i)	

See Notes to Unaudited Pro Forma Combined Financial Statements of Loyalty Ventures.

Unaudited Pro Forma Combined Statement of Operations of Loyalty Ventures

	For The Year Ended December 31, 2020			
	Historical	Transaction Pro Forma Adjustments		Adjusted
		(in thousands)		
Revenues				
Redemption, net	$473,067	$ —		$473,067
Services	264,050	—		264,050
Other	27,689	—		27,689
Total revenue	764,806	—		764,806
Operating expenses				
Cost of operations (exclusive of depreciation and amortization disclosed separately below)	587,615	—		587,615
General and administrative	14,315	—		14,315
Depreciation and other amortization	28,988	—		28,988
Amortization of purchased intangibles	48,953	—		48,953
Total operating expenses	679,871	—		679,871
Operating income	84,935	—		84,935
Gain on sale of a business	(10,876)	—		(10,876)
Interest (income) expense, net	(834)	38,322	(g)	37,488
Income before income taxes and loss from investment in unconsolidated subsidiaries	96,645	(38,322)		58,323
Provision (benefit) for income taxes	21,324	—	(h)	21,324
Loss from investment in unconsolidated subsidiaries – related party, net of tax	246	(246)	(d)	—
Net income	$ 75,075	$(38,076)		$ 36,999
Pro forma earnings per share				
Basic				
Diluted				
Pro forma weighted average shares outstanding:				
Basic			(i)	
Diluted			(i)	

See Notes to Unaudited Pro Forma Combined Financial Statements of Loyalty Ventures.

Notes to Unaudited Pro Forma Combined Financial Statements of Loyalty Ventures

a. The following represents adjustments to reflect the expected cash at Separation.

	June 30, 2021 (in thousands)
Cash received from the incurrence of debt issued at 98.5%	$ 664,875
Cash received as a contribution from ADS	7,948
Cash transferred to ADS at Separation	(750,000)
Cash paid for debt issuance costs	(9,568)
Pro forma adjustment to cash	$ (86,745)

b. Reflects $675.0 million of term loan borrowings issued at 98.5% expected to be incurred in connection with the Separation and Distribution and anticipated financing fees to be paid by Loyalty Ventures of $9.6 million. Loyalty Ventures also intends to enter into a $150.0 million revolving credit facility to support the business after consummation of the Separation and Distribution, but does not expect to draw on this facility immediately. The financing fees related to the term loan are shown as a reduction to long-term debt. The financing fees related to the revolving credit facility are reflected as a non-current asset in the Unaudited Pro Forma Combined Balance Sheet.

	June 30, 2021 (in thousands)
Debt to be issued	$675,000
Debt discount	(10,125)
Deferred financing fees – term loan	(8,324)
Pro Forma adjustment to debt	$656,551
Current portion of debt	6,750
Long term portion of debt	649,801
Deferred financing fees – revolving credit facility	1,244
Pro forma adjustment to non-current assets	$ 1,244

c. Assets and liabilities of certain corporate entities associated with the international businesses will be contributed by ADS to Loyalty Ventures. In addition, pursuant to the terms of the Tax Matters Agreement, ADS will be responsible for all pre-distribution tax payables and tax reserves, but will also be entitled to receive all pre-distribution tax receivables when realized. As such, we have made the following adjustments in the unaudited pro forma combined balance sheet as of June 30, 2021:

	June 30, 2021		
	Contribution by ADS	Tax assets and liabilities	Total
	(in thousands)		
Accounts receivable, net	$4,246	$ 32,264	$ 36,510
Right of use asset	18	—	18
Accounts payable	(2)	—	(2)
Accrued expenses	(29)	—	(29)
Current operating lease liability	(26)	—	(26)
Other liabilities	—	(106,826)	(106,826)
Net assets transferred	$4,207	$ (74,562)	$ (70,355)

d. Represents a pro forma adjustment for its investment in Comenity Canada L.P., which was sold to an affiliate of ADS in August 2021, as a result of the transaction, and will not have a continuing effect on our results of operations.

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e. Reflects the reclassification of the Parent's net investment into additional paid in capital and common stock to reflect the assumed issuance of shares of our common stock with $0.01 par value. We have assumed the number of outstanding shares of our common stock based on the number of shares of ADS common stock outstanding on June 30, 2021 and a distribution ratio of one share of our common stock for every shares of ADS common stock.

	June 30, 2021
	(in thousands)
Elimination of ADS' net investment	$(1,012,586)
Cash transferred to ADS at Separation	750,000
Effect of ADS net assets transferred/retained[(1)]	62,409
Pro forma adjustment to additional paid in capital	$ (200,177)

(1) A detail of the net assets transferred/retained are as follows:

	June 30, 2021
	(in thousands)
Cash contributed by ADS	$ (7,948)
Assets and liabilities of certain Corporate entities	70,355
Investment in unconsolidated subsidiary sold to ADS	2
Pro forma adjustment to additional paid in capital	$62,409

f. As a result of the pro forma adjustments, the deferred tax asset will increase and be offset by a corresponding increase to the valuation allowance, resulting in a zero effect on the historical deferred tax asset balance.

g. Reflects interest expense related to $675.0 million of indebtedness issued at 98.5% that Loyalty Ventures expects to enter into in connection with the Separation and Distribution and amortization of anticipated financing fees of $9.6 million to be paid by Loyalty Ventures. The expected interest rate on the debt is approximately 5.25% with a seven year term. Interest expense may be higher or lower if Loyalty Ventures' actual interest rate differs.

	Six Months Ended June 30, 2021	Year Ended December 31, 2020
	(in thousands)	
Interest expense on debt	$17,719	$35,438
Amortization of debt discount and deferred financing charges	1,442	2,884
Pro forma adjustment to interest expense	$19,161	$38,322

h. Reflects no tax impact of the pro forma adjustments to pre-tax income as these adjustments would only increase the deferred tax asset with a corresponding increase to the valuation allowance required. The effective tax rate of Loyalty Ventures could be different depending on activities occurring subsequent to the distribution.

i. The number of Loyalty Ventures weighted average common shares used to compute the basic earnings per share for the six months ended June 30, 2021 and the year ended December 31, 2020 is based on the number of ADS shares outstanding at each respective period assuming a distribution ratio of one share of Loyalty Ventures for every shares of ADS. The number of ADS shares used to determine the assumed distribution reflects the ADS shares outstanding as of the balance sheet date. While the actual future impact of potential dilution from Loyalty Ventures shares related to equity awards granted to Loyalty Ventures' employees under share-based plans will depend on various factors, pro forma weighted average shares outstanding were not adjusted as Loyalty Ventures does not currently have an estimate of the future dilutive impact. The actual number of shares of our common stock may be different from this estimated amount.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion of our financial condition and results of operations should be read in conjunction with our audited combined financial statements and the notes thereto, included elsewhere in this information statement, as well as the information presented under "Unaudited Pro Forma Combined Financial Statements," and "Business." The following discussion and analysis includes forward-looking statements. These forward-looking statements are subject to risks, uncertainties and other factors that could cause our actual results to differ materially from those expressed or implied by the forward-looking statements. Factors that could cause or contribute to these differences include, but are not limited to, those discussed elsewhere in this information statement. See in particular "Special Note Regarding Forward-Looking Statements" and "Risk Factors."

Overview

We are a leading provider of tech-enabled, data-driven consumer loyalty solutions. Our solutions are focused on helping partners achieve their strategic and financial objectives, from increased consumer basket size, shopper traffic and frequency and digital reach to enhanced program reporting and analytics. We design our loyalty solutions around specific clients' needs and goals, which can be both transactional and emotional. The essence of loyalty is derived from a mix of emotions and memory. By activating these unconscious influences, we help financial services providers, retailers and other consumer-facing businesses create and increase customer loyalty across multiple touch points from traditional to digital to mobile and emerging technologies. We own and operate the AIR MILES Reward Program, Canada's most recognized loyalty program, and Netherlands-based BrandLoyalty, a global provider of purpose-driven, tailor-made campaign-based loyalty solutions for grocers and other high-frequency retailers.

The AIR MILES Reward Program is an end-to-end loyalty platform, combining technology, data/analytics and other solutions to help our clients (who we call sponsors) drive increased engagement by consumers (who we call collectors) with their brand. The AIR MILES Reward Program operates as a full service coalition loyalty program for our sponsors. We provide all marketing, customer service, rewards and redemption management for our sponsors. We typically grant sponsors exclusivity in their market category, enabling them to realize incremental sales and increase market share as a result of their participation in the AIR MILES Reward Program. The AIR MILES Reward Program enables collectors to earn AIR MILES reward miles as they shop across a broad range of sponsors from financial institutions, grocery and liquor, e-commerce, specialty retail, pharmacy, petroleum retail, and home furnishings to hardware, that participate in the AIR MILES Reward Program. These AIR MILES reward miles can be redeemed by collectors for travel, entertainment, experiences, merchandise or other rewards. Through our AIR MILES cash program option, collectors can also instantly redeem their AIR MILES reward miles earned in the AIR MILES cash program option toward in-store purchases at participating sponsors, such as Shell Canada. We estimate approximately two-thirds of Canadian households actively participate in the AIR MILES Reward Program.

BrandLoyalty is a worldwide leader in campaign-based loyalty solutions that positively impact consumer behavior on a mass scale. We pride ourselves on being a business with purpose by connecting high-frequency retailers, supplier partners and consumers to create sustainable solutions for today's challenges. We design, implement, conduct and evaluate innovative, digitally-enhanced, tailor-made loyalty campaigns. These campaigns are tailored for the specific client and are designed to reward key customer segments based on their spending levels during defined campaign periods. At BrandLoyalty, we aim to let all shoppers feel emotionally connected when they shop at our clients, by designing campaigns with the right mechanics and rewards that instantly change shopping behavior and engender loyalty. The rewards we offer come from top brands with high creative standards such as Disney, Zwilling, and vivo | Villeroy & Boch.

Background

On May 12, 2021, ADS announced the repositioning of ADS through the spinoff of the Spin Business from its remaining businesses to create an independent, publicly traded company. Directly or indirectly through our subsidiaries, we will hold the assets and liabilities of the Spin Business after the Separation. Each holder of ADS common stock will receive one share of common stock of Loyalty Ventures for every

shares of ADS common stock held as of the close of business on the record date for the Distribution. Following the Separation, we will be an independent, publicly traded company, and ADS will retain a 19% interest in us, all or a portion of which ADS may transfer to one or more of ADS' creditors in satisfaction of ADS' third party debt within one year of the Distribution, and any remaining interest will be disposed by ADS not later than 5 years after the Distribution. For additional information, see "The Separation." ADS' Loyalty Ventures common stock will be voted in the same proportion as the votes cast in respect of the common stock not owned by ADS on any matter presented for a vote of Loyalty Ventures' stockholders.

Basis of presentation

We have historically operated as part of ADS and not as a standalone company, and we were a reportable segment of ADS. Combined financial statements representing the historical operations of Loyalty Ventures' business have been derived from the historical accounting records of ADS and are presented on a carve-out basis. Our combined financial statements and accompanying notes have been prepared in accordance with accounting principles generally accepted in the United States of America ("GAAP").

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amount of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. The combined financial statements may not be indicative of future performance and do not necessarily reflect what the financial position, results of operations, and cash flows would have been had we operated as an independent, publicly traded company during the periods presented, particularly because of changes we expect to experience in the future as a result of the Separation, including changes in the financing, cash management, operations, cost structure and personnel needs of our business.

The cash and equivalents held by ADS at the corporate level are not specifically identifiable and therefore have not been reflected in the combined balance sheet. ADS' third-party long-term debt and the related interest expense have not been allocated for any of the periods presented as it was not the legal obligor of such debt.

All revenues and expenses as well as assets and liabilities directly associated with the business activity of the Loyalty Ventures business are included in the combined financial statements. The combined financial statements also include allocations of certain general and administrative expenses from ADS. ADS allocated $14.3 million, $14.8 million and $14.0 million of corporate overhead costs that directly or indirectly benefit Loyalty Ventures' business for the years ended December 31, 2020, 2019 and 2018, respectively, that are included in general and administrative expense within our combined statements of income. In addition, ADS allocated $3.9 million and $3.6 million for the three months ended June 30, 2021 and 2020, respectively, and $7.6 million and $7.2 million for the six months ended June 30, 2021 and 2020, respectively, of corporate overhead costs that directly or indirectly benefit Loyalty Ventures' business, that are included in general and administrative expense within our combined statements of income. These assessments relate to information technology, finance, accounting, tax services, human resources, and other functional support. These allocations were determined based on management estimates on the number of employees and non-employee costs associated with the use of these functions by us and may not be indicative of the costs that we would otherwise incur on a standalone basis or had we operated independently of ADS.

COVID-19

Following the declaration by the WHO in the first quarter of 2020 of COVID-19 as a global pandemic and the rapid spread of COVID-19, international, provincial, federal, state and local government or other authorities have imposed varying degrees of restrictions on social and commercial activity in an effort to improve health and safety. As the global COVID-19 pandemic has continued to evolve, our priority has been and continues to be, the health and safety of our employees, with the vast majority of our employees continuing to work from home.

The effects of the COVID-19 pandemic negatively impacted our results of operations and year-over-year comparisons. For the year ended December 31, 2020 and through the six months ended June 30, 2021,

AIR MILES reward miles issuances and redemptions declined largely due to the downturn in the travel market as a result of the pandemic and related restrictions such as border closures repressing travel-related redemptions. The AIR MILES Reward Program continues to pivot the rewards portfolio to emphasize more non-travel options, aiming to drive higher merchandise redemptions. In addition, the AIR MILES Reward Program is working with airline partners to plan for the increasing return of airline travel during the second half of 2021. At BrandLoyalty, new program activity is increasing with consumers actively engaged in loyalty campaigns, with particular success in products focused on the home. However, both the uncertainty remaining with the U.K. and many Asian and European countries still subject to varying degrees of restrictions as well as recent disruptions to port services in southern China amid COVID-19 resurgences exacerbating already challenged global supply chain conditions, could negatively impact our results of operations in the second half of 2021.

Despite the roll-out of vaccines, surges in COVID-19 cases, including variants of the strain, may cause people to self-quarantine or governments to shut down nonessential businesses again. The broad availability of COVID-19 vaccines and the willingness of individuals to be vaccinated are difficult to predict. The pace and shape of the COVID-19 recovery as well as the impact and extent of potential resurgences is not presently known. We continue to evaluate the nature and extent of changes to the market and economic conditions related to the COVID-19 pandemic and current and potential impact on our business and financial position. However, given the dynamic nature of this situation, we cannot reasonably estimate the impacts of COVID-19 on our future results of operations or cash flows at this time.

Combined Results of Operations

	Three Months Ended June 30,		% Change	Six Months Ended June 30,		% Change
	2021	2020	2021 to 2020	2021	2020	2021 to 2020
	(in thousands, except percentages)					
Revenues						
Redemption, net	$ 78,831	$ 84,675	(7)%	$183,695	$205,547	(11)%
Services	67,215	60,008	12	133,438	130,227	2
Other	4,859	6,388	(24)	10,326	13,402	(23)
Total revenue	150,905	151,071	—	327,459	349,176	(6)
Operating expenses						
Cost of operations (exclusive of depreciation and amortization disclosed separately below)	117,092	108,850	8	252,937	253,161	—
General and administrative	3,905	3,591	9	7,590	7,163	6
Depreciation and other amortization	8,977	6,547	37	17,571	12,954	36
Amortization of purchased intangibles	444	11,807	(96)	883	23,630	(96)
Total operating expenses	130,418	130,795	—	278,981	296,908	(6)
Operating income	20,487	20,276	1	48,478	52,268	(7)
Gain on sale of a business	—	—	—	—	(10,876)	(100)
Interest income, net	(113)	(82)	38	(182)	(349)	(48)
Income before income taxes and loss (income) from investment in unconsolidated subsidiaries – related party	20,600	20,358	1	48,660	63,493	(23)
Provision for income taxes	6,090	441	1,281	15,074	13,849	9
Loss (income) from investment in unconsolidated subsidiaries – related party, net of tax	5	(10)	(150)	42	58	(28)
Net income	$ 14,505	$ 19,927	(27)%	$ 33,544	$ 49,586	(32)%
Key Operating Metrics (in millions):						
AIR MILES reward miles issued	1,139.2	1,053.1	8%	2,250.8	2,368.9	(5)%
AIR MILES reward miles redeemed	800.3	608.2	32%	1,539.6	1,602.2	(4)%
Supplemental Information:						
Average CAD to USD foreign currency exchange rate	0.81	0.72	13%	0.80	0.73	10%
Average EUR to USD foreign currency exchange rate	1.21	1.10	10%	1.21	1.10	10%

Three months ended June 30, 2021 compared to the three months ended June 30, 2020

Revenue. Total revenue decreased $0.2 million to $150.9 million, for the three months ended June 30, 2021 as compared to $151.1 million for the three months ended June 30, 2020. The net decrease was due to the following:

- *Redemption, net.* Revenue decreased $5.8 million, or 7%, to $78.8 million for the three months ended June 30, 2021, as redemption revenue from our campaign-based loyalty programs decreased $5.2 million due to delays in programs in market due to the continued impact of COVID-19. The decrease in revenue was tempered by favorability in foreign currency exchange rates.
- *Services.* Revenue increased $7.2 million, or 12%, to $67.2 million for the three months ended June 30, 2021 due to the favorable impact of foreign currency exchange rates.
- *Other revenue.* Other revenue decreased $1.5 million, or 24%, to $4.9 million due to a decline in ancillary revenue associated with surplus inventory in our BrandLoyalty segment.

Cost of operations. Cost of operations increased $8.2 million, or 8%, to $117.1 million as compared to $108.9 million due to a $6.3 million increase in payroll and benefits expense, including an increase in incentive compensation and exempt wages, and a $7.1 million increase in operating expenses across various expense categories such as associate engagement at BrandLoyalty and marketing for additional AIR MILES Reward Program promotions. These increases were offset in part by a $5.1 million decrease in cost of redemptions due to the decline in redemption revenue discussed above.

General and administrative. General and administrative expenses increased $0.3 million, or 9%, to $3.9 million for the three months ended June 30, 2021 as compared to $3.6 million for the three months ended June 30, 2020, due an increase in payroll and benefits expense.

Depreciation and other amortization. Depreciation and other amortization increased $2.4 million, or 37%, to $9.0 million for the three months ended June 30, 2021 as compared to $6.5 million for the three months ended June 30, 2020, primarily due to amortization associated with previous investments in digital technology within our AIR MILES Reward Program segment.

Amortization of purchased intangibles. Amortization of purchased intangibles decreased $11.4 million, or 96%, to $0.4 million for the three months ended June 30, 2021, as compared to $11.8 million for the three months ended June 30, 2020, due to the fully amortized customer contracts in our BrandLoyalty segment.

Interest income, net. Total interest income, net remained flat at $0.1 million.

Taxes. Provision for income taxes increased $5.6 million to $6.1 million for the three months ended June 30, 2021 from $0.4 million for the three months ended June 30, 2020. The effective tax rate for the three months ended June 30, 2021 was 29.6% as compared to 2.2% for the prior year. The increase in the effective tax rate for the three months ended June 30, 2021 as compared to the three months ended June 30, 2020 was primarily due to discrete tax benefits related to the expiration of statutes of limitation and the resolution of tax audits in various foreign jurisdictions in the prior year.

Loss (income) from investment in unconsolidated subsidiaries—related party. The loss from unconsolidated subsidiaries — related party was de minimis. Our investment in our unconsolidated subsidiary, Comenity Canada, L.P. was sold to an affiliate of ADS in August 2021 for CDN $5.2 million.

Six months ended June 30, 2021 compared to the six months ended June 30, 2020

Revenue. Total revenue decreased $21.7 million, or 6%, to $327.5 million for the six months ended June 30, 2021 from $349.2 million for the six months ended June 30, 2020. The net decrease was due to the following:

- *Redemption, net.* Revenue decreased $21.9 million, or 11%, to $183.7 million for the six months ended June 30, 2021 as redemption revenue from our campaign-based loyalty programs decreased $19.5 million due to delays in programs in market which were impacted by COVID-19. The decrease in revenue was tempered by favorability in foreign currency exchange rates.

- *Services.* Revenue increased $3.2 million, or 2%, to $133.4 million for the six months ended June 30, 2021 due to the favorable impact of foreign currency exchange rates.
- *Other revenue.* Revenue decreased $3.1 million, or 23%, to $10.3 million due in part to a decline in ancillary revenue associated with surplus inventory within our BrandLoyalty segment.

Cost of operations. Cost of operations decreased $0.2 million to $252.9 million for the six months ended June 30, 2021 as compared to $253.2 million for the three months ended June 30, 2020, as a $12.6 million decrease in cost of redemptions due to the decline in redemption revenue was offset by an increase of $5.8 million in payroll and benefits expense associated with higher incentive compensation and a $6.5 million increase in operating expenses across various expense categories such as associate engagement expense at BrandLoyalty, marketing expense due to additional AIR MILES Reward Program promotions, professional fees, and realized losses on securities and foreigncurrency.

General and administrative. General and administrative expenses increased $0.4 million, or 6%, to $7.6 million for the six months ended June 30, 2021 as compared to $7.2 million for the six months ended June 30, 2020, due to an increase in payroll and benefits expense.

Depreciation and other amortization. Depreciation and other amortization increased $4.6 million, or 36%, to $17.6 million for the six months ended June 30, 2021 as compared to $13.0 million for the six months ended June 30, 2020, primarily due to additional capitalized software assets placed into service for digital investments for the AIR MILES Reward Program segment.

Amortization of purchased intangibles. Amortization of purchased intangibles decreased $22.7 million, or 96%, to $0.9 million for the six months ended June 30, 2021, as compared to $23.6 million for the six months ended June 30, 2020, due to the fully amortized customer contracts in our BrandLoyalty segment.

Gain on sale of a business. In January 2020, ADS sold Precima, a provider of retail strategy and customer data applications, resulting in a pre-tax gain of $10.9 million.

Interest income, net. Total interest income, net decreased $0.2 million, or 48%, to $0.2 million for the six months ended June 30, 2021 as compared to $0.3 million for the six months ended June 30, 2020, due to lower interest rates.

Taxes. Provision for income taxes increased $1.2 million to $15.1 million for the six months ended June 30, 2021 from $13.8 million for the six months ended June 30, 2020. The effective tax rate for the six months ended June 30, 2021 was 31.0% as compared to 21.8% for the prior year. The increase in the effective tax rate for the six months ended June 30, 2021 as compared to the six months ended June 30, 2020 was due to discrete tax benefits related to the expiration of statutes of limitation and the resolution of tax audits in various foreign jurisdictions in the prior year.

Loss (income) from investment in unconsolidated subsidiaries—related party. The loss from unconsolidated subsidiaries — related party was de minimis. Our investment in our unconsolidated subsidiary, Comenity Canada, L.P. was sold to an affiliate of ADS in August 2021 for CDN $5.2 million.

	Years Ended December 31,			% Change	
	2020	2019	2018	2020 to 2019	2019 to 2018
	(in thousands, except percentages)				
Revenues					
Redemption, net	$473,067	$ 637,321	$ 676,279	(26)%	(6)%
Services	264,050	367,647	368,170	(28)	—
Other	27,689	28,163	23,929	(2)	18
Total revenue	764,806	1,033,131	1,068,378	(26)	(3)
Operating expenses					
Cost of operations (exclusive of depreciation and amortization disclosed separately below)	587,615	847,552	824,203	(31)	3
General and administrative	14,315	14,823	14,049	(3)	6
Depreciation and other amortization	28,988	32,152	32,585	(10)	(1)
Amortization of purchased intangibles	48,953	48,027	52,238	2	(8)
Total operating expenses	679,871	942,554	923,075	(28)	2
Operating income	84,935	90,577	145,303	(6)	(38)
Gain on sale of a business	(10,876)	—	—	nm*	nm*
Interest (income) expense, net	(834)	2,335	5,528	(136)	(58)
Income before income taxes and loss from investment in unconsolidated subsidiaries – related party	96,645	88,242	139,775	10	(37)
Provision (benefit) for income taxes	21,324	11,331	(2,867)	88	(495)
Loss from investment in unconsolidated subsidiaries – related party, net of tax	246	1,681	5,033	(85)	(67)
Net income	$ 75,075	$ 75,230	$ 137,609	—%	(45)%
Key Operating Metrics (in millions):					
AIR MILES reward miles issued	4,963.8	5,511.1	5,500.0	(10)%	—%
AIR MILES reward miles redeemed	3,127.8	4,415.7	4,482.0	(29)%	(1)%
Supplemental Information:					
Average CAD to USD foreign currency exchange rate	0.75	0.75	0.77	(1)%	(2)%
Average EUR to USD foreign currency exchange rate	1.14	1.12	1.18	2%	(5)%

* not meaningful

Year ended December 31, 2020 compared to the year ended December 31, 2019

Revenue. Total revenue decreased $268.3 million, or 26%, to $764.8 million for the year ended December 31, 2020 from $1,033.1 million for the year ended December 31, 2019. The decrease was due to the following:

- *Redemption*. Redemption revenue is recognized at the point in time when the customer redeems for a reward. Revenue decreased $164.3 million, or 26%, to $473.1 million for the year ended December 31, 2020 as redemption revenue from our campaign-based loyalty solutions decreased $158.1 million due to a decline in programs in market across most regions due to the impact of COVID-19 and the reorganization of BrandLoyalty's sales personnel. In response to COVID-19, certain of our clients have delayed their campaign-based loyalty solutions. Redemption revenue for the AIR MILES Reward Program was also negatively impacted by the 29% decline in AIR MILES reward miles redeemed.

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- *Services*. Service revenue is associated with the overall management of the loyalty programs and is generally recognized over time. Revenue decreased $103.6 million, or 28%, to $264.1 million for the year ended December 31, 2020 primarily due to the sale of Precima® in January 2020, which resulted in a $78.5 million decrease in revenue as compared to the prior year. COVID-19 negatively impacted service revenue for the year ended December 31, 2020, resulting in lower volumes, including a decline in the number AIR MILES reward miles issued, a decline in ancillary fees from a reduction in travel, and a decline in the number of campaign-based loyalty programs in market, which impacted revenue by $8.7 million, $6.7 million and $7.8 million, respectively.
- *Other.* Other revenue includes investment income and other ancillary revenue earned. Revenue decreased $0.5 million, or 2%, to $27.7 million for the year ended December 31, 2020, primarily due to the sale of Precima in January 2020, which resulted in a $0.8 million decrease in other revenue as compared to the prior year.

Cost of operations. Cost of operations decreased $259.9 million, or 31%, to $587.6 million for the year ended December 31, 2020 as compared to $847.6 million for the year ended December 31, 2019. The decline in the cost of operations was impacted by the following:

- a decrease in the cost of redemptions of $114.2 million resulting from the decrease in redemption revenue noted above;
- the sale of Precima resulted in a decrease in cost of operations by $78.4 million;
- restructuring and other charges of $50.8 million incurred during the year ended December 31, 2019.
- Cost of operations also decreased due to cost saving initiatives executed in 2019 and 2020, with reduction of expenses across several categories, as well as the impact of COVID-19, which resulted in a reduction of certain expenses such as travel and entertainment and associate engagement.

General and administrative. General and administrative expenses decreased $0.5 million, or 3%, to $14.3 million for the year ended December 31, 2020 as compared to $14.8 million for the year ended December 31, 2019, due to cost saving initiatives implemented by ADS in 2019 and 2020.

Depreciation and other amortization. Depreciation and other amortization decreased $3.2 million, or 10%, to $29.0 million for the year ended December 31, 2020, as compared to $32.2 million for the year ended December 31, 2019. In 2019, $4.4 million of depreciation and amortization expense was associated with Precima, which was sold in January 2020. The decline in depreciation and other amortization was offset in part by additional assets placed into service from recent capital expenditures.

Amortization of purchased intangibles. Amortization of purchased intangibles increased $0.9 million, or 2%, to $49.0 million for the year ended December 31, 2020, as compared to $48.0 million for the year ended December 31, 2019, due to the increase in the Euro relative to the U.S. dollar.

Gain on sale of a business. In January 2020, ADS sold Precima, a provider of retail strategy and customer data applications, resulting in a pre-tax gain of $10.9 million.

Interest (income) expense, net. Total interest expense, net decreased $3.2 million, or 136%, to interest income of $(0.8) million for the year ended December 31, 2020 as compared to interest expense of $2.3 million for the year ended December 31, 2019. The net decrease was due to the repayment of the related party notes payable and BrandLoyalty's credit facility in September 2019, as a result of which there was no outstanding debt throughout 2020.

Taxes. Provision for income taxes increased $10.0 million, or 88%, to $21.3 million for the year ended December 31, 2020 from $11.3 million for the year ended December 31, 2019. The effective tax rate for the current year was 22.1% as compared to 12.8% for the prior year. The lower effective tax rate in the prior year included a decrease in tax reserves resulting from the expiration of statutes of limitation and the resolution of tax audit issues in various foreign jurisdictions.

Loss from unconsolidated subsidiaries—related party. Loss from unconsolidated subsidiaries — related party decreased $1.4 million, or 85%, to $0.2 million for the year ended December 31, 2020 from $1.7 million for the year ended December 31, 2019. The decrease was attributable to the sale of our investment in

ICOM Information & Communications L.P. ("ICOM") in February 2019, as ICOM operated at a loss. As of December 31, 2020, our remaining investment in unconsolidated subsidiaries — related party was in Comenity Canada L.P., which we expect to transfer to the Parent and its consolidated subsidiaries prior to the spin.

Year ended December 31, 2019 compared to the year ended December 31, 2018

Revenue. Total revenue decreased $35.2 million, or 3%, to $1,033.1 million for the year ended December 31, 2019 from $1,068.4 million for the year ended December 31, 2018. The net decrease was due to the following:

- *Redemption*. Redemption revenue in recognized at the point is time when the customer redeems for a reward. Revenue decreased $39.0 million, or 6%, to $637.3 million for the year ended December 31, 2019. Redemption revenue from our coalition loyalty program decreased $46.4 million due to the net presentation of $43.0 million of revenue from the outsourcing of additional rewards inventory during the year ended December 31, 2019 and a 1% decline in the number of AIR MILES reward miles redeemed. For the fulfillment of certain rewards where the AIR MILES Reward Program does not control the goods or services before they are transferred to the collector, revenue is recorded on a net basis. In 2019, the AIR MILES Reward Program outsourced the fulfillment of certain merchandise rewards, which resulted in revenue presented net of cost of redemptions, as compared to on a gross revenue basis in 2018 when the AIR MILES Reward Program controlled the good or service before it was transferred to the collector. Redemption revenue from our campaign-based loyalty solutions increased $7.4 million due to strong performance in Europe, Asia and Brazil.
- *Services.* Service revenue is associated with the overall management of the loyalty programs and is generally recognized over time. Revenue decreased $0.5 million to $367.6 million for the year ended December 31, 2019 due to a decline in AIR MILES Reward Program issuance revenue of $14.4 million, impacted in part by the change in estimate of the life of a mile in 2017. This decrease was offset in part by an $8.1 million increase in servicing revenue associated with our campaign-based loyalty solutions in market as well as growth in our marketing services of $4.2 million.
- *Other.* Other revenue includes investment income and other ancillary revenue earned. Revenue increased $4.2 million, or 18%, to $28.2 million for the year ended December 31, 2019 due to an increase in investment income on restricted cash.

Cost of operations. Cost of operations increased $23.3 million, or 3%, to $847.6 million for the year ended December 31, 2019 as compared to $824.2 million for the year ended December 31, 2018 due primarily to $50.8 million of restructuring and other charges incurred during the year ended December 31, 2019. See Note 12, "Restructuring and Other Charges," of the Notes to Combined Financial Statements for the year ended December 31, 2020 for more information. Additionally, data processing expense increased $21.2 million, driven by an increase in outsourced technology costs. These increases were offset in part by the net presentation of $43.0 million in cost of redemptions within our coalition loyalty program as discussed above.

General and administrative. General and administrative expenses increased $0.8 million, or 6%, to $14.8 million for the year ended December 31, 2019 as compared to $14.0 million for the year ended December 31, 2018 due to higher consulting costs.

Depreciation and other amortization. Depreciation and other amortization decreased $0.4 million, or 1%, to $32.2 million for the year ended December 31, 2019, as compared to $32.6 million for the year ended December 31, 2018, due to certain fully depreciated property and equipment, offset in part by additional assets placed into service from recent capital expenditures.

Amortization of purchased intangibles. Amortization of purchased intangibles decreased $4.2 million, or 8%, to $48.0 million for the year ended December 31, 2019, as compared to $52.2 million for the year ended December 31, 2018, primarily due to the decline in the Euro relative to the U.S. dollar.

Interest expense, net. Total interest expense, net decreased $3.2 million, or 58%, to $2.3 million for the year ended December 31, 2019 as compared to $5.5 million for the year ended December 31, 2018 as a result of the repayment of its related party debt in September 2019, as well as the pay down of the BrandLoyalty credit agreement.

Taxes. Provision for income taxes was $11.3 million for the year ended December 31, 2019, as compared to a benefit of $(2.9) million for the year ended December 31, 2018, primarily related to discrete tax benefit associated with the restructuring of certain non-US intangibles.

Loss from unconsolidated subsidiaries — related party. Loss from unconsolidated subsidiaries — related party decreased $3.4 million, or 67%, to $1.7 million for the year ended December 31, 2019 from $5.0 million for the year ended December 31, 2018. The decrease was attributable to the sale of our investment in ICOM in February 2019, as ICOM operated at a loss for all of 2018.

Use of non-GAAP financial measures

Adjusted EBITDA is a non-GAAP financial measure equal to net income, the most directly comparable financial measure based on accounting principles generally accepted in the United States of America, or GAAP, plus loss (income) from investment in unconsolidated subsidiaries — related party, provision for income taxes, interest (income) expense, net, depreciation and other amortization, the amortization of purchased intangibles and stock compensation expense. Adjusted EBITDA excludes the gain on the sale of Precima, strategic transaction costs, which represent costs for professional services associated with strategic initiatives, and restructuring and other charges. In 2018, adjusted EBITDA also excluded the gain on the sale of our investment in dotz. These costs, as well as stock compensation expense, were not included in the measurement of segment adjusted EBITDA as the chief operating decision maker did not factor these expenses for purposes of assessing segment performance and decision making with respect to resource allocations.

We use adjusted EBITDA as an integral part of our internal reporting to measure the performance of our reportable segments and to evaluate the performance of our senior management, and we believe it provides useful information to our investors regarding our performance and overall results of operations. Adjusted EBITDA is considered an important indicator of the operational strength of our businesses. Adjusted EBITDA eliminates the uneven effect across all business segments of considerable amounts of non-cash depreciation of tangible assets and amortization of intangible assets, including certain intangible assets that were recognized in business combinations. A limitation of this measure, however, is that it does not reflect the periodic costs of certain capitalized tangible and intangible assets used in generating revenues in our businesses. Management evaluates the costs of such tangible and intangible assets, such as capital expenditures, investment spending and return on capital and therefore the effects are excluded from adjusted EBITDA. Adjusted EBITDA also eliminates the non-cash effect of stock compensation expense.

Adjusted EBITDA is not intended to be a performance measure that should be regarded as an alternative to, or more meaningful than, net income as an indicator of operating performance or to cash flows from operating activities as a measure of liquidity. In addition, adjusted EBITDA is not intended to represent funds available for dividends, reinvestment or other discretionary uses, and should not be considered in isolation or as a substitute for measures of performance prepared in accordance with GAAP.

Adjusted EBITDA presented herein may not be comparable to similarly titled measures presented by other companies, and may not be identical to corresponding measures used in our various agreements.

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
	(in thousands)			
Net income	$14,505	$19,927	$33,544	$49,586
Loss (income) from investment in unconsolidated subsidiaries – related party, net of tax	5	(10)	42	58
Provision for income taxes	6,090	441	15,074	13,849
Interest income, net	(113)	(82)	(182)	(349)
Depreciation and other amortization	8,977	6,547	17,571	12,954
Amortization of purchased intangibles	444	11,807	883	23,630
Stock compensation expense	2,325	1,954	4,179	3,358
Gain on sale of a business, net of strategic transaction costs[1]	—	—	—	(7,969)
Strategic transaction costs[2]	—	79	—	162
Restructuring and other charges	—	72	—	129
Adjusted EBITDA	$32,233	$40,735	$71,111	$95,408

(1) Represents gain on sale of Precima in January 2020, net of strategic transaction costs. Precima was included in our AIR MILES Reward Program segment. See Note 3, "Dispositions," to Unaudited Condensed Combined Financial Statements for the six months ended June 30, 2021 for more information.

(2) Represents costs for professional services associated with strategic initiatives.

	Years Ended December 31,		
	2020	2019	2018
	(in thousands)		
Net income	$ 75,075	$ 75,230	$137,609
Loss from investment in unconsolidated subsidiaries – related party, net of tax	246	1,681	5,033
Provision for (benefit from) income taxes	21,324	11,331	(2,867)
Interest (income) expense, net	(834)	2,335	5,528
Depreciation and other amortization	28,988	32,152	32,585
Amortization of purchased intangibles	48,953	48,027	52,238
Stock compensation expense	7,017	9,076	13,333
Gain on sale of a business, net of strategic transaction costs[1]	(7,816)	—	—
Strategic transaction costs[2]	329	981	—
Restructuring and other charges[3]	108	50,780	—
Gain on sale of an investment[4]	—	—	(9,517)
Adjusted EBITDA	$173,390	$231,593	$233,942

(1) Represents gain on sale of Precima in January 2020, net of strategic transaction costs. Precima was included in our AIR MILES Reward Program segment. See Note 4, "Dispositions," of the Notes to Combined Financial Statements for the year ended December 31, 2020 for additional information.

(2) Represents costs for professional services associated with strategic initiatives.

(3) Represents costs associated with restructuring or other exit activities. See Note 12, "Restructuring and Other Charges," of the Notes to Combined Financial Statements for the year ended December 31, 2020 for additional information.

(4) Represents gain on sale of an investment in CBSM-Companhia Brasileira De Servicos De Marketing, the operator of the dotz coalition loyalty program, in June 2018.

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Segment revenue and adjusted EBITDA

	Three Months Ended June 30,		% Change	Six Months Ended June 30,		% Change
	2021	2020	2021 to 2020	2021	2020	2021 to 2020
	(in thousands, except percentages)					
Revenue:						
AIR MILES Reward Program	$ 71,937	$ 64,690	11%	$142,194	$141,153	1%
BrandLoyalty	78,968	86,381	(9)	185,265	208,023	(11)
Corporate/Other	—	—	—	—	—	—
Total	$150,905	$151,071	—%	$327,459	$349,176	(6)%
Adjusted EBITDA:						
AIR MILES Reward Program	$ 36,758	$ 37,007	(1)%	$ 73,209	$ 80,260	(9)%
BrandLoyalty	(1,110)	6,879	(116)	4,597	21,464	(79)
Corporate/Other	(3,415)	(3,151)	8	(6,695)	(6,316)	6
Total	$ 32,233	$ 40,735	(21)%	$ 71,111	$ 95,408	(25)%

Three months ended June 30, 2021 compared to the three months ended June 30, 2020

Revenue. Total revenue decreased $0.2 million to $150.9 million for the three months ended June 30, 2021 from $151.1 million for the three months ended June 30, 2020. The net decrease was due to the following:

- *AIR MILES Reward Program*. Revenue increased $7.2 million, or 11%, to $71.9 million for the three months ended June 30, 2021, as revenue was positively impacted by the increase in the Canadian dollar exchange rate. In local currency, revenue decreased 1% as redemption revenue, net was negatively impacted by pandemic-related travel refunds and higher cost of redemptions.
- *BrandLoyalty*. Revenue decreased $7.4 million, or 9%, to $79.0 million for the three months ended June 30, 2021, from a decline in programs in market due to retailer delays from the continued impact of COVID-19.

Adjusted EBITDA. Adjusted EBITDA decreased $8.5 million, or 21%, to $32.2 million for the three months ended June 30, 2021 from $40.7 million for the three months ended June 30, 2020. The decrease was due to the following:

- *AIR MILES Reward Program*. Adjusted EBITDA decreased $0.2 million or 1%, to $36.8 million for the three months ended June 30, 2021 as the increase in revenue was offset by an increase in payroll and benefits expense, promotional marketing expense and realized mark-to-market losses on certain mutual fund investments.
- *BrandLoyalty*. Adjusted EBITDA decreased $8.0 million, or 116%, to $(1.1) million for the three months ended June 30, 2021 due lost margin from the decline in revenue noted above, and an increase in both payroll and benefits and associate engagement expense.

Corporate/Other. Adjusted EBITDA decreased $0.3 million to $(3.4) million for the three months ended June 30, 2021 due to an increase in payroll and benefits expense.

Six months ended June 30, 2021 compared to the six months ended June 30, 2020

Revenue. Total revenue decreased $21.7 million, or 6%, to $327.5 million for the six months ended June 30, 2021 from $349.2 million for the six months ended June 30, 2020. The net decrease was due to the following:

- *AIR MILES Reward Program.* Revenue increased $1.0 million, or 1%, to $142.2 million for the six months ended June 30, 2021 as revenue was positively impacted by the increase in the Canadian dollar exchange rate. In local currency, revenue declined 8% due to the negative impact of lower AIR

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MILES issued and redeemed. Redemption revenue, net was also negatively impacted by pandemic-related travel refunds and higher cost of redemptions.

- *BrandLoyalty.* Revenue decreased $22.8 million, or 11%, to $185.3 million for the six months ended June 30, 2021, due to a decline in programs in market due to retailer delays related to the continued impact of COVID-19.

Adjusted EBITDA. Adjusted EBITDA decreased $24.3 million, or 25%, to $71.1 million for the six months ended June 30, 2021 from $95.4 million for the six months ended June 30, 2020. The decrease was due to the following:

- *AIR MILES Reward Program.* Adjusted EBITDA decreased $7.1 million, or 9%, to $73.2 million for the six months ended June 30, 2021. The decline in adjusted EBITDA was primarily due to an increase in marketing expense for additional promotional activity for the second half of the year and realized mark-to-market losses on certain mutual fund investments.
- *BrandLoyalty.* Adjusted EBITDA decreased $16.9 million, or 79%, to $4.6 million for the six months ended June 30, 2021 due to margin loss from the decline in revenue noted above, and an increase in payroll and benefits as well as associate engagement expenses and realized losses on foreign currency.
- *Corporate/Other.* Adjusted EBITDA decreased $0.4 million to $(6.7) million due to an increase in payroll and benefits expense.

	Years Ended December 31,			% Change	
	2020	2019	2018	2020 to 2019	2019 to 2018
	(in thousands, except percentages)				
Revenue:					
AIR MILES Reward Program	$277,121	$ 384,021	$ 434,934	(28)%	(12)%
BrandLoyalty	487,685	649,110	633,444	(25)	2
Corporate/Other	—	—	—	—	—
Total	$764,806	$1,033,131	$1,068,378	(26)%	(3)%
Adjusted EBITDA:					
AIR MILES Reward Program	$144,025	$ 165,168	$ 174,927	(13)%	(6)%
BrandLoyalty	42,161	79,376	69,748	(47)	14
Corporate/Other	(12,796)	(12,951)	(10,733)	(1)	21
Total	$173,390	$ 231,593	$ 233,942	(25)%	(1)%

Year ended December 31, 2020 compared to the year ended December 31, 2019

Revenue. Total revenue decreased $268.3 million, or 26%, to $764.8 million for the year ended December 31, 2020 from $1,033.1 million for the year ended December 31, 2019. The decrease was due to the following:

- *AIR MILES Reward Program*. Revenue decreased $106.9 million, or 28%, to $277.1 million for the year ended December 31, 2020 as the sale of Precima in January 2020 resulted in a $79.3 million decrease in revenue. Redemption revenue and servicing revenue were negatively impacted by a 10% decline in AIR MILES reward miles issued and a 29% decline in AIR MILES reward miles redeemed due to the macroeconomic impacts of COVID-19.
- *BrandLoyalty*. Revenue decreased $161.4 million, or 25%, to $487.7 million for the year ended December 31, 2020, due to a decline in programs in market across most regions due to the impact of COVID-19 as well as the reorganization of sales personnel.

Adjusted EBITDA. Adjusted EBITDA decreased $58.2 million, or 25%, to $173.4 million for the year ended December 31, 2020 from $231.6 million for the year ended December 31, 2019. The net decrease was due to the following:

- *AIR MILES Reward Program*. Adjusted EBITDA decreased $21.1 million, or 13%, to $144.0 million for the year ended December 31, 2020, due to revenue declines discussed above, offset in part by improved expense management, including cost saving initiatives executed in 2019. For the year ended December 31, 2020, the $7.8 million gain on the sale of Precima, net of transaction costs was excluded from adjusted EBITDA. For the year ended December 31, 2019, restructuring and other charges of $3.5 million and strategic transaction costs of $1.0 million were excluded from adjusted EBITDA.
- *BrandLoyalty*. Adjusted EBITDA decreased $37.2 million, or 47%, to $42.2 million for the year ended December 31, 2020 primarily due to the decrease in revenue as discussed above. For the year ended December 31, 2019, restructuring and other charges of $47.3 million were excluded from adjusted EBITDA.
- *Corporate/Other*. Adjusted EBITDA remained relatively flat, improving slightly to $(12.8) million for the year ended December 31, 2020 as compared to $(13.0) million for the year ended December 31, 2019.

Year ended December 31, 2019 compared to the year ended December 31, 2018

Revenue. Total revenue decreased $35.2 million, or 3%, to $1,033.1 million for the year ended December 31, 2019 from $1,068.4 million for the year ended December 31, 2018. The decrease was due to the following:

- *AIR MILES Reward Program*. Revenue decreased $50.9 million, or 12%, to $384.0 million for the year ended December 31, 2019, impacted by a decline in redemption revenue of $46.4 million driven by a $43.0 million decrease in revenue related to the outsourcing of additional rewards inventory recorded on a net basis and a 1% decline in AIR MILES reward miles redeemed.
- *BrandLoyalty*. Revenue increased $15.7 million, or 2%, to $649.1 million for the year ended December 31, 2019, due to additional programs in market and strong program performance, particularly in Europe, Asia and Brazil.

Adjusted EBITDA. Adjusted EBITDA decreased $2.3 million, or 1%, to $231.6 million for the year ended December 31, 2019 from $233.9 million for the year ended December 31, 2018. The net decrease was due to the following:

- *AIR MILES Reward Program.* Adjusted EBITDA decreased $9.8 million, or 6%, to $165.2 million for the year ended December 31, 2019. Adjusted EBITDA was negatively impacted by the decline in revenue. Restructuring and other charges of $3.5 million and strategic transaction costs of $1.0 million were excluded from adjusted EBITDA for the year ended December 31, 2019 and a $9.5 million gain on the sale of an investment was excluded from adjusted EBITDA for the year ended December 31, 2018.
- *BrandLoyalty*. Adjusted EBITDA increased $9.6 million, or 14%, to $79.4 million for the year ended December 31, 2019 primarily due to the margin from the increases in revenue noted above. Restructuring and other charges of $47.3 million were excluded from adjusted EBITDA for the year ended December 31, 2019.
- *Corporate/Other*. Adjusted EBITDA decreased $2.2 million to $(13.0) million for the year ended December 31, 2019 from $(10.7) million for the year ended December 31, 2018 due to an increase in incentive compensation.

Liquidity and capital resources

Historically, our primary source of liquidity has been cash generated from operating activities. We expect to expand those sources with the use of our new credit facility and issuances of debt or equity securities. Our primary uses of cash are for ongoing business operations, repayment of our debt, capital expenditures, and investments.

We believe that internally generated funds and other sources of liquidity discussed below will be sufficient to meet working capital needs, capital expenditures, and other business requirements for at least

the next 12 months. We believe we will meet known or reasonably likely future cash requirements through the combination of cash flows from operating activities, available cash balances and available borrowings through the issuance of third-party debt. If these sources of liquidity need to be augmented, additional cash requirements would likely be financed through the issuance of debt or equity securities; however, there can be no assurances that we will be able to obtain additional debt or equity financing on acceptable terms in the future. In addition, the continued volatility in the financial and capital markets due to COVID-19 may limit our access to, or increase our cost of, capital or make capital unavailable on terms acceptable to us or at all.

Our ability to fund our operating needs will depend on our future ability to continue to generate positive cash flow from operations and obtain debt or equity financing on acceptable terms.

Cash flow activity for the six months ended June 30, 2021 and 2020

Operating Activities. We generated cash flow from operating activities of $97.8 million and $127.7 million for the six months ended June 30, 2021 and 2020, respectively. The year-over-year decrease in operating cash flows was primarily due to increases in working capital.

Investing Activities. Cash used in investing activities was $49.1 million and $32.3 million for the six months ended June 30, 2021 and 2020, respectively. Significant components of investing activities are as follows:

- *Redemption settlement assets, restricted.* The cash used from redemption settlement assets, restricted was $41.0 million and $18.7 million for the six months ended June 30, 2021 and 2020 respectively. The increase in cash used was attributable to an increase in investments, as AIR MILES reward miles issued were greater than AIR MILES reward miles redeemed.
- *Capital expenditures.* Cash paid for capital expenditures was $8.9 million and $13.6 million for the six months ended June 30, 2021 and 2020, respectively. We anticipate that capital expenditures will be less than 5% of annual revenue.

Financing Activities. Cash used in financing activities was $119.8 million and $12.2 million for the six months ended June 30, 2021 and 2020, respectively. In 2021, the Company paid a dividend to the Parent of $124.2 million, of which $4.2 million was withheld for taxes.

Cash flow activity for the years ended December 31, 2020, 2019 and 2018

Operating Activities. We generated cash flow from operating activities of $216.3 million, $105.7 million, and $65.4 million for the years ended December 31, 2020, 2019, and 2018, respectively. The year-over-year increases in operating cash flows of $110.6 million and $40.3 million for the years ended December 31, 2020 and 2019, respectively, was primarily due to decreases in working capital. In 2020, the decreases in working capital were due in most part by COVID-19 impacts in the market.

Investing Activities. Cash used in investing activities was $65.7 million, $53.0 million and $78.5 million for the years ended December 31, 2020, 2019 and 2018, respectively. Significant components of investing activities are as follows:

- *Redemption settlement assets, restricted.* The cash used from redemption settlement assets, restricted was $40.7 million, $9.5 million and $42.2 million for the years ended December 31, 2020, 2019, and 2018, respectively. The increase in cash used was attributable to an increase in investments, as AIR MILES reward miles issued were greater than AIR MILES reward miles redeemed.
- *Capital expenditures.* Cash paid for capital expenditures was $24.3 million, $41.5 million and $34.0 million for the years ended December 31, 2020, 2019, and 2018, respectively. We anticipate that capital expenditures will be less than 5% of annual revenue.
- Proceeds from the sale of investment in unconsolidated subsidiaries — related party. In 2019, we sold our investment in ICOM to a subsidiary of ADS for $4.0 million.
- *Investments in unconsolidated subsidiaries — related party.* We made investments in unconsolidated subsidiaries — related party of $0.7 million, $6.1 million, and $0.8 million for the years ended

December 31, 2020, 2019, and 2018, respectively. We made contributions to Comenity Canada L.P. of $0.7 million, $0.7 million, and $0.8 million for the years ended December 31, 2020, 2019, and 2018, respectively. In 2019, we also made a contribution to ICOM of $5.3 million to fund certain losses.

Financing Activities. Cash used in financing activities was $2.6 million, $42.9 million and $23.9 million for the years ended December 31, 2020, 2019 and 2018, respectively.

- *Debt.* In 2019, a capital contribution of $288.7 million received from ADS was used to repay existing amounts under BrandLoyalty's credit agreement and amounts owed under certain note payable agreements to subsidiaries of ADS. In 2018, BrandLoyalty made net repayments of $6.4 million under its credit agreement, and we paid a cash dividend to ADS of $6.8 million
- *Net transfers to Parent*. Cash used in financing transactions reflecting transactions with ADS were $2.6 million, $28.4 million and $10.7 million for the years ended December 31, 2020, 2019, and 2018 respectively.

Debt

In connection with the Separation, we expect to incur $675.0 million of new debt from the proceeds of the new term loan facility, the net proceeds of which we intend to use to fund a portion of a cash transfer of $750.0 million to ADS, or one or more of its subsidiaries, as part of the Restructuring. We also expect to enter into a $150.0 million revolving credit facility to support the business after consummation of the Separation and Distribution, but do not expect to draw on this facility immediately. The debt may also restrict our business and may adversely impact our financial condition, results of operations or cash flows. In addition, our separation from ADS' other businesses may increase the overall cost of debt funding and decrease the overall debt capacity and commercial credit available to us.

BrandLoyalty Credit Agreement

In September 2019, we repaid the €115.0 million in term loans outstanding under the BrandLoyalty credit agreement, originally scheduled to mature in June 2020, and repaid the €32.5 million amount outstanding under the revolving line of credit.

In April 2020, BrandLoyalty terminated its existing facility and entered into a new credit agreement that provides for a committed revolving line of credit of €30.0 million ($36.6 million as of December 31, 2020), an uncommitted revolving line of credit of €30.0 million ($36.6 million as of December 31, 2020), and an accordion feature permitting BrandLoyalty to request an increase in either the committed or uncommitted line of credit up to €80.0 million ($97.7 million as of December 31, 2020) in aggregate. The revolving lines of credit mature in April 2023, subject to BrandLoyalty's request to extend for two additional one-year terms at the absolute discretion of the lenders at the time of such requests. As of December 31, 2020, there were no amounts outstanding under these revolving lines of credit.

In the first quarter of 2021, BrandLoyalty and certain of its subsidiaries, as borrowers and guarantors, amended its credit agreement to extend the maturity date by one year from April 3, 2023 to April 3, 2024.

See Note 14, "Debt," of the Notes to Combined Financial Statements for the year ended December 31, 2020 and Note 9, "Debt," of the Notes to Unaudited Condensed Combined Financial Statements for the six months ended June 30, 2021 for additional information regarding our debt.

Contractual Obligations

In the normal course of business, we enter into various contractual obligations that may require future cash payments. Our future cash payments associated with our contractual obligations and commitments to make future payments by type and period as of December 31, 2020 are summarized below:

	2021	2022	2023	2024	2025	Thereafter	Total
				(in thousands)			
Operating leases	$ 15,450	$16,038	$14,669	$13,796	$13,252	$92,846	$166,051
ASC 740 obligations[1]	—	—	—	—	—	—	—
Purchase obligations[2]	102,375	23,963	23,883	14,645	11,348	—	176,214
Total	$117,825	$40,001	$38,552	$28,441	$24,600	$92,846	$342,265

(1) ASC 740 obligations do not reflect unrecognized tax benefits of $25.3 million, of which the timing remains uncertain.

(2) Purchase obligations are defined as an agreement to purchase goods or services that is enforceable and legally binding and specifying all significant terms, including the following: fixed or minimum quantities to be purchased; fixed, minimum or variable price provisions; and approximate timing of the transaction. The purchase obligation amounts disclosed above represent estimates of the minimum for which we are obligated and the time period in which cash outflows will occur. Purchase orders and authorizations to purchase that involve no firm commitment from either party are excluded from the above table. Purchase obligations include inventory purchase commitments and sponsor commitments under our AIR MILES Reward Program, minimum payments under support and maintenance contracts and agreements to purchase other goods and services.

We believe that we will have access to sufficient resources to meet these commitments.

Inflation and seasonality

Although we cannot precisely determine the impact of inflation on our operations, we do not believe that we have been significantly affected by inflation. For the most part, we have relied on operating efficiencies from scale, technology and expansion in lower cost jurisdictions in select circumstances, as well as decreases in technology and communication costs, to offset increased costs of employee compensation and other operating expenses. With respect to seasonality, our revenues, earnings and cash flows are affected by increased consumer spending patterns leading up to and including the holiday shopping period in the fourth quarter.

Quantitative and qualitative disclosures about market risk

Market risk is the risk of loss from adverse changes in market prices and rates. Our primary market risk includes foreign currency exchange rate risk.

Foreign currency exchange rate risk

We are exposed to fluctuations in the exchange rate between the U.S. and the Canadian dollar and between the U.S. dollar and the Euro. For the year ended December 31, 2020, an additional 10% decrease in the strength of the Canadian dollar versus the U.S. dollar and the Euro versus the U.S. dollar would have resulted in an additional decrease in pre-tax income of approximately $12.2 million and $2.4 million, respectively. Conversely, a corresponding increase in the strength of the Canadian dollar or the Euro versus the U.S. dollar would result in a comparable increase to pre-tax income in these periods.

Discussion of critical accounting estimates

Our discussion and analysis of our financial condition and results of operations is based upon our combined financial statements, which have been prepared in accordance with accounting policies that are described in the Notes to Combined Financial Statements for the year ended December 31, 2020. The preparation of the combined financial statements requires management to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses, and related disclosure of contingent assets and liabilities. We continually evaluate our judgments and estimates in determination of our financial condition and operating results. Estimates are based on information available as of the date of the financial statements and, accordingly, actual results could differ from these estimates, sometimes

materially. Critical accounting estimates are defined as those that are both most important to the portrayal of our financial condition and operating results and require management's most subjective judgments. The primary critical accounting estimates are described below.

Revenue recognition

We recognize revenue when control of the promised goods or services is transferred to the customer, in an amount that reflects the consideration we expect to be entitled to in exchange for those goods or services. In that determination, under ASC 606, we follow a five-step model that includes: (1) determination of whether a contract, an agreement between two or more parties that creates legally enforceable rights and obligations, exists; (2) identification of the performance obligations in the contract; (3) determination of the transaction price; (4) allocation of the transaction price to the performance obligations in the contract; and (5) recognition of revenue when (or as) the performance obligation is satisfied.

We enter into contracts with customers that may include multiple performance obligations. The transaction price is allocated to the separate performance obligations on a relative standalone selling price basis. If the standalone selling price is not directly observable, we estimate the standalone selling price based on either the adjusted market assessment or cost plus a margin approach.

Certain of our contracts may provide for variable consideration. We estimate these amounts based on either the expected amount or most likely amount to be provided to the customer to determine the transaction price for the contract. The estimation method is consistent for contracts with similar terms and is applied consistently throughout each contract. The estimates of variable consideration and determination of whether to include estimated amounts in the transaction price are based largely on an assessment of the anticipated performance and all information that is reasonably available.

AIR MILES Reward Program. The AIR MILES Reward Program collects fees, or consideration, from its sponsors based on the number of AIR MILES reward miles issued and, in limited circumstances, the number of AIR MILES reward miles redeemed. Because management has determined that the earnings process is not complete at the time an AIR MILES reward mile is issued, the recognition of redemption and service revenue is deferred. Under certain of our contracts, a portion of the consideration is paid to us upon the issuance of AIR MILES reward miles and a portion is paid at the time of redemption and therefore, we do not have a redemption obligation related to these contracts.

Total consideration from the issuance of AIR MILES reward miles is allocated to three performance obligations: redemption, service, and brand, based on a relative standalone selling price basis.

The estimated standalone selling price for the redemption and the service performance obligations are based on cost plus a reasonable margin. The estimated standalone selling price of the brand performance obligation is determined using a relief from royalty approach. Accordingly, management determines the estimated standalone selling price by considering multiple inputs and methods, including discounted cash flows and available market data in consideration of applicable margins and royalty rates to utilize. The number of AIR MILES reward miles issued and redeemed are factored into the estimates, as management estimates the standalone selling prices and volumes over the term of the respective agreements in order to determine the allocation of consideration to each performance obligation delivered. The redemption performance obligation incorporates the expected number of AIR MILES reward miles to be redeemed, and therefore, the amount of redemption revenue recognized is subject to management's estimate of breakage, or those AIR MILES reward miles estimated to be unredeemed by the collector base. Our AIR MILES reward miles do not expire with the exception of cases of inactivity, which occurs when a collector account has had no transactional activity for 24 consecutive months. Additionally, the estimated life of an AIR MILES reward mile impacts the timing of revenue recognition.

Breakage and the life of an AIR MILES reward mile are based on management's estimate after viewing and analyzing various historical trends including vintage analysis, current run rates and other pertinent factors, such as the impact of macroeconomic factors and changes in the program structure.

For the years ended December 31, 2020, 2019 and 2018, our estimated breakage rate remained 20%. Our cumulative redemption rate, which represents program to date redemptions divided by program to date

issuance, is 69% as of December 31, 2020. We expect the ultimate redemption rate will approximate 80% based on our historical redemption patterns, statistical regression models, and consideration of enacted program changes, as applicable.

For the years ended December 31, 2020, 2019 and 2018, our estimated life of an AIR MILES reward mile remained 38 months. We estimate that a change to the estimated life of an AIR MILES reward mile of one month would impact revenue by approximately $4 million. Any future changes in collector behavior could result in further changes in our estimates of breakage or life of an AIR MILES reward mile.

As of December 31, 2020, we had $1,004.0 million in deferred revenue related to the AIR MILES Reward Program that will be recognized in the future. Further information is provided in Note 3, "Revenue," of the Notes to Combined Financial Statements for the year ended December 31, 2020.

Goodwill

We test goodwill for impairment annually, or when events and circumstances change that would indicate the carrying value may not be recoverable.

For the 2020 annual impairment test, we performed a quantitative analysis for the AIR MILES Reward Program and BrandLoyalty reporting units under ADS. The fair value of the reporting units was estimated using a discounted cash flow analysis based on management's estimates of forecasted cash flows, with those cash flows discounted to present value using rates commensurate with the risks associated with those cash flows. The valuation includes assumptions related to revenue growth and profit performance, capital expenditures, the discount rate and other assumptions that are judgmental in nature. Changes in these estimates and assumptions could materially affect the results of our tests for goodwill impairment. We determined there was no impairment of goodwill on these reporting units.

As of December 31, 2020, we had goodwill of approximately $735.9 million. The following table presents the percentage by which fair value of the reporting units exceeded carrying value as of the 2020 annual impairment test and goodwill for each respective reporting unit as of December 31, 2020:

Reporting Unit	Approximate Excess Fair Value % as of July 1, 2020	Goodwill as of December 31, 2020
	(in thousands)	
AIR MILES Reward Program	>250%	$193,276
BrandLoyalty	≤10%	542,622
Total		$735,898

As with all assumptions, there is an inherent level of uncertainty and actual results, to the extent they differ from those assumptions, could have a material impact on fair value. For example, a reduction in customer demand would impact our assumed growth rate resulting in a reduced fair value. The loss of a major customer or program could have a significant impact on the future cash flows of the reporting unit(s). Potential events or circumstances could have a negative effect on the estimated fair value. In addition, the COVID-19 pandemic and continuing uncertainty in the macroeconomic environment, future deterioration in the economy could adversely impact our reporting units and result in a goodwill impairment charge that could be material.

Income taxes

We account for uncertain tax positions in accordance with Accounting Standards Codification, or ASC, 740, "Income Taxes." The application of income tax law is inherently complex. Laws and regulations in this area are voluminous and are often ambiguous. As such, we are required to make many subjective assumptions and judgments regarding our income tax exposures. Interpretations of, and guidance surrounding, income tax laws and regulations change over time. Changes in our subjective assumptions and judgments can materially affect amounts recognized in the combined balance sheets and statements of income. See Note 20, "Income Taxes," of the Notes to Combined Financial Statements for the year ended December 31, 2020 for additional detail on our uncertain tax positions and further information regarding ASC 740.

Recently issued and adopted accounting standards

See "Recently Issued Accounting Standards" under Note 2, "Summary of Significant Accounting Policies," of the Notes to Combined Financial Statements for the year ended December 31, 2020 and under Note 1, "Description of Business, Planned Spinoff and Basis of Presentation," of the Notes to Unaudited Condensed Combined Financial Statements for the six months ended June 30, 2021 for a discussion of certain accounting standards that we have recently adopted and certain accounting standards that we have not yet been required to adopt and may be applicable to our future financial condition, results of operations or cash flow.

BUSINESS

Overview

We are a leading provider of tech-enabled, data-driven consumer loyalty solutions. Our solutions are focused on helping partners achieve their strategic and financial objectives, from increased consumer basket size, shopper traffic and frequency and digital reach to enhanced program reporting and analytics. We design our loyalty solutions around specific clients' needs and goals, which can be both transactional and emotional. The essence of loyalty is derived from a mix of emotions and memory. By activating these unconscious influences, we help financial services providers, retailers and other consumer-facing businesses create and increase customer loyalty across multiple touch points from traditional to digital to mobile and emerging technologies. We own and operate the AIR MILES Reward Program, Canada's most recognized loyalty program, and Netherlands-based BrandLoyalty, a global provider of purpose-driven, tailor-made campaign-based loyalty solutions for grocers and other high-frequency retailers.

The AIR MILES Reward Program is an end-to-end loyalty platform, combining technology, data/analytics and other solutions to help our clients (who we call sponsors) drive increased engagement by consumers (who we call collectors) with their brand. The AIR MILES Reward Program operates as a full service coalition loyalty program for our sponsors. We provide all marketing, customer service, rewards and redemption management for our sponsors. We typically grant sponsors exclusivity in their market category, enabling them to realize incremental sales and increase market share as a result of their participation in the AIR MILES Reward Program. The AIR MILES Reward Program enables collectors to earn AIR MILES reward miles as they shop across a broad range of sponsors from financial institutions, grocery and liquor, e-commerce, specialty retail, pharmacy, petroleum retail, and home furnishings to hardware, that participate in the AIR MILES Reward Program. These AIR MILES reward miles can be redeemed by collectors for travel, entertainment, experiences, merchandise or other rewards. Through our AIR MILES cash program option, collectors can also instantly redeem their AIR MILES reward miles earned in the AIR MILES cash program option toward in-store purchases at participating sponsors, such as Shell Canada. We estimate approximately two-thirds of Canadian households actively participate in the AIR MILES Reward Program.

BrandLoyalty is a worldwide leader in campaign-based loyalty solutions that positively impact consumer behavior on a mass scale. We pride ourselves on being a business with purpose by connecting high-frequency retailers, supplier partners and consumers to create sustainable solutions for today's challenges. We design, implement, conduct and evaluate innovative, digitally-enhanced, tailor-made loyalty campaigns. These campaigns are tailored for the specific client and are designed to reward key customer segments based on their spending levels during defined campaign periods. At BrandLoyalty, we aim to let all shoppers feel emotionally connected when they shop at our clients, by designing campaigns with the right mechanics and rewards that instantly change shopping behavior and engender loyalty. The rewards we offer come from top brands with high creative standards such as Disney, Zwilling, and vivo | Villeroy & Boch.

We will be headquartered in Dallas, Texas. At December 31, 2020, we had over 1,400 employees. For the year ended December 31, 2020, we generated $764.8 million in revenues, $75.1 million of net income and $173.4 million in adjusted EBITDA. In addition, for the six months ended June 30, 2021, we generated $327.5 million in revenues, $33.5 million of net income and $71.1 million in adjusted EBITDA. Upon our separation from ADS, we expect to trade under the ticker symbol "LYLT" on Nasdaq.

Our strategies

Our goal is to accelerate stakeholder value creation through the continued development of loyalty platforms for the tech-forward business and consumer era. We intend to pursue a variety of new omnichannel initiatives, including expanding geographies and verticals; further enriching tech and analytic capabilities; employing sustainable solutions; and seeking additional strategic partnerships.

Attract new clients and grow existing client base

The AIR MILES Reward Program continues to focus on broadening our sponsor base and expanding the network effects of the coalition. We seek to attract new sponsors and deepen existing relationships by

enhancing our solutions portfolio. Deployment of enriched marketing and advertising capabilities will further sponsors' ability to reach and engage collectors, increasing the value proposition for sponsors and reward suppliers alike. Diversifying the sponsor network, including expansion to non-traditional partnerships and alliances, including new arrangements with business-to-business e-commerce platforms that enable smaller, local e-commerce partners to incorporate AIR MILES reward miles in their promotional activities, will allow for a stronger and broader ecosystem to capture a larger portion of total consumer spend within the AIR MILES Reward Program. A core advantage to being a part of the AIR MILES Reward Program is the benefit to each partner as the coalition expands.

Similarly, we believe there is market opportunity for BrandLoyalty to grow its client base by adding new grocers in existing markets. Additional opportunity exists in the form of diversification into adjacent segments, such as convenience stores and pharmacies, which are a natural fit for BrandLoyalty due to the high frequency and spend profile of the customer base. Further expansion into new growing verticals like e-commerce and food delivery is also expected to present significant opportunities.

By diversifying and growing our ability to integrate advanced data analytics with marketing and loyalty services, we seek to position ourselves to serve the modern consumer, thus increasing the value proposition for our clients by delivering long-term integrated growth opportunities and ultimately delivering returns for our stakeholders.

Invest in technology to better engage consumers

The AIR MILES Reward Program continues to focus on driving collector engagement to enhance the benefit to the entire coalition of sponsors. The AIR MILES Reward Program has focused on enhancing digital initiatives targeting younger demographic channels as well as the broader collector base as a whole. By providing in-store and mobile access and increasing the relevancy of personalized, targeted, real-time offers, the AIR MILES Reward Program is improving effectiveness of digital campaigns and overall collector engagement. We will continue to invest in technology to deliver new digital products and solutions to improve collector engagement and the sponsor value proposition. An expansive collector and sponsor base results in an expanding database, which can be used to create and monetize new and innovative supplemental solutions for all partners of the ecosystem.

BrandLoyalty has built a first-class technology platform and array of digital tools, including the Bright Loyalty Platform, the Analytical Framework, StorePal and other features in to support its campaign-based loyalty solutions. The Analytical Framework provides full-cycle loyalty program design, real-time feedback and evaluation to adjust programs in progress or apply learnings to future designs. BrandLoyalty's Bright Loyalty Platform provides shoppers the ability to collect and share points digitally, earn badges, play games, view leaderboards and level up to achieve better status and more exclusive perks. BrandLoyalty also offers StorePal to directly support in-store staff with program execution through state-of-the-art A.I. analysis and collaboration to improve in-store marketing, display placement, staff program knowledge and stock availability.

We believe opportunities exist to leverage the digital loyalty capabilities of BrandLoyalty's platform and the highly advanced data science platform of the AIR MILES Reward Program to enhance the digital tools and capabilities of both businesses.

Expand into new geographies

We will seek to expand our geographic reach to accelerate growth. Our client-centered approach and almost 30-year operating history has resulted in unique, rich shopper and market data, which we use to generate insights for brands globally. There is substantial opportunity to serve untapped markets across the globe, which will serve as a growth lever in the near-term and solidify sustainable sources of future revenue going forward. In the near term, BrandLoyalty expects to increase its presence in the United Kingdom, the United States and the Nordic region. We also intend to enhance our product offerings and geographic footprint through opportunistic acquisitions that complement our business. We will consider select acquisition opportunities that expand the breadth of our product portfolio, enhance our market positioning and accelerate our presence in attractive geographies, while maintaining alignment with our culture.

Our competitive strengths

Global tech-enabled loyalty leader

Over the past three decades, the AIR MILES Reward Program has built one of the largest loyalty rewards programs in Canada and established itself as a household name. The AIR MILES Reward Program operates as a unique and differentiated coalition loyalty platform. Through our advanced technological capabilities, our sponsors have access to both an extensive scale of customer insights and digital reach, providing a superior understanding of consumer behavior, media response, and trends. As of December 31, 2020, the AIR MILES Reward Program platform extends across 10 million collector accounts, with a sponsor base of approximately 135 sponsors that covered approximately 80% of the average household spend categories across all regions of Canada. Today, our AIR MILES Reward Program partners with over 300 brands and offers collectors thousands of locations to earn. Our expansive national coverage through sponsor partnerships spans brick & mortar physical locations, online retailers and financial institutions to drive continued value to our collectors and, in turn, added awareness and recognition of the AIR MILES brand. The breadth of sponsors and reward suppliers enables collector engagement on a recurring basis and drives powerful network effects.

BrandLoyalty's global network spans across 6 continents and 54 countries, partnering with approximately 200 retailers, worldwide. BrandLoyalty offers thousands of locations for customers to earn and continues to maintain close relationships with retailers and build its client portfolio through its 20 sales offices. While BrandLoyalty operates centrally, understanding and building relationships in the local market enhances our delivery capability all over the world.

Rich consumer data platforms

Our robust data and analytics platforms utilizing SKU-level transactional data allow for personalized offerings to drive loyalty for retailers. The AIR MILES Reward Program data platform enables the collection and synthesis of thousands of attributes per collector, supporting hundreds of advanced analytic, predictive models and machine learning algorithms. Unique identifiers track spend across hundreds of retail partners and digital properties through almost 30 years of history. Our dataset provides visibility into collector activity across the coalition, supplemented with third party data, to gather a holistic view of the collector profile that enables us to benefit collectors with a more personalized experience and benefits sponsors by driving engagement through more effective, highly-targeted, relevant marketing and personalized campaigns and offers.

The BrandLoyalty data and analytics platform is optimized through a large historical database of campaign insights, extensive shopper research and market intelligence. BrandLoyalty's proprietary analytical software is designed to maximize campaign performance by analyzing billions of consumer transactions from campaigns across the world to more accurately identify the appropriate consumer segment, reward product and price point for each retailer. Our data analytics support the retailer from start to finish by identifying the right campaign type, providing predictions and insights on campaigns in execution and evaluating campaigns following completion.

Strong technology platforms

Our technology platforms were built to support the services and solutions we deliver with underlying principles of agility, versatility, scalability, and security at every level. Our platforms allow us to design, adapt and optimize loyalty campaigns and deliver better value to our clients. Our platforms provide the ability to automate workflow and target customers in real time and across multiple collector-facing channels. Our data processing platform enables data science, data sharing, product building and model factory capabilities, which turn customer data into meaningful insights. Our traditional marketing and AI capabilities identify and match collectors and deliver personalization at scale through multiple digital channels.

We have opportunities to integrate components of each platform within the other, creating meaningful opportunities to cross-sell the AIR MILES Reward Program and BrandLoyalty solutions. The AIR MILES Reward Program's data lake, issuance engine, access to rewards and personalization platform combined with BrandLoyalty's digital platform and campaign-based offerings gives us a unique position from which

to offer a full suite of capabilities, both short-term and long-term, globally, while adhering to privacy laws, consumer expectations and client contract terms.

Deep, long-term relationships with clients and sponsors

We have maintained deep, long-standing relationships with the large consumer-based businesses, including well-known worldwide brands, such as Shell Canada, Sobeys Inc., Bank of Montreal, Rewe and Albert Heijn.

For the AIR MILES Reward Program, we utilize our large collector base together with our data and analytical capabilities to deepen our existing relationships with our sponsors, some of which have been part of the program for almost 30 years, and continue to drive powerful benefits to collectors in the program. By continuing to engage our collectors with personalized marketing experiences and scaled rewards, our sponsors recognize the significant benefit to staying in the AIR MILES Reward Program and increasing their customer spend (issuance) opportunity. We believe that our success with sponsors and our ability to offer a variety of redemption options, both aspirational and instant, drive the appeal of AIR MILES Reward Program to collectors. By delivering a personalized and seamless digital experience, we provide collectors the ability to earn AIR MILES reward miles across an increasing network of sponsors and by offering them attractive redemption options, we create an efficient sales channel that brings brand awareness to reward suppliers.

At BrandLoyalty, we have had longstanding relationships with both the world's leading grocery retailers who value our broad portfolio of offerings and full service approach as well as our high-quality rewards suppliers. We believe we have well-established positions with our clients, who have for many years entrusted us to enhance critical relationships with their customers and manage sensitive customer transaction data. We expect our strong client relationships will continue to drive our recurring revenue base, which we believe will contribute to our success and growth. The result is proven sales growth for retailers and strong connections between those retailers, their consumers and our exclusive merchandise and other reward suppliers.

Experienced management team with deep industry expertise

We have a strong executive management team with a proven track record, including decades of demonstrated leadership at the company. Our current executive management team has an average of over 13 years of industry experience. Charles Horn, who will serve as our president and chief executive officer following the distribution, is currently an executive vice president at ADS and has overseen the LoyaltyOne segment since August 2019, in addition to the oversight of numerous other Board initiatives. Prior to 2019, Mr. Horn spent nearly a decade in the role of executive vice president and chief financial officer for ADS where his primary responsibilities included providing strategic direction to executive management and the board of directors, as well as evaluation and control of the capital structure of ADS, ensuring the company maintained transparency and consistency in financial reporting and accounting practices across the enterprise while serving as the key contact with the investment community. Blair Cameron will continue to serve as president of the AIR MILES Reward Program, overseeing the entire operations and strategy of the program. Mr. Cameron first joined the AIR MILES Reward Program team over 16 years ago, serving in roles of increasing responsibility. Claudia Mennen will continue to serve as BrandLoyalty's chief executive officer. Following nearly 10 years of experience at PricewaterhouseCoopers and as Chief Financial Officer and vice-president, Finance at two other companies, Ms. Mennen joined BrandLoyalty as its Chief Financial Officer in early 2012 before also taking on the role of chief financial officer of the LoyaltyOne segment for ADS in 2018. In 2019, she became chief executive officer of BrandLoyalty, where she has led retail and loyalty strategies and operations.

Our segments

Our business is managed and reported as two segments: the AIR MILES Reward Program segment and the BrandLoyalty segment.

The AIR MILES Reward Program

The AIR MILES Reward Program is an end-to-end loyalty platform, combining technology, data/analytics and other solutions to help our sponsors drive increased engagement by collectors with their brand. The AIR MILES Reward Program operates as a full service outsourced coalition loyalty program for our sponsors, who pay us a fee per AIR MILES reward mile issued, in return for which we provide all marketing, customer service, rewards and redemption management. The AIR MILES Reward Program enables collectors to earn AIR MILES reward miles as they shop across a broad range of retailers and other sponsors participating in the AIR MILES Reward Program. The AIR MILES Reward Program provides a wide range of rewards from leisure and entertainment to merchandise, flight, travel and unique experiences with over 1,200 reward options that appeal to an expansive set of collectors. Through our AIR MILES Cash program option, collectors can also instantly redeem their AIR MILES reward miles collected in the AIR MILES Cash program option toward in-store purchases at participating sponsors. Approximately two-thirds of Canadian households actively participate in the AIR MILES Reward Program.

Our sponsors

Approximately 135 brand name sponsors participate in our AIR MILES Reward Program, including Shell Canada Products, Jean Coutu, Amex Bank of Canada, Sobeys Inc. and Bank of Montreal. Our sponsor base covers a diverse set of market spend categories, including gas, pharmacy, credit card, and grocery. Relationships with our largest and most well-known sponsors account for a significant portion of our combined revenue. For the year ended December 31, 2020, our 10 largest sponsors represented approximately 55% of our revenue, including approximately 15% from Bank of Montreal. We typically grant participating sponsors exclusivity in their market category, enabling them to realize incremental sales and increase market share as a result of their participation in the AIR MILES Reward Program. Contracts with our sponsors generally vary in length from three to five years. However, our top 6 sponsors have an average tenure of 25 years.

Our collectors

Collectors can accumulate AIR MILES reward miles across a significant portion of their everyday spend and can earn AIR MILES reward miles at thousands of in-store and online retail and service locations, including through our AIR MILES Reward Program eCommerce site. Collectors can also earn AIR MILES reward miles at any locations where they are permitted to use certain credit cards issued by Bank of Montreal and Amex Bank of Canada. Collectors can redeem AIR MILES reward miles through multiple channels, including in-lane cash redemptions, online cash redemptions through our mobile app and online. We utilize these multiple channels to enable collectors to redeem for the rewards they desire in the physical and digital locations they frequent.

As of December 31, 2020, there were approximately 10 million collectors in the AIR MILES Reward Program.

Our suppliers

We enter into agreements with airlines, manufacturers of consumer electronics, supplier platforms and other providers to supply rewards for the AIR MILES Reward Program. The broad range of rewards that can be redeemed is one of the reasons the AIR MILES Reward Program remains popular with collectors and collectors continue to engage in the program. Hundreds of brands use the AIR MILES Reward Program as an additional distribution channel for these products. Suppliers include well-recognized companies in diverse industries, including travel, hospitality, electronics and entertainment.

We are regularly adapting to changes in consumer preferences and adding new, desirable suppliers. For example, during the COVID-19 pandemic, collectors began eating at home more frequently and the AIR MILES Reward Program added Uber Eats and DoorDash as reward suppliers in March 2020.

Our loyalty platform

We provide a fully managed loyalty platform that helps our sponsors by driving traffic, understanding key trends and maximizing loyalty return on investment. We provide full management of all loyalty program

services and capabilities with instant issuance at point of sale and instant cash redemption at point of sale (with real-time enabled connection), along with diverse merchandise and travel rewards management, a full-service Customer Care team (associates answer questions in English & French through voice, chat and social media channels) and plug and play through ready-to-integrate application programming interfaces, or APIs.

We use data management and analytics to integrate a vast set of consumer information and turn it into meaningful collector insights which (i) engage key segments with targeted, relevant communications with our sponsors, (ii) create predictive models to enhance lifetime value throughout the customer lifecycle, and (iii) integrate directly with marketing channels for personalized experiences. These management and analytics services help Sponsors understand and optimize loyalty performance. We provide dedicated teams to help operate the program and deliver deep insights with reporting and analytics solutions to understand program performance and contribution and to monitor program and customer health. We also use tradition and AI-powered marketing tools to reach and engage collectors across multiple channels.

Our data and technology stack provides solutions based on agility, versatility, scalability and security.

BrandLoyalty

BrandLoyalty is a leading global provider of campaign-based loyalty solutions providing tailor-made programs to leading grocery and other high frequency retailers. Our customers pay us a fee, based on the number of redemptions, to create and implement customized campaigns designed to increase consumer traffic and develop consumer loyalty and long-term relationships. These campaigns are targeted at segments with the aim to increase the share of wallet for our customer by providing stamps for a certain spent amount which can ultimately be redeemed by the consumer for highly collectible rewards and are designed to generate traffic growth and increase basket size for our customer. The campaign-based loyalty programs typically last between 6 and 20 weeks, depending on the nature of the program, with contract terms usually less than one year in length. These programs are tailored for the specific retailer client and are designed to reward key customer segments based on their spending levels during defined campaign periods.

Our customers

We have approximately 200 retailers that are our customers, operating on six continents in over 50 countries and more than 110,000 stores globally. Europe and Asia represented our largest presence, but we have campaigns in the United States, Canada, Brazil and Nordic regions. Many of our customers are leading grocery retailers in their respective countries.

Our brand suppliers

BrandLoyalty manages a broad portfolio of premium reward suppliers balanced between exclusive contracts, licenses and proprietary suppliers which are globally relevant and recognized brand suppliers. These suppliers offer highly desirable rewards, encouraging long-term consumer loyalty, and the portfolio approach ensures we can offer the optimal reward proposition for the targeted consumer segment at the right economics.

Tech-enabled solutions

Our Analytical Framework supports our customer throughout the end-to-end campaign design by identifying the right campaign type with the right mechanics during the campaign preparation, by providing predictions and insights on campaigns in execution and by evaluating finished campaigns. It provides real-time feedback and evaluation to adjust programs in progress or apply learnings to future designs.

Our Bright Loyalty Platform is a cloud-based loyalty solution that provides our customers with a “plug-and-play” solution to run digital loyalty solutions, enabling new ways of interacting such as instant promotions and digital stamp collection. It provides shoppers the ability to collect and share points digitally, earn badges, play games, view leaderboards and level up to achieve better status and more exclusive perks.

StorePal is a digital tool provides retailers AI-enabled insights on store level campaign execution benefitting campaign performance and consumer engagement through in-store marketing, display placement, staff program knowledge and stock availability.

Protection of intellectual property and other proprietary rights

We rely on a combination of copyright, trade secret and trademark laws, confidentiality procedures, contractual provisions and other similar measures to protect our proprietary information and technology used in each segment of our business. We generally enter into confidentiality or license agreements with our employees, consultants and corporate partners, and generally control access to and distribution of our technology, documentation and other proprietary information. Despite the efforts to protect our proprietary rights, unauthorized parties may attempt to copy or otherwise obtain the use of our products or technology that we consider proprietary and third parties may attempt to develop similar technology independently. We have a number of foreign patents and pending patent applications, including product design patents. We pursue registration and protection of our trademarks throughout the countries where we do business. No individual patent or license is material to us or our segments other than that we are the exclusive Canadian licensee of the AIR MILES family of trademarks pursuant to a perpetual license agreement with Diversified Royalty Corp., for which we pay a royalty fee. We believe that the AIR MILES family of trademarks and our other trademarks are important for our branding, corporate identification and marketing of our services in each business segment.

Competition

The markets for our products and services are highly competitive. We compete with advertising and other promotional and loyalty programs, both traditional and online, for a portion of a client's total marketing budget, as well as with the in-house staffs of our current and potential clients. In the campaign-based loyalty program market, we have both global and, in certain geographies, regional competitors with the most significant being TCC Global N.V.

Regulation

Data protection and consumer privacy laws and regulations continue to evolve, increasing restrictions on our ability to collect and disseminate customer information. In addition, the enactment of new or amended legislation or industry regulations pertaining to consumer, public or private sector privacy issues may impact our marketing services, including placing restrictions upon the collection, sharing and use of information that is currently legally available.

In the United States, the federal Do-Not-Call Implementation Act makes it more difficult to telephonically communicate with prospective and existing customers. Similar measures were implemented in Canada beginning September 1, 2008. Regulations in both the United States and Canada give consumers the ability to "opt out," through a national do-not-call registry and state do-not-call registries, of having telephone solicitations placed to them by companies that do not have an existing business relationship with the consumer. In addition, regulations require companies to maintain an internal do-not-call list for those who do not want the companies to solicit them through telemarketing. These regulations could limit our ability to provide services and information to our clients. Failure to comply with these regulations could have a negative impact on our reputation and subject us to significant penalties. Further, the Federal Communications Commission has approved interpretations of rules related to the federal Telephone Consumer Protection Act defining robo-calls broadly, which may affect our ability to contact customers and may increase our litigation exposure.

In the United States, the federal Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 restricts our ability to send commercial electronic mail messages, the primary purpose of which is advertising or promoting a commercial product or service, to our customers and prospective customers. The act requires that a commercial electronic mail message provide the customers with an opportunity to opt-out from receiving future commercial electronic mail messages from the sender.

In the United States, California enacted the California Consumer Privacy Act, or CCPA, which went into effect on January 1, 2020. The CCPA provides individual privacy rights for California consumers and places increased privacy and security obligations on entities handling certain personal data of consumers and households. The CCPA requires disclosures to consumers about companies' data collection, use and sharing practices; provides consumers ways to opt-out of certain sales or transfers of personal information; and provides consumers with additional causes of action. The CCPA prohibits companies from

discriminating against consumers who have opted out of the sale of their personal information, subject to a narrow exception. The CCPA provides for certain monetary penalties and for enforcement of the statute by the California Attorney General or by consumers whose rights under the law are not observed. It also provides for damages, as well as injunctive or declaratory relief, if there has been unauthorized access, theft or disclosure of personal information due to failure to implement reasonable security procedures.

In November 2020, California voters passed Proposition 24, known as the California Privacy Rights Act or CPRA. The CPRA, which will amend existing CCPA requirements, and goes into effect in most meaningful respects on January 1, 2023 with a one-year lookback period, includes limitations on the sharing of personal information for cross context behavioral advertising and the use of "sensitive" personal information; the creation of a new correction right; and the establishment of a new agency to enforce California privacy law.

The enactment of the CCPA is prompting similar legislative developments in other states in the United States, creating the potential for a patchwork of overlapping but different state laws. These developments could mark the beginning of a trend toward more stringent privacy legislation in the United States, which could increase our potential liability and adversely affect our business, results of operations, and financial condition. For example, in March 2021, Virginia enacted the Virginia Consumer Data Protection Act, and in June 2021, Colorado passed the Colorado Privacy Act, comprehensive privacy statutes that share similarities with the CCPA and CPRA and are set to become effective on January 1, 2023 and July 1, 2023, respectively. Many other states are currently reviewing or proposing the need for greater regulation of the collection, sharing, use and other processing of consumer data for marketing purposes or otherwise, and there remains increased interest at the federal level as well, including two federal privacy regulations introduced in Congress in late 2020.

In Canada, the Personal Information Protection and Electronic Documents Act, or PIPEDA, requires an organization to obtain a consumer's consent to collect, use or disclose personal information. Under this act, consumer personal information may be used only for the purposes for which it was collected. We allow our customers to voluntarily "opt-out" from receiving either one or both promotional and marketing mail or promotional and marketing electronic mail. Heightened consumer awareness of, and concern about, privacy may result in customers "opting-out" at higher rates than they have historically. This would mean that a reduced number of customers would receive bonus and promotional offers and therefore those customers may collect fewer AIR MILES reward miles. The Government of Canada has tabled the Digital Charter implementation Act to modernize PIPEDA.

Canada's Anti-Spam Legislation, or CASL, may restrict our ability to send "commercial electronic messages," defined to include text, sound, voice and image messages to email, or similar accounts, where the primary purpose is advertising or promoting a commercial product or service to our customers and prospective customers. CASL requires, in part, that a sender have consent to send a commercial electronic message, and provide the customers with an opportunity to opt out from receiving future commercial electronic email messages from the sender.

On May 25, 2018, the General Data Protection Regulation, or GDPR, a European Union-wide legal framework to govern data collection, use and sharing and related consumer privacy rights came into force. The GDPR replaced the European Union Directive 95/46/EC and applies to and binds the EU Member States and the European Economic Area countries, which includes a total of 30 countries. The GDPR details greater compliance obligations on organizations, including the implementation of a number of processes and policies around data collection and use. These, and other terms of the GDPR, could limit our ability to provide services and information to our customers. In addition, the GDPR includes significant penalties for non-compliance.

In general, the GDPR, and other European Union and Member State specific privacy and data governance laws, could also lead to adaptation of our technologies or practices to satisfy local privacy requirements and standards that may be more stringent than in the U.S. Similarly, it is possible that in the future, U.S. and foreign jurisdictions may adopt legislation or regulations that impair our ability to effectively track consumers' use of our advertising services, such as the FTC's proposed "Do-Not-Track" standard or other legislation or regulations similar to EU Directive 2009/136/EC, commonly referred to as the "Cookie Directive," which directs EU Member States to ensure that accessing personal information on an internet

user's computer, such as through a cookie, is allowed only if the internet user has given his or her consent. Changes in technology from technology manufacturers and web browser providers, like Apple and Google, may also impact our tracking abilities and advertising services.

In July 2020, the Court of Justice of the European Union, or CJEU, ruled the EU-US Privacy Shield Framework, one of the primary safeguards that allowed U.S. companies to import personal data from the EU to the U.S., was invalid. The CJEU's decision also raised questions about whether the most commonly used mechanism for cross-border transfers of personal data out of the European Economic Area, namely, the European Commission's Standard Contractual Clauses, can lawfully be used for personal data transfers from the EU to the U.S. or other third countries the European Commission has determined do not provide adequate data protections under their laws. On June 4, 2021, the European Commission adopted new Standard Contractual Clauses, which impose on companies additional obligations relating to data transfers, including the obligation to conduct a transfer impact assessment and, depending on a party's role in the transfer, to implement additional security measures and to update internal privacy practices. If we elect to rely on the new Standard Contractual Clauses for data transfers, we may be required to incur significant time and resources to update our contractual arrangements and to comply with new obligations. If we are unable to implement a valid mechanism for personal data transfers from the EU, we will face increased exposure to regulatory actions, substantial fines and injunctions against processing personal data from the EU. Additionally, other countries outside of the EU have enacted or are considering enacting similar cross-border data transfer restrictions and laws requiring local data residency, which could increase the cost and complexity of delivering our services and operating our business. The type of challenges we face in the EU will likely also arise in other jurisdictions that adopt regulatory frameworks of equivalent complexity.

On January 31, 2020, the United Kingdom left the European Union and entered into a Brexit transition period. Following December 31, 2020, and the expiry of transitional arrangements between the UK and EU, the data protection obligations provided in the GDPR continue to apply to UK-related processing of personal data in substantially unvaried form under the so-called 'UK GDPR' (i.e., the GDPR as it continues to form part of UK law by virtue of section 3 of the EU (Withdrawal) Act 2018, as amended). However, going forward, there is increasing risk for divergence in application, interpretation and enforcement of the data protection laws as between the UK and EU.

In addition to the jurisdictions noted above, there is also rapid development of new privacy laws and regulations elsewhere around the globe, including amendments of existing data protection laws, to the scope of such laws and penalties for noncompliance. Failure to comply with these international data protection laws and regulations could have a negative impact on our reputation and subject us to significant penalties.

While all 50 U.S. states and the District of Columbia have enacted data breach notification laws, there is currently no such U.S. federal law generally applicable to our businesses. Data breach notification legislation and regulations relating to mandatory reporting came into force in Canada on November 1, 2018. Data breach notification laws have been proposed widely and exist in other specific countries and jurisdictions in which we conduct business. Legislative and regulatory measures, such as mandatory breach notification provisions, impose, among other elements, strict requirements on reporting time frames and providing notice to individuals.

We also have systems and processes to comply with the USA PATRIOT ACT of 2001, which is designed to deter and punish terrorist acts in the United States and around the world, to enhance law enforcement investigatory tools, and for other purposes.

Ontario's Protecting Rewards Points Act (Consumer Protection Amendment), 2016, and additional related regulations, prohibit suppliers from entering into or amending consumer agreements to provide for the expiry of rewards points due to the passage of time alone, while permitting the expiry of rewards points if the underlying consumer agreement is terminated and that agreement provides that reward points expire upon termination. Similar legislation pertaining to the expiry of rewards points due to the passage of time alone is also in effect in Quebec as well as limitations on changes to the valuation of rewards points.

Human capital

Our people form the core of our business and we want our people to enjoy the journey. Our ability to build value for our sponsors, collectors and our clients and their consumers as well as our stockholders

depends on the performance of our more than 1,400 employees in 21 countries around the world as of December 31, 2020. To facilitate talent attraction and retention, we strive to make Loyalty Ventures a diverse, equitable and inclusive environment, with a strong culture and opportunities for our employees to grow and develop in their careers while being supported by competitive compensation and benefit programs.

Culture

Loyalty Ventures benefits from the blend of the vibrant cultures of BrandLoyalty and the AIR MILES Reward Program. BrandLoyalty's culture is defined by its values, creating an invisible cord that binds a multinational business. BrandLoyalty's value pillars of connected, original, responsible and dynamic create next generation happiness for our clients and their consumers across the globe. BrandLoyalty believes that by being consumer-driven, we can best help our clients, that by growing our business, we can attract and retain the best employees, that by developing our talent, we can create better solutions, that by improving daily life, we can be meaningful to our consumers, and that by giving our best, opening minds, touching hearts, appealing to individuals separate from the masses and having fun, we can make people happy. BrandLoyalty loves happy people. The AIR MILES Reward Program enables sponsors, collectors and employees alike to create lasting social and environmental change in Canadian communities through its impact strategy, consisting of four pillars that include environment; giving back; diversity, equity and inclusion; and social impact. We invest time and energy to ensure these pillars are engrained in the business goals of our organization. In addition, Loyalty Ventures' code of conduct remains central to our expectation that employees embody our values and, as such, every new hire and annually every employee is required to certify to their understanding of, and adherence to, the code of conduct.

Diversity, equity & inclusion

We believe that diversity, equity and inclusion is important to our continued success and our ability to serve our sponsors, collectors, clients and their consumers. The AIR MILES Reward Program set out on building an explicit and focused approach to diversity, equity and inclusion by first reviewing its processes, team structures and operating practices. The AIR MILES Reward Program worked across the business to identify where inclusion and accessibility might drive value and innovation, and how to embed it into workplace culture. Understanding inclusion is a journey, not a destination, in 2021 the AIR MILES Reward Program engaged a third-party consultant to assist its cross-functional leadership team to further its strategy development and action plans for diversity, equity and inclusion while more than half of the AIR MILES Reward Program employees have engaged in foundational e-learning coursework in this area. At BrandLoyalty, where the diversity, equity and inclusion journey is just beginning, more than 80% of BrandLoyalty employees recently engaged in a survey to provide insights into perceptions regarding diversity, equity and inclusion at BrandLoyalty and what the business can do to improve in this area for all stakeholders. These results will form the basis for initiatives to be designed and implemented across BrandLoyalty by its diversity, equity and inclusion workgroup.

Talent development and retention

We are committed to identifying and developing the talents of our people, as well as retaining these talented employees as a key component of operating a successful business with a vibrant culture. For example, as a unique business, BrandLoyalty invests in internal training specific to its operations. Through its programs, BrandLoyalty University develops and educates its employees with courses incorporating business and market knowledge, as well as other professional and personal development opportunities. In addition to career-oriented training and development, across Loyalty Ventures, we require annual employee training to ensure ongoing adherence to responsible business practices and ethical conduct.

Compensation

We believe the structure of our compensation and benefit programs provides the appropriate incentives to attract retain and motivate our employees. We provide pay that, together with benefits, is competitive and aligns across employee positions, skill levels, experience and geographic location.

Human capital metrics*

Category	Metric		Year-End 2020
Employees	Employees by Geography (actual)	Americas	942
		Asia Pacific	105
		EMEA	431
	# of Nationalities Represented		~45
Development	2020 Annual Survey	Opportunity to develop	85%
Diversity, Equity & Inclusion	2020 Annual Survey	DE&I Environment**	87%
	Gender Representation	% Female	58%
		% Female leadership	44%
Retention	Voluntary Attrition	% Global	10%
	Employee Acquisition	% Global	15%
	Tenure	Leadership	8 years
		All Employees	7 years
Compensation	Compensation and benefits	2020 Expense (millions)	$141.8

* Includes only the AIR MILES Reward Program and BrandLoyalty

** Includes response to the following two statements: (1) my employer is committed to a diverse, equitable and inclusive environment; and (2) I have an opportunity to get to know people with different racial and ethnic backgrounds.

Properties

As of June 30, 2021, we lease approximately 27 general office properties worldwide, comprised of approximately 1.1 million square feet. We are currently in the process of identifying office space for our corporate headquarters in the United States. These facilities are used to carry out our operational, sales and administrative functions. Our principal facilities are as follows:

Location	Segment	Approximate Square Footage	Lease Expiration Date
Dallas, Texas	Corporate		
Toronto, Ontario, Canada	AIR MILES Reward Program	205,525[(1)]	March 31, 2033
Mississauga, Ontario, Canada	AIR MILES Reward Program	13,699	February 28, 2025
Den Bosch, Netherlands	BrandLoyalty	132,482	December 31, 2033
Maasbree, Netherlands	BrandLoyalty	668,923	September 1, 2033

(1) Includes square footage of subleased portion

We believe that our existing facilities and offices are appropriate to meet our current requirements. If we require additional space, we believe that we will be able to obtain such space on acceptable, commercially reasonable terms.

Legal proceedings

We are involved, from time to time, in litigation, other legal claims, regulatory actions or other proceedings or actions by governmental authorities involving matters associated with or incidental to our business in the ordinary course, including, among other things, matters involving customer or vendor disputes, breaches of contractual obligations, class actions or purported class actions, trademark and other intellectual property protection and licensing disputes, import/export regulations, taxation, and employment matters. We believe the resolution of currently pending matters will not individually or in the aggregate have a material adverse effect on our business or financial condition. However, our current assessment of these matters may change upon discovery of facts not presently known or determinations by judges, juries, or other finders of fact not in accord with management's evaluation of the possible outcome or liability resulting therefrom.

MANAGEMENT

Executive officers following the separation

The following table sets forth information, as of , 2021, regarding certain individuals who are expected to serve as our executive officers following the Separation. We expect that those individuals noted below who are current U.S.-based employees of ADS will transfer from their respective employment with ADS to Loyalty Ventures and, immediately prior to the Separation, resign from any officer, director or other roles with ADS or its subsidiaries not part of the Separation.

Name	Age	Position
Charles L. Horn	61	Chief Executive Officer and President
John J. Chesnut	49	Chief Financial Officer
Claudia Mennen	48	BrandLoyalty, Chief Executive Officer
Blair F. Cameron	58	AIR MILES Reward Program, President
Cynthia L. Hageman	52	General Counsel
Laura Santillan	50	Chief Accounting Officer

There are no family relationships among any of the executive officers named above. Each of our executive officers will hold office from the date of appointment until their death, resignation or other removal from office. Set forth below is information about the executive officers identified above.

Mr. Horn, chief executive officer and president for Loyalty Ventures, joined ADS in December 2009 and assumed his current position as senior vice president and senior advisor with responsibility for the LoyaltyOne segment in addition to other strategic initiatives in February 2020. Prior to assuming his current position, Mr. Horn served as an executive vice president and vice chairman from June 2019 to February 2020 and also served as acting chief executive officer of ADS from November 2019 to February 2020. Prior to that, he served as an executive vice president and chief financial officer. From 1999 to November 2009, he served as senior vice president and chief financial officer for Builders FirstSource, Inc. From 1994 to 1999, he served as vice president, finance and treasury, for the retail operations of Pier 1 Imports, Inc. and as executive vice president and chief financial officer of Conquest Industries from 1992 to 1994. Mr. Horn served as a director and the chair of the audit committee of Moody National REIT I, Inc. from 2012 until 2017 when it was acquired by Moody National REIT II, Inc. where Mr. Horn is currently a director and the chair of the audit committee. Mr. Horn holds a Bachelor's degree in business administration from Abilene Christian University and an MBA from the University of Texas at Austin. Mr. Horn is a Certified Public Accountant in the state of Texas.

Mr. Chesnut, executive vice president and chief financial officer for Loyalty Ventures, joined ADS in October 2010 and assumed his current position as senior vice president and treasurer in May 2015. Prior to assuming his current position, he served as vice president, treasury and corporate development. Before joining ADS, he served in strategic and operating roles at Anheuser-Busch from 2004 to 2009. Prior to that, he served as the assistant controller for Builders FirstSource, Inc. and started his career at Price Waterhouse in 1994. Mr. Chesnut holds a Bachelor's degree in accounting and honors business from the University of Texas at Austin and an MBA from the Kellogg School of Management at Northwestern University. Mr. Chesnut is a Certified Public Accountant in the state of Texas.

Ms. Mennen, BrandLoyalty chief executive officer for Loyalty Ventures, joined ADS in January 2014 upon its acquisition of BrandLoyalty and assumed her current position as BrandLoyalty's chief executive officer in August 2019. Prior to assuming her current position, she served as the chief financial officer of the LoyaltyOne segment from March 2018 and as chief financial officer of BrandLoyalty beginning in April 2012. Prior to joining BrandLoyalty, she served as chief financial officer for Green Gas International and vice president-finance for Dockwise Shipping, after gaining ten years of experience at PricewaterhouseCoopers. Ms. Mennen serves as a supervisory board member and chairman of the audit committee at de Efteling and is a director at Stichting Administratiekantoor van gewone aandelen A van Lanschot Kempen. Ms. Mennen holds a master degree in information science from Tilburg University and is a Certified Public Accountant in the Netherlands.

Mr. Cameron, AIR MILES Reward Program president for Loyalty Ventures, joined LoyaltyOne, Co., a subsidiary of ADS, in July 2005 and assumed his current position as president of the AIR MILES Reward Program in 2017. Prior to assuming his current position, he served in roles of increasing responsibility, including senior vice president and chief client officer and vice president-retail, during his tenure at LoyaltyOne. Prior to joining LoyaltyOne, he served as head of marketing and merchandising for fashion retailer, Marks. Prior to that Mr. Cameron had various roles at grocers Safeway and Sobeys in Canada. Mr. Cameron holds a Bachelor of Commerce degree, a Bachelor of Arts degree and an MBA from the University of Calgary. Mr. Cameron also attended theological seminary at Alberta Bible College.

Ms. Hageman, executive vice president and general counsel for Loyalty Ventures, joined ADS in April 2006 and assumed her current position as senior vice president, assistant general counsel and assistant corporate secretary in December 2019, building increased responsibility for public company reporting and other corporate legal functions including mergers and acquisitions over her fifteen years of service. Before joining ADS, she served as vice president, senior corporate counsel at Affiliated Computer Services, Inc. and began her legal career at Akin Gump Strauss Hauer & Feld LLP in their Dallas corporate section. Prior to attending law school, Ms. Hageman worked in various operations engineering and production supervisory capacities for Roadway Package Systems, Inc., Lake Region Medical and Texas Instruments, Inc. Ms. Hageman holds a Bachelor's degree in industrial engineering from Iowa State University, an MBA from the University of Dallas Graduate School of Management and a JD from the Southern Methodist University Dedman School of Law, where she served as managing editor of The International Lawyer, the official publication of the American Bar Association's International Law section. Ms. Hageman is licensed to practice law with the state bar of Texas.

Ms. Santillan, senior vice president and chief accounting officer for Loyalty Ventures, joined ADS in February 2004 and assumed her current position as senior vice president and chief accounting officer in February 2010. Ms. Santillan has served in various capacities of increasing responsibility, as vice president, finance since October 2007 and senior vice president, finance since December 2009. Before joining ADS, she served as senior manager of reporting for Dresser, Inc. from February 2002 to February 2004 and director of financial reporting for Wyndham International, Inc. from 1997 to 2002. Prior to that, she was with Ernst & Young LLP from 1993 to 1997. Ms. Santillan holds a Bachelor's degree in business administration from Southern Methodist University. Ms. Santillan is a Certified Public Accountant in the state of Texas.

Board of directors following the Separation

The following individuals are expected to serve as members of our board of directors following the Separation.

Name	Age	Committees and Chairs
Graham W. Atkinson	70	Audit; Corporate Governance and Nominating (Chair); Compensation
Roger H. Ballou	70	Corporate Governance and Nominating; Compensation
Richard A. Genovese	67	Compensation (Chair); Audit
Charles L. Horn	61	None
Barbara L. Rayner	61	Audit (Chair); Corporate Governance and Nominating

Set forth below is additional information regarding the directors identified above, as well as a description of the specific skills and qualifications such candidates are expected to provide the board of directors of Loyalty Ventures.

Mr. Atkinson served as Chief Marketing and Customer Experience Officer for Walgreen Co. from January 2011 through January 2014. Prior to joining Walgreens, Mr. Atkinson served as president of Mileage Plus, a wholly-owned loyalty subsidiary of United Airlines, Inc., one of the world's leading customer loyalty programs, as well as executive vice president, customer experience; senior vice president, international; and senior vice president of marketing and worldwide sales over his 20-year tenure. While at United Airlines, he also served as United Airlines' representative on the Star Alliance Services GmbH board

of directors, including two years as chair of the board. Mr. Atkinson is currently a director at Sentry Insurance. Mr. Atkinson earned an honors degree in business studies from West London University Ealing School of Business in London, England. Mr. Atkinson brings to Loyalty Ventures significant executive and board experience, including in the loyalty industry. His experiences in customer service and experience, marketing, and international business for large multi-national corporations bring an important breadth of understanding to the Loyalty Ventures board of directors.

Mr. Ballou has served as a director of ADS since February 2001 and as chair of the ADS board since June 2020. Mr. Ballou served as the chief executive officer and a director of CDI Corporation, a public company engaged in providing staffing and outsourcing services, from October 2001 until January 2011. He was a self-employed consultant from October 2000 to October 2001. Before that time, Mr. Ballou had served as chairman and chief executive officer of Global Vacation Group, Inc. from April 1998 to September 2000; a senior advisor for Thayer Capital Partners from September 1997 to April 1998; and as vice chairman and chief marketing officer, then as president and chief operating officer, of Alamo Rent-a-Car, Inc. from April 1995 to August 1997. Mr. Ballou served as a director of Fox Chase Bank from 2005 until 2016. Mr. Ballou is currently a director of RCM Technologies, Inc., where he serves as lead independent director and a member of the audit committee and nominating & corporate governance committee, and Univest Financial Corporation, where he serves as a member of the compensation committee, audit committee, risk committee and executive committee. Mr. Ballou holds a Bachelor's degree from the Wharton School of the University of Pennsylvania and an MBA from the Tuck School of Business at Dartmouth College. Mr. Ballou brings to Loyalty Ventures significant executive and public company board experience, including the institutional history of the businesses constituting Loyalty Ventures. Further, Mr. Ballou's audit committee financial expertise and global operations experience add valuable skills to the Loyalty Ventures board of directors.

Mr. Genovese served as the chief operating officer for Ciber Global, LLC from February 2012 to January 2014 and executive vice president of North American operations from September 2011 to February 2012. Prior to that time, he served as the managing partner for application services and business process outsourcing for IBM Corporation from 2002 to 2011 following IBM's acquisition of PricewaterhouseCoopers' consulting business. He served in roles of increasing responsibility, including managing partner for business process outsourcing and managing partner for global petroleum and chemical services, for PricewaterhouseCoopers from 1982 to 2002 where he was named a partner in 1990, after beginning his career in 1978 at Electronic Data Systems Corporation as a systems engineer. Mr. Genovese is currently a director of RCM Technologies, Inc., where he serves as audit committee chair. Mr. Genovese holds a bachelor's degree in business administration with a concentration in finance and accounting from Loyola University. Mr. Genovese brings to Loyalty Ventures significant executive leadership and other public company board experience. Further, Mr. Genovese's audit committee financial expertise, operations, information technology and digital experience add valuable skills to the Loyalty Ventures board of directors.

Ms. Rayner served as a senior partner for Ernst & Young LLP until her retirement in June 2021, with expertise in business valuation and modeling and risk management. Ms. Rayner began her career at Ernst & Young LLP in 1985 following a two-year assignment as a field examiner for the Office of the Comptroller of the Currency for the U.S. treasury department and completion of her graduate degrees and was named a partner in 1998. Ms. Rayner holds a Bachelor's degree in business administration from Texas A&M University, and an MBA and Masters in accounting from Rice University. Ms. Rayner is a Chartered Financial Analyst, a Senior Member of the American Society of Appraisers, and a Certified Public Accountant in the state of Texas. Ms. Rayner brings to Loyalty Ventures significant financial, executive and loyalty program expertise. Her audit committee financial expertise and technical skills in the areas of valuations, mergers and acquisitions, impairment analysis, quality and risk management controls and procedures, and international business add valuable skills to the Loyalty Ventures board of directors.

Board structure

Upon completion of the Separation, our board of directors is expected to consist of five members. Our board of directors will initially be classified and divided into three classes, each of roughly equal size. The directors designated as Class I Directors will have terms initially expiring at the annual meeting of stockholders in 2022, which will be the first annual meeting of stockholders following the Separation; the directors

designated as Class II Directors will have terms initially expiring at the annual meeting of stockholders in 2023; the directors designated as Class III Directors will have terms initially expiring at the annual meeting of stockholders in 2024. After the expiration of the initial terms for each of the Class I, Class II and Class III Directors, directors will be elected for a three-year term. This classification of our board of directors could have the effect of increasing the length of time necessary to change the composition of a majority of the board of directors. In general, at least two annual meetings of stockholders will be necessary for stockholders to effect a change in a majority of the members of the board of directors. We have not yet set the date of the first annual meeting of stockholders to be held following the Separation. Our board will transition to an annually elected board through a phase-out that will begin with the annual meeting following the seventh anniversary of the Separation.

Board independence

Based on information submitted, the board of directors will determine that each of Graham W. Atkinson, Roger Ballou, Richard A. Genovese and Barbara L. Rayner is independent under Nasdaq's rules. In determining independence, the board of directors will consider whether each director has a material relationship with Loyalty Ventures that would interfere with the exercise of his or her independent judgment in carrying out the responsibilities of a director. The board of directors will consider all relevant facts and circumstances including, without limitation, transactions between Loyalty Ventures and the director, family members of the director, and organizations with which the director is affiliated. All directors identified as independent will meet the categorical standards adopted by the board of directors to assist it in making determinations of director independence. A copy of these standards will be posted on our website after the Separation.

Director compensation

Each of our directors is expected to receive an annual retainer of $195,000, $45,000 of which will be paid in cash and $150,000 of which will be provided as an annual equity retainer. The annual equity retainer is expected to be delivered 100% in Loyalty Ventures restricted stock units granted following initial appointment or the annual stockholders meeting with cliff vesting. Such equity awards will be pro-rated in the year of initial appointment and will vest in the same manner as other awards subject to the annual equity grant. The non-executive chair is expected to receive an additional $80,000 cash retainer. The chairs of the audit and compensation and corporate governance and nominating committees will each receive an additional $22,750, $15,000 and $10,000 cash retainer, respectively. Committee members of the audit, compensation and corporate governance and nominating committees will each receive an additional $10,000, $7,125 and $5,000 cash retainer, respectively.

Board committees

Effective upon the completion of the Separation, the board of directors will have three standing committees that will operate under written charters approved by the full board: audit, compensation, and corporate governance and nominating. In accordance with current listing standards, all of the directors who serve on each committee will be independent from us and our management. The charters of all committees will be posted on our website after the Separation.

Each committee operates under a written charter that details the scope of authority, composition and procedures of the committee. The committees may, when appropriate in their discretion, delegate authority with respect to specific matters to one or more members, provided that all decisions of any such members are presented to the full committee at its next scheduled meeting. The committees will report to the board of directors regularly, review and reassess the adequacy of their charters at least annually and conduct an annual evaluation of their performance.

Audit committee

The members of our audit Committee will be Graham W. Atkinson, Richard A. Genovese and Barbara L. Rayner. Barbara L. Rayner will be the chair of our audit committee. Each member of our audit committee meets the requirements for independence under Nasdaq's current listing standards and SEC rules and regulations and our director independence standards. Each member of our audit committee is

financially literate. In addition, our board of directors has determined that Barbara L. Rayner is an "audit committee financial expert" as defined in Item 407(d)(5)(ii) of Regulation S-K promulgated under the Securities Act. This designation does not impose on such director any duties, obligations or liabilities that are greater than are generally imposed on members of our audit committee and our board of directors. The responsibilities of the audit committee will be more fully described in our audit committee charter and will include, among other duties:

- reviewing the qualifications and independence of and selecting the independent registered public accounting firm;
- reviewing the scope of the audit to be conducted by the independent registered public accounting firm and assessing their performance on at least an annual basis;
- meeting with the independent registered public accounting firm concerning the results of their audit and our selection and disclosure of critical accounting policies;
- reviewing with management and the independent registered public accounting firm and approving our annual and quarterly statements prior to filing with the SEC;
- overseeing the scope and adequacy of our system of internal controls over external financial reporting;
- reviewing the status of compliance with laws, regulations, and internal procedures, contingent liabilities and risks that may be material to us;
- overseeing our enterprise risk management governance structure and risk assessment;
- establishing procedures for the receipt, retention and treatment of complaints received by Loyalty Ventures regarding accounting, internal controls or auditing matters;
- reviewing and approving related party transactions, if any;
- preparing a report to stockholders annually for inclusion in the proxy statement; and
- serving as the principal liaison between the board of directors and our independent registered public accounting firm.

Compensation committee

The members of our compensation committee will be Graham W. Atkinson, Roger H. Ballou and Richard A. Genovese. Richard A. Genovese will be the chair of the Loyalty Ventures compensation committee. Each member of our is a non-employee director, as defined by Rule 16b-3 promulgated under the Exchange Act, and meets the requirements for independence under Nasdaq's current listing standards and SEC rules and regulations and our director independence standards. The responsibilities of our compensation committee will be more fully described in our compensation committee charter and will include, among other duties:

- annually reviewing and approving the compensation, target levels of incentive compensation and corresponding performance objectives for our executive officers;
- annually recommending to the board of directors the compensation, target levels of incentive compensation and corresponding performance objectives for of our chief executive officer;
- making recommendations to the board of directors with respect to incentive compensation-based plans and equity-based plans;
- reviewing our compensation philosophy, programs and benefit plans for employees to confirm that such plans remain equitable and competitive;
- reviewing our succession plan for key employees;
- administering and interpreting our stockholder approved equity plans;
- preparing a report to stockholders annually for inclusion in the proxy statement and discussing with management our Compensation Discussion and Analysis in the proxy statement;

- periodically reviewing the competitiveness and appropriateness of the compensation program for non-employee directors and recommending the same to the board of directors; and
- reviewing and recommending to the board of directors our submissions to stockholders on executive compensation matters.

Corporate governance and nominating committee

The members of our corporate governance and nominating committee will be Graham W. Atkinson, Roger H. Ballou and Barbara L. Rayner. Graham W. Atkinson will be the chair of our corporate governance and nominating committee. Each member of the corporate governance and nominating committee meets the requirements for independence under Nasdaq's current listing standards and our director independence standards. The responsibilities of the corporate governance and nominating committee will be more fully described in our corporate governance and nominating committee charter and will include, among other duties:

- recommending to the board of directors criteria for director nominees, screening potential nominees and recommending nominees to the board of directors for the next annual meeting (or to fill interim vacancies), as well as committee composition, board chair and the chair for each committee;
- administering and leading the board of directors in its annual review of the performance of the board of directors and its committees; and
- reviewing developments in corporate governance and making recommendations to the board of directors on governance policies and principles for us.

Code of ethics

In connection with the Separation, our board of directors will adopt one or more codes of ethics that will apply to all of our employees, officers and directors, including our chief executive officer, chief financial officer and other executive and senior financial officers. Upon completion of the Separation, the full text of our codes of business conduct and ethics will be posted on website. We intend to satisfy the disclosure requirement under Item 5.05 of Form 8-K by disclosing future amendments to our codes of business conduct and ethics, or any waivers of such codes, on our website or in public filings.

Compensation committee interlocks and insider participation

None of our executive officers has served as a member of a compensation committee (or if no committee performs that function, the board of directors) of any other entity that has an executive officer serving as a member of our board of directors.

EXECUTIVE COMPENSATION

The following tables and accompanying narratives set forth the compensation paid by ADS to our named executive officers ("NEOs" and each, an "NEO") for the fiscal year ended December 31, 2020.

Summary compensation table:

Name and Principal Position	Year	Salary ($)	Bonus ($)	Stock Awards ($)(1)	Option Awards ($)	Non-Equity Incentive Plan Compensation ($)(2)	Change in Pension Value and Nonqualified Deferred Compensation Earnings ($)(3)	All Other Compensation ($)(4)	Total ($)
Charles L. Horn *Chief Executive Officer*	2020	722,608	—	—	—	1,300,000	48,434	140,686	2,211,728
Blair F. Cameron[5] *AIR MILES Reward Program, President*	2020	405,286	—	877,868	—	263,436	—	65,821	1,612,411
Claudia Mennen[6] *BrandLoyalty, CEO*	2020	547,878	—	785,609	—	502,138	—	67,529	1,903,154

(1) Amounts in this column reflect the dollar amount, without any reduction for risk of forfeiture, of the estimate of the aggregate compensation cost to be recognized over the service period as of the grant date under ASC 718, which for 2020 represents the closing market price of our common stock of $100.50 per share on the grant date of February 18, 2020. These amounts may not correspond to the actual value that will be realized by the NEOs. Awards included in the Stock Awards columns were granted pursuant to the 2015 Omnibus Incentive Plan.

No equity awards were granted to Mr. Horn in 2020 due to his stated intention to retire from ADS in 2019, as announced on July 26, 2018. At the request of the board of directors, Mr. Horn has continued his service as part of the company's leadership transition.

Mr. Cameron's award included 1,747 shares of common stock represented by time-based restricted stock units. The restrictions lapsed on 576 units on 2/18/21 and will lapse on 577 units on 2/18/22 and on 594 units on 2/18/23. The award also included 6,988 shares of common stock represented by performance-based restricted stock units, which were forfeited on 2/18/21 due to failure to meet the 2020 EBT performance metric.

Ms. Mennen's award included 1,564 shares of common stock represented by time-based restricted stock units. The restrictions lapsed on 516 units on 2/18/21 and will lapse on 516 units on 2/18/22 and on 532 units on 2/18/23. The award also included 6,253 shares of common stock represented by performance-based restricted stock units, which were forfeited on 2/18/21 due to failure to meet the 2020 EBT performance metric.

(2) This column reflects the amounts paid to each NEO in February 2021 representing amounts earned for 2020 performance. These payout amounts were computed in accordance with pre-determined formulas for the calculation of performance-based non-equity incentive compensation under applicable balanced scorecards as well as the terms of certain other non-equity incentive plan arrangements and the applicable weightings described herein.

(3) Amounts in this column consist entirely of above-market earnings on compensation deferred pursuant to the ADS Executive Deferred Compensation Plan. Above-market earnings represent the difference between market interest rates determined pursuant to SEC rules and the 9.0% annual interest rate credited by ADS on account balances during 2020.

(4) See the Fiscal Year 2020 All Other Compensation table for further information regarding amounts included in this column.

(5) Amounts included for Mr. Cameron are shown in U.S. Dollars but were paid to Mr. Cameron in Canadian Dollars. To convert the amounts paid to U.S. Dollars, we used the prevailing exchange rate as of the last business day of 2020 of 0.7806 U.S. Dollars per Canadian Dollar.

(6) Amounts included for Ms. Mennen are shown in U.S. Dollars but were paid to Ms. Mennen in Euros. To convert the amounts paid to U.S. Dollars, we used the prevailing exchange rate as of the last business day of 2020 of 1.2173 U.S. Dollars per Euro.

Fiscal year 2020 all other compensation:

Name	Registrant Contributions to 401(k) or Other Retirement Savings Plans	Life Insurance Premiums	Medical and Dental Insurance Premiums ($)	Disability Insurance Premiums ($)	Other ($)[1]	Perquisites and Personal Benefits ($)
Charles L. Horn	14,250	53	13,709	1,242	15,967	95,465[2]
Blair F. Cameron[3]	—	436	5,733[4]	—	11,548	48,104[5]
Claudia Mennen[6]	24,805[7]	1,343	871	2,420	8,088	30,002[8]

(1) The amounts listed represent cash paid for dividend equivalent rights on restricted stock units that vested in 2020.

(2) This amount represents $22,422 in supplemental life insurance and $73,043 in commuter expenses.

(3) Amounts included for Mr. Cameron are shown in U.S. Dollars but were paid to Mr. Cameron in Canadian Dollars. To convert the amounts paid to U.S. Dollars, we used the prevailing exchange rate as of the last business day of 2020 of 0.7806 U.S. Dollars per Canadian Dollar.

(4) This amount includes medical, dental, and a wellness program for emergency medical assistance outside of Canada.

(5) This amount includes $6,062 in supplemental life insurance premiums, $4,318 in long-term illness premiums, $2,949 in critical illness premiums, $638 in company subsidized parking, $1,699 in AIR MILES Reward Program awards, and $32,438 in commuter expenses. Each of these items was either reimbursed directly to Mr. Cameron or directly paid on behalf of Mr. Cameron.

(6) Amounts included for Ms. Mennen are shown in U.S. Dollars but were paid to Ms. Mennen in Euros. To convert the amounts paid to U.S. Dollars, we used the prevailing exchange rate as of the last business day of 2020 of 1.2173 U.S. Dollars per Euro.

(7) This amount represents the company's contributions to Ms. Mennen's pension scheme and pension allowance.

(8) This amount includes $17,580 for a car lease and $12,422 for social security in The Netherlands.

Elements of executive compensation

The main elements of our executive compensation program are base salary, an annual performance-based non-equity incentive and a long-term equity incentive, the majority of which is performance-based. We do not generally enter into employment agreements or change in control agreements with our executive officers; however, we have entered into an employment agreement with Ms. Mennen, which is typical for our employees who are primarily located in Europe. The terms of Ms. Mennen's employment agreement are described in more detail under "Employment Agreements" below.

Base salary

While a meaningful portion of our NEOs and other executive officers' compensation is contingent upon meeting specified performance targets, we pay our executive officers a base salary as fixed compensation for their time, efforts and commitments throughout the year. To aid in attracting and retaining qualified executive officers, we seek to keep base salary competitive by considering, among other factors, the nature and responsibility of the position and, to the extent available, salary norms for persons in comparable positions pursuant to competitive market analysis; the expertise of the individual; and the competitiveness in the market for the executive officer's services.

Annual performance-based non-equity incentive compensation

The purpose of performance-based non-equity incentive compensation is to provide an incentive to our NEOs and other executive officers to contribute to our annual growth and profitability objectives and to retain such executive officers.

Overview

At the beginning of 2020, consistent with prior years, performance targets for consolidated and segment revenue and EBT related to payout of ADS' annual performance-based non-equity incentive

compensation were set. With the onset of the global pandemic in the first quarter of 2020, these performance targets quickly became unattainable as every facet of ADS' business including Loyalty Ventures' coalition and campaign-based loyalty programs were impacted by the sudden and complete global shutdown of travel and commercial activity. By contrast, efforts of executive officers and associates across the enterprise ramped up — responding immediately to shift approximately 95% of the workforce to work-from-home while simultaneously expanding hours of customer care operations; working with customers to shift marketing and program timing; and adding reward options for collectors. As pandemic restrictions endured and supply chains were strained, efforts ensued to create targeted programs and strategies with our clients to drive both in-store and ecommerce sales. Quick adaptation to pandemic-related challenges resulted in successful achievement of significant sequential improvement in our financial results from the low point experienced in the second quarter of 2020 through the fourth quarter of 2020.

In light of the efforts of executive management and associates across the enterprise to respond to the unprecedented challenges presented by the pandemic, ADS undertook a comprehensive review of market conditions following the completion of the 2020 annual meeting of stockholders and seating of the new ADS board chair. Further, ADS' new CEO introduced the balanced scorecard approach to annual incentive compensation utilized at ADS peer companies. To achieve equitable compensation for the extensive effort by associates across the enterprise to respond to the COVID-19 business environment, executive management and relevant business leaders, designed a set of balanced scorecards to provide greater ownership across a range of metrics and clarity in a time of significant disruption. The balanced scorecards encompass a selection of both financial and non-financial metrics keyed to up to three categories, including stockholders, customers and associates, as appropriate, including for each of the AIR MILES® and BrandLoyalty portions of ADS' business. The inclusion of non-financial targets allows us to equally prioritize initiatives of significance in value-creation, for example, risk, control, customer and client relationships and human capital management. These balanced scorecards apply to our NEOs as discussed below.

Balanced scorecards

The tables below set forth the various metrics established for the AIR MILES Reward Program and BrandLoyalty balanced scorecards on which Mr. Cameron and Ms. Mennen were compensated. Mr. Horn is discussed in "Other Non-equity Incentive Plan Arrangements for 2020" below.

For each balanced scorecard performance metric, measurement was either pass/fail or based on threshold and target levels of achievement. Payout for the balanced scorecards provides for equal weighting of each metric within the scorecard categories of stockholder, customer and associate, as applicable, with the results for the categories weighted as shown in the tables. For those metrics that were not simply pass/fail, we established threshold and target levels with the target equating to the 100% payout level with no payout permitted to exceed 100% even in the case of significant overperformance. No payout is made for performance below the minimum threshold. For each scorecard metric, payout is determined by assigning a score of 0, 0.75 to 0.99, or 1, for performance, multiplied by the category weighting and added together for total payout percentage. Performance below the established threshold and ratings of "fail" received a score of 0; performance that met or exceeded the threshold, but did not meet the target, received a score along the range from 0.75 to 0.99; and performance that met or exceeded the target and ratings of "pass" received a score of 1.

2020 AIR Miles Reward Program Balanced Scorecard

	Metric	Achievement		Description
Stockholder	EBT (AIR MILES REWARD PROGRAM)	☑	50%	Result exceeded target by approximately 6%.
	Revenue (AIR MILES REWARD PROGRAM)	☑		Result met target.
	Sponsor Renewal	⊗		Not met due to failure to reach satisfactory economic terms with one sponsor.
	Audit Performance	☑		Target number of internal audits resulting in a major or elevated finding met at one.
	Strategic Initiative	☑		Market evaluation completed.
customer	Collector Engagement	☑	35%	Exceeded target for active collectors.
	Redemption Expansion	☑		Expanded stay-at-home redemption offerings in response to pandemic.
Associate	Associate Culture (AIR MILES)	☑	15%	For AIR MILES Reward Program, improve aggregate % favorable rating for 18 metrics measured in annual associate survey over 2019 regarding communication, recognition, career development, enablement, work/life balance and strategy.
	Turnover (AIR MILES)	☑		For AIR MILES Reward Program, improve proportion of associates electing to leave the company both voluntarily and involuntarily over 2019, with maximum threshold of 26%.
	Hiring Efficiency (AIR MILES)	☑		For AIR MILES Reward Program, improve proportion of open positions filled by internal hires over 2019, excluding certain volume hiring positions, with minimum threshold of 31%.
	Diversity, Equity & Inclusion (DE&I) (Enterprise)	☑		Complete initial discovery phase for DE&I efforts while advancing existing initiatives.

2020 BrandLoyalty Balanced Scorecard

	Metric	Achievement		Description
STOCKHOLDER	EBT (BrandLoyalty)	☑	50%	Result was between threshold and target.
	Revenue (BrandLoyalty)	☑		Result exceeded target by approximately 2%.
	BrandLoyalty Operating Expenses	☑		Reduced operating expenses in excess of target by approximately 20%.
	Audit Performance	☑		Target number of internal audits resulting in a major or elevated finding exceeded at zero.
	Unallocated Inventory	☑		Reduce unallocated inventory for rewards.
CUSTOMER	Segment Expansion	☑	35%	Expand geographically or to new verticals.
ASSOCIATE	Associate Culture (AIR MILES REWARD PROGRAM)	☑	15%	For BrandLoyalty, improve aggregate % favorable rating for 18 metrics measured in annual associate survey over 2019 regarding communication, recognition, career development, enablement, work/life balance and strategy.
	Diversity, Equity & Inclusion (DE&I) (Enterprise)	☑		Complete initial discovery phase for DE&I efforts while advancing existing initiatives.

2020 Balanced scorecard results

The AIR MILES Reward Program balanced scorecard applied to Mr. Cameron. Metrics in the AIR MILES Reward Program balanced scorecard were met or exceeded in each case other than sponsor renewal, resulting in 90% achievement. The BrandLoyalty balanced scorecard applied to Ms. Mennen. Metrics in the BrandLoyalty balanced scorecard were met or exceeded in each case other than EBT, which exceeded the established threshold but did not meet the target, calculating to greater than 98% achievement. Discretion

increased the payout to 99% for BrandLoyalty based on the view that EBT was negatively impacted by both foreign currency fluctuations and a significant second COVID wave in Europe impacting market conditions.

Other non-equity incentive plan arrangements for 2020

In 2018, Mr. Horn first announced his intention to retire from ADS in 2019. He served as acting CEO of ADS beginning in November 2019 and through the arrival of the new ADS CEO in early 2020. For the remainder of 2020, he continued to serve as an executive vice president of ADS with a focus on international operations, operating efficiencies and strategic initiatives and has been named the Chief Executive Officer of Loyalty Ventures. In 2020, in light of the fact that Mr. Horn received no long-term equity incentive compensation in 2019 or 2020 due to his stated intention to retire, a separate annual non-equity incentive plan award, which provided for a payout of up to a maximum of 200% of Mr. Horn's base salary at the discretion of the ADS compensation committee was granted to Mr. Horn. Mr. Horn received a payout of $1,300,000 in annual non-equity performance-based incentive compensation based on his contributions leading ADS' LoyaltyOne segment in re-positioning their programs to respond to the pandemic, including efforts to streamline current and future reward inventory sourcing at BrandLoyalty as well as adapting rewards available through the AIR MILES Reward Program to items focused on home fitness and entertainment in lieu of travel. Further, Mr. Horn was recognized for his valuable contributions to ADS strategic initiatives, including the acquisition of Bread for ADS' Card Services segment.

Performance measurement and awards granted for fiscal year ended 2020

The target non-equity incentive plan compensation for each of Mr. Horn, Mr. Cameron and Ms. Mennen is set forth in the first column of the following table. The actual non-equity incentive plan payout percentage are set forth in the middle column of the following table.

	Target Non-Equity Incentive Plan Compensation	Weighted Payout	Achieved Non-Equity Incentive Plan Compensation
Charles L. Horn	Not Applicable	Not Applicable	$1,300,000
Blair F. Cameron[(1)]	$292,706	90%	$263,436
Claudia Mennen[(2)]	$507,210	99%	$502,138

(1) Amounts included for Mr. Cameron are shown in U.S. Dollars but were paid to Mr. Cameron in Canadian Dollars. To convert the amounts paid to U.S. Dollars, we used the prevailing exchange rate as of the last business day of 2020 of 0.7806 U.S. Dollars per Canadian Dollar.

(2) Amounts included for Ms. Mennen are shown in U.S. Dollars but were paid to Ms. Mennen in Euros. To convert the amounts paid to U.S. Dollars, we used the prevailing exchange rate as of the last business day of 2020 of 1.2173 U.S. Dollars per Euro.

Long-term equity incentive compensation

We grant long-term equity incentive awards to encourage retention and foster a focus on long-term results, as well as to align the interests of our NEOs and other executive officers with those of our stockholders. In granting these awards, certain restrictions, performance measures and targets may be established as appropriate. Awards of long-term equity incentive compensation pay out only upon attainment of a threshold level of pre-determined performance targets, which for 2020 included ADS EBT, and subject to the continued employment of the executive officer.

In determining the size of long-term equity incentive awards, we consider, among other factors, the value of total direct compensation for comparable positions pursuant to competitive market analysis, company and individual performance against strategic plans, the number and value of long-term equity incentive awards previously granted, the allocation of overall equity awards attributed to our executive officers relative to all equity awards and the relative proportion of long-term incentives within the total direct compensation mix.

In 2020, ADS granted long-term equity incentive compensation to its senior management and executive officers, including our NEOs, pursuant to the ADS 2015 Omnibus Incentive Plan.

Terms of Awards

After taking into consideration the long-term incentive practices in the marketplace, we believe that an equity mix of performance-based restricted stock units and time-based restricted stock units provides a conservative and balanced approach. The portion granted in time-based restricted stock units is intended to provide not only some stability in our equity program and increase retention, but also to promote direct alignment with stockholders through our executives' stock holdings. The portion granted in performance-based restricted stock units, whose vesting criteria are tied to selected components of our financial performance, is intended to focus and incentivize our executives to deliver exceptional performance. Performance-based restricted stock unit grants may be subject to both achievement of performance criteria as well as time-based restrictions to vest. For all grants, the recipient must be employed by us at the time of vesting to receive the stock.

The 45-day average fair market value of ADS' common stock as quoted on the NYSE as of the date of grant is utilized as the basis for determining the specific number of either time-based or performance-based restricted stock unit awards to be granted.

Awards Granted During 2020

In 2020, consistent with the objective of placing a significant portion of the overall target compensation for our executive officers "at risk" as discussed above, we awarded equity grants to Mr. Cameron and Ms. Mennen on February 18, 2020. Performance-based restricted stock units for Mr. Cameron and Ms. Mennen were subject solely to 2020 ADS EBT, consistent with all other performance-based restricted stock unit awards to equity-eligible ADS associates.

Performance-based and time-based equity grants for 2020 were made to our NEOs as follows:

Name	Performance-Based Restricted Stock Units	Time-Based Restricted Stock Units	Total Equity Value (on Grant Date)[1]
Charles L. Horn[2]	—	—	$ —
Blair F. Cameron	6,988	1,747	$877,868
Claudia Mennen	6,253	1,564	$785,609

(1) Amounts in this column reflect the dollar amount, without any reduction for risk of forfeiture, of the estimate of the aggregate compensation cost to be recognized over the service period as of the grant date under Financial Accounting Standards Board, or FASB, ASC 718, which for 2020 represents the closing market price of our common stock of $100.50 per share on the grant date of February 18, 2020.

(2) As previously disclosed, due to Mr. Horn's stated intention to retire from ADS in 2019 and his continued service in an advisory role, Mr. Horn did not receive a long-term equity incentive compensation grant in 2020.

The time-based restricted stock units vest over three years, with 33% of the awards vesting in February 2021, and the remaining 33% and 34% scheduled to vest in each of February 2022 and 2023, respectively, provided the executive officer is employed by us at each vesting date. Each of the performance-based restricted stock unit equity awards is also subject to the executive officer's employment with us at such vesting date.

Performance measurement for fiscal year ended 2020.

The performance-based restricted stock unit equity awards subject to a 2020 ADS EBT performance metric vest over three years, provided that ADS meets pre-determined EBT goals for fiscal year 2020. To achieve 25% to 150% of the target award, the ADS compensation committee set the 2020 ADS EBT goal on a fixed scale between $1,045.5 million and $1,414.5 million. The 100% achievement threshold approximates a 66.6% growth over ADS' 2019 EBT performance. For 2020, reported consolidated ADS EBT was $394.5 million and thus, neither the threshold nor the target was met for the 2020 ADS EBT awards. As a result, the payout resulted in 0% for these 2020 performance-based restricted stock units and all were forfeited as described in the tables included herein.

Employment agreements

BrandLoyalty has entered into an employment agreement and an addendum to the employment agreement with Ms. Mennen, which is customary for employees in the Netherlands. The employment agreement and addendum with Ms. Mennen provide that she is entitled to receive an annual base salary and a holiday allowance equal to 8% of her base salary. Pursuant to the employment agreement, Ms. Mennen is eligible to participate in the ADS long-term incentive plan and receive an annual equity award with a value of $850,000, subject to her continued employment on the grant date. The employment agreement with Ms. Mennen also provides that each year a new, individual bonus agreement will be provided, consisting of company and personal performance targets. Ms. Mennen is also entitled to a car lease based on the BrandLoyalty's Car Policy. If Ms. Mennen's employment is terminated at the initiative of the company (provided that such termination is not caused by an act or omission of Ms. Mennen that can be qualified as a negligent or culpable act or behavior), then she will be entitled to receive a severance payment in the gross amount of 100% of her base salary (including her holiday allowance), as well as a pro rata bonus based on actual performance of the financial targets set at the beginning of the applicable year. In connection with her employment agreement addendum, Ms. Mennen is subject to the following restrictive covenants: during employment and for one year thereafter, Ms. Mennen may not (i) compete with any person, institution, company or business which undertakes activities which compete with those of BrandLoyalty and/or its affiliates; (ii) maintain business contacts, directly or indirectly, with clients or potential clients with whom BrandLoyalty was in contact with during the last year of Ms. Mennen's employment; and (iii) induce employees or persons who, in the period of a year prior to Ms. Mennen's termination, are or have been employed by BrandLoyalty and/or its affiliates.

Group retirement savings plan and deferred profit sharing plan (AIR MILES Reward Program)

We maintain the Group Retirement Savings Plan of the Loyalty Group, or GRSP, which is a group retirement savings plan registered with the Canada Revenue Agency. Contributions made by Canadian employees on their behalf or on behalf of their spouse to the GRSP, and income earned on these contributions, are not taxable to employees until withdrawn from the GRSP. Employee contributions eligible for company match may not exceed the overall maximum allowed by the Income Tax Act (Canada); the maximum tax-deductible GRSP contribution is set by the Canada Revenue Agency each year. Eligible full-time employees can participate in the GRSP after three months of employment and eligible part-time employees after six months of employment.

We also maintain the Deferred Profit Sharing Plan, or DPSP, which is a legal trust registered with the Canada Revenue Agency. Employees become eligible to receive company matching contributions into the DPSP on the first day of the calendar quarter following twelve months of employment. Based on the eligibility guidelines, the Company matches an employee's contribution dollar-for-dollar up to five percent of the employee's eligible compensation. Contributions made to the DPSP reduce an employee's maximum contribution amounts to the GRSP under the Income Tax Act (Canada) for the following year. All company matching contributions into the DPSP vest after receipt of one continuous year of DPSP contributions.

Canadian supplemental executive retirement plan

We maintain the Canadian Supplemental Executive Retirement Plan, which allows for a defined group of management and highly compensated employees of LoyaltyOne, Co. to defer on a pre-tax basis a portion of their compensation and bonuses payable for services rendered and to receive certain employer contributions.

Indemnification agreements

We intend to enter into indemnification agreements with each of our officers and directors so that they may serve the company without undue concern for their protection in connection with their services. These agreements will provide that Loyalty Ventures indemnify such persons against certain liabilities that may arise by reason of their status or service as an officer or director, to advance their expenses incurred as a result of a proceeding as to which they may be indemnified and to cover such persons under any directors' and officers' liability insurance policy that Loyalty Ventures may choose to maintain. These indemnification agreements are intended to provide indemnification rights to the fullest extent permitted by Delaware law

and are in addition to any other rights the indemnitee may have under Loyalty Ventures' certificate of incorporation, bylaws and applicable law.

Fiscal year 2020 outstanding equity awards at fiscal year-end

The following table provides information on the holdings of restricted stock units by the NEOs. This table includes unvested restricted stock units. Each equity award is shown separately for each NEO, with the corresponding vesting schedule for each award in the footnotes following this table.

	Option Awards					Stock Awards			
Name	Number of Securities Underlying Unexercised Options – Exercisable (#)	Number of Securities Underlying Unexercised Options – Unexercisable (#)	Equity Incentive Plan Awards: Number of Securities Underlying Unexercised Unearned Options (#)	Option Exercise Price ($)	Option Expiration Date	Number Of Shares or Units of Stock That Have Not Vested (#)	Market Value of Shares or Units of Stock That Have Not Vested ($)[1]	Equity Incentive Plan Awards: Number of Unearned Shares, Units or Other Rights That Have Not Vested (#)	Equity Incentive Plan Awards: Market or Payout Value of Unearned Shares, Units or Other Rights That Have Not Vested ($)[1]
Charles L. Horn	—	—	—	—	—	525[2]	38,903	—	—
	—	—	—	—	—	795[3]	58,910	—	—
	—	—	—	—	—	—		—	—
Blair F. Cameron	—	—	—	—	—	2,685[4]	198,959	—	—
	—	—	—	—	—	653[5]	48,387	—	—
	—	—	—	—	—	—	—	6,988[6]	517,811
	—	—	—	—	—	—	—	—	—
Claudia Mennen	—	—	—	—	—	2,439[7]	180,730	—	—
	—	—	—	—	—	408[8]	30,233	—	—
	—	—	—	—	—	—	—	6,253[9]	463,347

(1) Market values of the restricted stock unit awards shown in this table are based on the closing market price of our common stock as of December 31, 2020, which was $74.10, and assumes the satisfaction of the applicable vesting conditions.

(2) Stock units subject to time-based restrictions. The restrictions subsequently lapsed on 525 units on 2/16/21.

(3) Stock units subject to additional time-based restrictions. On 2/16/21, based on having met a 2018 EBT performance metric, the additional time-based restrictions subsequently lapsed on 795 units.

(4) Stock units subject to time-based restrictions. The restrictions subsequently lapsed on 571 units on 2/16/21 and on 576 units on 2/18/21; the restrictions are scheduled to lapse on 367 units on 2/15/22, on 577 units on 2/18/22, and on 594 units on 2/18/23.

(5) Stock units subject to additional time-based restrictions. On 2/16/21, based on having met a 2018 EBT performance metric, the additional time-based restrictions subsequently lapsed on 653 units.

(6) Stock units subject to performance-based restrictions. On 2/18/21, the 6,988 performance-based restricted stock units granted on 2/18/20 were forfeited due to failure to meet the 2020 EBT performance metric.

(7) Stock units subject to time-based restrictions. The restrictions subsequently lapsed on 373 units on 2/16/21 and on 516 units on 2/18/21; the restrictions are scheduled to lapse on 257 units on 12/17/21, on 245 units on 2/15/22, on 516 units on 2/18/22, and on 532 units on 2/18/23.

(8) Stock units subject to additional time-based restrictions. On 2/16/21, based on having met a 2018 EBT performance metric, the additional time-based restrictions subsequently lapsed on 408 units.

(9) Stock units subject to performance-based restrictions. On 2/18/21, the 6,253 performance-based restricted stock units granted on 2/18/20 were forfeited due to failure to meet the 2020 EBT performance metric.

Loyalty Ventures Inc. 2021 Omnibus Incentive Plan

The board of directors of Loyalty Ventures and its sole stockholder intend on adopting and approving the Loyalty Ventures Inc. 2021 Omnibus Incentive Plan (the "Loyalty Ventures Equity Plan" or the "2021 Plan"). The following is a summary of the material terms of the Loyalty Ventures Equity Plan.

Purpose

The purpose of the Loyalty Ventures Equity Plan is to advance the interests of Loyalty Ventures and the interests of its stockholders by providing a means to attract, retain and reward certain employees and other key service providers and to enable such individuals to acquire or increase a proprietary interest in Loyalty Ventures, thereby promoting a closer identity of interest between such individuals and its stockholders.

Eligibility

Any officers, employees, directors or consultants performing services for Loyalty Ventures or its affiliates who are selected by the compensation committee may participate in the Loyalty Ventures Equity Plan, but only employees will be eligible to receive incentive stock options.

Administration

The Loyalty Ventures Equity Plan will be administered by the compensation committee, which will have full and final authority to select persons to receive awards, establish the terms of awards, and administer and interpret the 2021 Plan in its sole discretion unless authority is specifically reserved to the board of directors under the 2021 Plan, the certificate of incorporation or bylaws, or applicable law. Any action of the compensation committee with respect to the 2021 Plan will be final, conclusive and binding on all persons. The compensation committee may delegate certain responsibilities to officers or managers of Loyalty Ventures. The board of directors may delegate authority to one or more officers of Loyalty Ventures to do one or both of the following: (1) designate the officers, employees and consultants who will be granted awards under the 2021 Plan, other than to participants who are subject to Section 16 of the Securities Exchange Act of 1934, as amended; and (2) determine the number of shares subject to specific awards to be granted to such officers, employees and consultants.

Effective Date, Plan Termination

The Loyalty Ventures Equity Plan is currently anticipated to be approved by the board and the sole stockholder of Loyalty Ventures and became effective as of October [_], 2021. The 2021 Plan will terminate on the tenth anniversary of the effective date and no award under the 2021 Plan may be granted thereafter.

Stock Subject to the Plan

The aggregate maximum number of shares of common stock of Loyalty Ventures that may be subject to awards under the 2021 Plan is [•] (the "Initial Pool"). The Initial Pool will automatically increase on March 1st of each calendar year, for a period of not more than ten (10) years, beginning on March 1, 2022 and ending on (and including) March 1, 2031 in an amount equal to three percent (3%) of the total number of shares of common stock outstanding on the date immediately preceding such date. Notwithstanding the foregoing, the board may act prior to such date of a given year to provide that there will be no increase in the number of shares of such year, or that the increase will be a lesser number of shares of Loyalty Ventures common stock than would otherwise occur pursuant to the preceding sentence.

Under the 2021 Plan, during any calendar year no participant who is an independent member of the board of directors of Loyalty Ventures may be granted awards, together with any cash fees paid to such director, that exceed a total value of $1,000,000 (calculating the value of any Awards based on the grant date fair value for financial reporting purposes). Unissued shares of common stock allocable to an expired, canceled, forfeited or otherwise terminated portion of an award may again be the subject of awards granted under the 2021 Plan. However, any shares of common stock withheld for payment of the exercise price or withholding of taxes will not be available again for grant under the 2021 Plan. Any award that by the terms of either the 2021 Plan or the award agreement is to be settled in cash or property other than shares of common stock will not reduce or otherwise count against the number of shares of common stock available for awards under the 2021 Plan.

Types of Awards

The Loyalty Ventures Equity Plan provides for grants of incentive and non-qualified stock options, SARs, restricted share awards and performance awards, restricted stock units ("RSUs"), performance awards and cash incentive awards, cash-based awards and other share-based awards.

- *Options.* The compensation committee may grant incentive stock options under the 2021 Plan to any person employed by Loyalty Ventures or by any of its affiliates, and may grant non qualified stock options to any officer, employee, non-employee director or consultant performing services for Loyalty Ventures or any of its affiliates. The per share exercise price of all options will not be less than the fair market value of a share of common stock on the option date of grant. The compensation committee will specify when each option may be exercised, with a minimum vesting period of one year. Stock options that are intended to qualify as incentive stock options must meet the requirements of Section 422 of the Internal Revenue Code.
- *Stock Appreciation Rights (SARs)*. The 2021 Plan authorizes the compensation committee to grant stock appreciation rights, also referred to as SARs. The exercise price per SAR, will not be less than the fair market value of a share of common stock on the date of grant. Upon the exercise of SARs, the participant is entitled to receive an amount in shares or cash determined by multiplying (a) the difference between the fair market value per share on the date of exercise and the exercise price by (b) the number of SARs being exercised, minus the number of shares or cash amount withheld for payment of taxes. The compensation committee may limit the number of shares that may be delivered with respect to any SAR award by including such a limit in the agreement evidencing the SAR at the time of grant. The compensation committee will specify when each SAR may be exercised, with a minimum vesting period of one year.
- *Restricted Stock Awards and Performance Shares.* The 2021 Plan authorizes the compensation committee to grant restricted stock with restrictions that may lapse over time and performance shares with restrictions that may lapse upon the achievement of specified performance goals. Restrictions may lapse separately or in such installments as the compensation committee deems appropriate, but the minimum vesting period over which restrictions may lapse is one year. A participant granted restricted stock or performance shares will have the stockholder rights as are set forth in the award agreement. Except in cases of death or disability, upon termination of employment or other service, restricted stock and performance shares that are at that time subject to restrictions will be forfeited and become available for grant again by the company. Any dividends that may be paid on restricted stock or performance shares will be withheld by the company and subject to the same restrictions and vesting requirements as the related restricted stock or performance shares.
- *Restricted Stock Units*. The compensation committee may grant awards of restricted stock units to participants. A restricted stock unit is a right to receive one share of common stock, or its cash value, subject to vesting conditions. Until all restrictions upon restricted stock units awarded to a participant have lapsed, the participant will not be a Loyalty Ventures stockholder, nor have any of the rights or privileges of a Loyalty Ventures stockholder, including rights to receive dividends and voting rights with respect to the restricted stock units. However, the compensation committee may include dividend equivalent rights under which a participant will be credited with an amount equal to any cash dividends paid on Loyalty Ventures common stock during the restriction period. Restricted stock units awarded under the 2021 Plan may vest at such time or times and on such terms and conditions as the compensation committee may determine, with a minimum vesting period of one year.
- *Performance Awards and Cash Incentive Awards*. The compensation committee may grant performance shares or cash incentive awards representing the right to receive a number of shares of common stock or a maximum monetary amount based upon the achievement of performance conditions. The performance objectives for such awards will consist of one or more business criteria or other performance measures, and a targeted level or levels of performance with respect to such criteria will be established by the compensation committee. The compensation committee will specify a performance period of not less than one year nor more than five years over which achievement of performance objectives will be measured.
- *Cash-Based Awards and Other Stock-Based Awards.* The 2021 Plan authorizes the compensation committee to grant cash-based awards and other equity-based or equity-related awards, including deferred stock units, fully-vested shares and dividend equivalent rights.

Awards in Substitution for Awards Granted by Other Corporations

Options and other awards may be granted under the 2021 Plan in substitution for similar awards held by employees of corporations who become employees of Loyalty Ventures as a result of a merger or

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consolidation of the employing corporation with Loyalty Ventures or one of its subsidiaries, or Loyalty Ventures or one of its subsidiaries acquiring either the stock of the employing corporation with the result that it becomes a subsidiary of Loyalty Ventures or all or a portion of the assets of the employing corporation. Such substitute awards may be granted with a vesting period of less than one year and such substitute options and SARs may be granted with an exercise price that is less than the fair market value of a share of common stock on the date of grant.

Change in Control

In the event of a change in control, as defined in the 2021 Plan, the compensation committee may, in its sole discretion, provide for any of the following: (1) the continuation of outstanding awards, if the company is the surviving entity; (2) the assumption of the 2021 Plan and outstanding awards by the surviving entity or its parent; (3) the substitution by the surviving entity or its parent of awards with substantially the same terms for outstanding awards (subject to the equitable adjustment as appropriate); (4) the cancellation of outstanding awards in consideration for a payment in the form of securities or cash equal to the fair market value of vested awards, or in the case of an option or SAR, the difference between the fair market value and the exercise price for all shares of common stock to the extent vested; or (5) the cancellation of outstanding awards without payment of any consideration. The timing of any payment or delivery of shares of common stock under this provision will be subject to Section 409A of the IRC. In addition, if a participant's employment or other service is terminated by the company or other surviving entity without cause or the participant resigns for good reason, each as defined in the 2021 Plan, within 12 months after a change in control, all restrictions on any awards held by the participant will lapse and the awards will be immediately and fully vested.

Adjustments

If there is any change in the corporate capitalization of Loyalty Ventures that the compensation committee determines would result in dilution or enlargement of the rights of participants under the 2021 Plan, then the compensation committee will adjust any or all of (1) the number and kind of shares of common stock reserved and available for awards, (2) the number and kind of shares of common stock specified in the annual per-participant limitations, (3) the number and kind of shares of outstanding restricted stock or other outstanding award in connection with which shares have been issued, (4) the number and kind of shares that may be issued in respect of other outstanding awards, and (5) the exercise price or purchase price relating to any award. In addition, the compensation committee generally may make adjustments in the terms and conditions of, and the criteria included in, awards in recognition of unusual or nonrecurring events affecting Loyalty Ventures or any of its affiliates or their respective financial statements or in response to changes in applicable laws, regulations, or accounting principles. However, no adjustments are permitted to the extent that such authority would cause options that are intended to qualify as incentive stock options to fail to qualify as such.

Changes to the Plan and Awards

The board of directors may amend, suspend or terminate the 2021 Plan or the compensation committee's authority to grant awards under the 2021 Plan at any time without the consent of stockholders or participants. However, stockholder approval to amend the 2021 Plan may be necessary if required by any law or the rules of any stock exchange or automated quotation system on which Loyalty Ventures common stock is listed or quoted. The compensation committee may waive any conditions or rights under, or amend, suspend or terminate, any award granted under the 2021 Plan. However, no amendment or other change may materially impair the rights of any participant with respect to any outstanding award without the consent of the participant. In addition, no modification or amendment may be made to any option under the 2021 Plan if it would qualify as a "repricing"; and no option or SAR granted under the 2021 Plan may be subject to a cash buyout without stockholder approval, subject to certain exceptions.

Loyalty Ventures Inc. Employee Stock Purchase Plan

The board of directors of Loyalty Ventures and its sole stockholder intend to adopt and approve the Loyalty Ventures Inc. Employee Stock Purchase Plan (the "Loyalty Ventures ESPP" or the "ESPP"). The following is a summary of the material terms of the Loyalty Ventures ESPP.

Purpose

The purpose of the ESPP is to provide employees of Loyalty Ventures and employees of its subsidiaries with an opportunity to purchase common stock at a discounted purchase price through payroll deductions.

Eligibility

Any employee of Loyalty Ventures or designated subsidiaries as of the offering date of a given offering period may be eligible to participate in the ESPP. No employee may purchase more than $25,000 in common stock under the ESPP in any calendar year, and no employee may purchase common stock under the ESPP if such purchase would cause the employee to own more than 5% of the voting power or value of Loyalty Ventures common stock.

Participation

The ESPP provides for six-month offering periods, commencing on the first trading day of January and July of each calendar year and ending on the last trading day of June and December each calendar year. The ESPP allows the board of directors to change these dates as well as the duration and frequency of any future offering period. On the offering date at the beginning of each offering period, each eligible employee is granted an option to purchase a number of shares of common stock, which option is exercised automatically on the purchase date at the end of the offering period. The purchase price of the common stock upon exercise will be 85% of the fair market value of shares on the applicable purchase date.

Method of Payment Contributions

A participant may elect to have payroll deductions made on each payday during the offering period in a minimum amount of $5.00 or an amount not less than 1% and not more than 100% of the participant's compensation. The maximum amount that a participant may elect is 100% of such participant's compensation, subject to the $25,000 annual limit described below. Subject to insider trading policies of Loyalty Ventures, a participant may elect to discontinue participation in the ESPP during an offering period or increase or decrease the rate or amount of such participant's contributions with respect to the next offering period by completing and filing with new enrollment documents authorizing a change in the payroll rate. Subject to the Loyalty Ventures insider trading policies, an increase or decrease (other than discontinuance) in the rate or amount of a participant's contribution will be effective at the beginning of the next offering period. If the election is not timely filed, the election will not become effective until the beginning of the next subsequent offering period. A discontinuance of contributions will be effective as soon as practicable after we receive the election for discontinuance. Whenever an employee's payroll deductions have been discontinued, the employee must complete and file new enrollment documents with Loyalty Ventures to recommence participation in any subsequent offering periods. An employee recommencement of participation will be effective as of the beginning of the offering period following completion of new enrollment documents.

Limit on Purchase of Stock

A participant will not be granted an option to purchase shares under the ESPP if immediately after the grant, (1) such participant would own common stock or hold outstanding options to purchase stock possessing 5% or more of the voting power or value of all classes of Loyalty Ventures common stock; or (2) such option would permit such participant's rights to purchase stock to accrue at a rate that exceeds $25,000 of the fair market value of common stock in any calendar year.

Termination of Employment

Upon termination of a participant's status as an employee prior to the purchase date of an offering period for any reason, including retirement or death, the contributions credited such participant's account will be refunded to the employee or his beneficiary or estate, as the case may be, through normal payroll processing.

Stock Subject to the ESPP

The number of shares reserved for issuance under the Loyalty Ventures ESPP is [ ] shares, all subject to adjustment upon certain corporate events as provided in the ESPP. Shares delivered to a participant

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under the ESPP will be registered in the name of the participant or in the name of the participant and his or her spouse. A participant generally is not permitted to assign, transfer or otherwise dispose of contributions credited to his or her account or any rights to receive shares under the ESPP, except to a designated beneficiary or by will or the laws of descent and distribution upon the participant's death. A participant may sell or otherwise dispose of the shares of common stock delivered to the participant at the end of an offering period at any time.

Administration

The ESPP will be administered by the board of directors of Loyalty Ventures, which will have full power to adopt, amend and rescind any rules deemed desirable and appropriate, to interpret the ESPP and to make all other determinations necessary or advisable for the administration of the ESPP.

Amendment or Termination

The Loyalty Ventures board of directors may terminate or amend the ESPP at any time and for any reason, as provided therein. Except as otherwise set forth in the ESPP, no termination may affect options previously granted and no amendment may make any change in any option previously granted that adversely affects the rights of any participant.

Emerging growth company status

We are an "emerging growth company," as defined in the JOBS Act and are permitted to provide reduced disclosure in this information statement regarding our executive compensation arrangements pursuant to the rules applicable to smaller reporting companies, which means we do not have to include a compensation discussion and analysis and certain other disclosures regarding our executive compensation.

CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS

We describe below transactions and series of similar transactions, during our last three fiscal years or currently proposed, to which we were a party or will be a party, in which:

- The amounts involved exceeded or will exceed $120,000; and
- Any of our directors, executive officers or beneficial holders of more than 5% of any class of our capital stock had or will have a direct or indirect material interest.

Other than as described below, there have not been, nor are there any currently proposed, transactions or series of similar transactions meeting this criteria to which we have been or will be a party other than compensation arrangements, which are described where required under "Management—Board structure" "Management—Compensation of directors" and "Executive Compensation."

The Separation from ADS

The Separation will be accomplished by ADS distributing 81% of its shares of Loyalty Ventures common stock to holders of Loyalty Ventures common stock entitled to such distribution, as described in "The Separation" included elsewhere in this information statement. Completion of the Separation will be subject to satisfaction or waiver by ADS of the conditions to the Distribution described under "The Separation—Conditions to the Distribution."

As part of the Separation, we will enter into a Separation and Distribution Agreement and several other agreements with ADS to effect the Separation and provide a framework for our relationships with ADS after the Separation. See "The Separation—Agreements with ADS" for information regarding these agreements.

Related party transactions

As a current business segment of ADS, we engage in related party transactions with ADS. Those transactions are described in more detail in Note 24 to the accompanying audited combined financial statements.

Registration Rights Agreement

Prior to the completion of the Separation, we intend to enter into a registration rights agreement with ADS (the "Registration Rights Agreement"), which will provide ADS with certain customary demand registration, shelf takedown and piggyback registration rights with respect to its shares of Loyalty Ventures' common stock, subject to certain customary limitations.

Review, approval or ratification of transactions with related persons

We expect that our board of directors will adopt procedures for the review of any transactions and relationships in which we and any of our directors, nominees for director or executive officers, or any of their immediate family members, are participants, to determine whether any of these individuals have a direct or indirect material interest in any such transaction. We expect that we will develop and implement processes and controls to obtain information from the directors and executive officers about related person transactions, and for determining, based on the facts and circumstances, whether a related person has a direct or indirect material interest in any such transaction. Transactions that are determined to be directly or indirectly material to a related person will be disclosed by us as required. Pursuant to these processes, we expect that all directors and executive officers will annually complete, sign and submit a Director and Officer Questionnaire designed to identify related person transactions and both actual and potential conflicts of interest.

As described above, we expect that the board of directors will adopt one or more codes of ethics applicable to our directors and executive officers that will prohibit directors and executive officers from entering into transactions, or having any relationships, that would result in a conflict of interest with us. If an actual or potential conflict of interest affects a director or an executive officer, he or she is required to immediately disclose all the relevant facts and circumstances so that a determination can be made whether a conflict exists, and, if so, the appropriate resolution. Any waivers of the codes of ethics for directors and executive officers will only be granted by the board of directors.

OWNERSHIP OF COMMON STOCK BY CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

As of the date of this information statement, all of the outstanding shares of Loyalty Ventures common stock are owned by ADS. After the Separation, ADS will own 19% of our common stock. The following table sets forth information with respect to the expected beneficial ownership of Loyalty Ventures common stock by (1) each person who is known by us who we believe will be a beneficial owner of more than 5% of Loyalty Ventures outstanding common stock immediately after the Distribution (assuming they maintain such ownership positions when the Distribution occurs) based on current publicly available information, (2) each identified director of Loyalty Ventures, (3) each NEO and (4) all identified Loyalty Ventures executive officers and directors as a group. We based the share amounts on each person's beneficial ownership of ADS common stock as of the close of business on , 2021 and applying the distribution ratio of one share of our common stock for every shares of ADS common stock held as of the record date for the Distribution, unless we indicate some other date or basis for the share amounts in the applicable footnotes. To the extent our directors and executive officers own ADS common stock at the record date for the Distribution, they will participate in the Distribution on the same terms as other holders of ADS common stock.

Except as otherwise noted in the footnotes below, each person or entity identified below is expected to have sole voting and investment power with respect to such securities. Following the Separation, Loyalty Ventures will have outstanding an aggregate of approximately shares of common stock based upon approximately shares of ADS common stock outstanding on , 2021 applying the distribution ratio of one share of our common stock for every shares of ADS common stock.

For purposes of this table, shares are considered to be "beneficially" owned if the person, directly or indirectly, has sole or shared voting or investment power with respect to such shares. In addition, a person is deemed to beneficially own shares if that person has the right to acquire such shares within 60 days of , 2021. No executive officer or director holds any class of equity securities other than ADS common stock or ADS equity awards that may give them the right to acquire beneficial ownership of ADS common stock, and it is not expected that any of them will own any class of equity securities of Loyalty Ventures other than common stock following the Distribution. The number of shares beneficially owned by each stockholder, director or executive officer is determined according to the rules of the SEC and the information is not necessarily indicative of beneficial ownership for any other purpose.

Name of Beneficial Owner	Amount of Beneficial Ownership	Percent of Class
5% Shareholders		
Alliance Data Systems Corporation[(1)]		%
BlackRock, Inc.		%
The Vanguard Group, Inc.		%
Directors and Named Executive Officers		
Graham W. Atkinson		%
Roger H. Ballou		%
Blair F. Cameron		%
John J. Chesnut		%
Richard A. Genovese		%
Cynthia L. Hageman		%
Charles L. Horn		%
Claudia Mennen		%
Barbara L. Rayner		%
Laura Santillan		%
All directors and officers as a group (ten persons)		%

(1) Number of shares of common stock determined for this purpose based on the assumption that ADS would receive a number of shares of Loyalty Ventures common stock that would result in ADS owning 19% of the total outstanding shares following the distribution. ADS' Loyalty Ventures common stock will be voted in the same proportion as the votes cast in respect of the common stock not owned by ADS on any matter presented for a vote of Loyalty Ventures' stockholders.

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DESCRIPTION OF CAPITAL STOCK

Our certificate of incorporation and bylaws will be amended and restated prior to the Separation. The following descriptions are summaries of the material terms of our capital stock based on the applicable provisions of Delaware Law and our amended and restated certificate of incorporation and our amended and restated bylaws that will be in effect at the time of the Separation. The summaries and descriptions below do not purport to be complete statements of the relevant provisions of the applicable provisions of Delaware Law or of our amended and restated certificate of incorporation or our amended and restated bylaws to be in effect at the time of the Separation. The summary is qualified in its entirety by reference to our amended and restated certificate of incorporation and our amended and restated bylaws, which we recommend that you read (along with the applicable provisions of Delaware) for additional information on our capital stock as of the time of the Separation. The amended and restated certificate of incorporation and the amended and restated bylaws to be in effect at the time of the Separation will be included as exhibits to the registration statement on Form 10, of which this information statement forms a part, in a subsequent amendment.

General

Upon completion of the Separation, we will be authorized to issue shares of common stock, $0.01 par value, and shares of preferred stock, $0.01 par value. Our board of directors may authorize the issuance of one or more series of preferred stock and establish, among other things, the rights, preferences and privileges of any such series of preferred stock from time to time without stockholder approval.

Common stock

Common stock outstanding. Upon completion of the Separation, we expect there will be approximately shares of our common stock outstanding, to be held of record by stockholders based upon approximately shares of ADS common stock outstanding as of , 2021, applying the distribution ratio of one share of our common stock for every shares of ADS common stock. All outstanding shares of common stock are fully paid and non-assessable, and the shares of common stock to be issued upon completion of the Distribution will be fully paid and non-assessable.

Voting rights. The holders of common stock will be entitled to one vote per share on all matters to be voted on by stockholders. Generally, all matters to be voted on by stockholders must be approved by a majority of the votes entitled to be cast by the holders of common stock present in person or represented by proxy, voting together as a single class, subject to any voting rights granted to holders of any preferred stock. Directors will be elected by the vote of a plurality of the shares represented in person or by proxy and entitled to vote on the election of directors.

Dividends. Subject to the preferences that may be applicable to any outstanding preferred stock issued after the Distribution, the holders of common stock will be entitled to receive ratably such dividends, if any, as may be declared from time to time by the board of directors out of funds legally available for that purpose. See “Dividend Policy.”

Rights upon liquidation. In the event of a liquidation, dissolution or winding up of our company, the holders of common stock will be entitled to share ratably in all assets remaining after payment of, or provisions for, liabilities, subject to prior distribution rights of preferred stock, if any, then outstanding.

Other rights. The holders of our common stock will have no preemptive or conversion rights or other subscription rights. There will be no redemption or sinking fund provisions applicable to the common stock. The rights, preferences and privileges of the holders of our common stock will be subject to, and may be adversely affected by, the rights of the holders of shares of any series of preferred stock that our board of directors may authorize and issue in the future.

Preferred stock

Our board of directors will have the authority to issue, without further vote or action by our stockholders, preferred stock in one or more series. Subject to the limitations prescribed by Delaware Law and our amended and restated certificate of incorporation, our board of directors may fix the designations, powers, preferences and relative, participating, optional or other rights, if any, and the qualifications,

limitations or restrictions thereof, including dividend rights, dividend rates, conversion rights, voting rights, terms of redemption, redemption prices, liquidation preferences and the number of shares constituting any series or the designation of such series.

The issuance of preferred stock could adversely affect the voting power of the holders of the common stock and the likelihood that such holders will receive dividend payments and payments upon liquidation. In addition, the issuance of preferred stock may have the effect of delaying, deferring or preventing a change in control of Loyalty Ventures without further action by our stockholders and may adversely affect the voting and other rights of the holders of common stock. At present, Loyalty Ventures has no plans to issue any of the preferred stock.

Election and removal of directors

We expect that our board of directors will initially consist of five directors, and thereafter, the number of directors will be fixed exclusively by one or more resolutions adopted from time to time solely by the affirmative vote of a majority of the board of directors. Each director shall be elected by the vote of a plurality of the shares represented in person or by proxy at any meeting and entitled to vote in the election of directors generally.

Until the declassification of our board of directors, no director will be removable by the stockholders except for cause, and directors may be removed for cause only by an affirmative vote of the majority of the total voting power of outstanding securities generally entitled to vote in the election of directors. Any vacancy occurring on the board of directors and any newly created directorship may be filled only by a majority of the remaining directors in office (although less than a quorum) or by the sole remaining director.

Board of directors

Our board of directors will initially be classified and will be divided into three classes, each of roughly equal size. The directors designated as Class I Directors will have terms initially expiring at the annual meeting of stockholders in 2022, which will be the first annual meeting of stockholders following the Separation; the Directors designated as Class II Directors will have terms initially expiring at the annual meeting of stockholders in 2023; and the Directors designated as Class III Directors will have terms initially expiring at the annual meeting of stockholders in 2024. After the expiration of the initial terms for each of the Class I, Class II and Class III Directors, directors will be elected for a three-year term. Subject to approval by the IRS, Roger Ballou, the chair of ADS, will serve as the chair of Loyalty Ventures' board. Mr. Ballou will serve a single three-year term on the Loyalty Ventures board and will not seek reelection. The classification of our board of directors could have the effect of increasing the length of time necessary to change the composition of a majority of the board of directors. In general, at least two annual meetings of stockholders will be necessary for stockholders to effect a change in a majority of the members of the board of directors. See "Management—Board of directors following the Separation." Our board will transition to an annually elected board through a phase-out that will begin with the annual meeting following the seventh anniversary of the Separation.

Limits on stockholder action by written consent

Our amended and restated certificate of incorporation and amended and restated bylaws will provide that holders of our common stock will not be able to act by written consent without a stockholder meeting.

Stockholder meetings

Until the completion of our seventh annual meeting to occur after the effective time of the Distribution, our amended and restated certificate of incorporation and amended and restated bylaws will provide that special meetings of the stockholders may be called only by the chair of the board of directors or by the board of directors acting pursuant to a resolution adopted by the majority of the board of directors. Following the completion of our seventh annual meeting to occur following the effective time of the Distribution, our amended and restated certificate of incorporation and amended and restated bylaws will provide that special meetings of the stockholders may be called by one or more stockholders who own, in the aggregate, not less than 20% of the outstanding shares of our common stock, subject to certain procedures specified by our bylaws.

Amendment of certificate of incorporation

Until the completion of our seventh annual meeting to occur after the effective time of the Distribution, the affirmative vote of holders of at least 66 2/3% of the voting power of our outstanding shares of stock will generally be required to amend the provisions of our certificate of incorporation. Following the completion of our seventh annual meeting to occur following the effective time of the Distribution, the affirmative vote of holders of at least a majority of the voting power of our outstanding shares of stock will generally be required to amend the provisions of our amended and restated certificate of incorporation.

Amendment of bylaws

Until the completion of our seventh annual meeting to occur after the effective time of the Distribution, our amended and restated bylaws will generally be subject to alteration, amendment or repeal, and new bylaws may be adopted, with:

- The affirmative vote of a majority of the whole board of directors; or
- The affirmative vote of holders of 66 2/3% of the total voting power of our outstanding securities generally entitled to vote in the election of directors, voting together as a single class.

Following the completion of our seventh annual meeting to occur following the effective time of the Distribution, the affirmative vote of holders of at least a majority of the voting power of our outstanding shares of stock will generally be required to amend the provisions of our amended and restated bylaws.

Requirements for advance notification of stockholder nomination and proposals

Under our amended and restated bylaws, stockholders of record will be able to nominate persons for election to our board of directors or bring other business constituting a proper matter for stockholder action only by providing proper notice to our secretary. Proper notice must be generally received not later than the close of business on the 120th day nor earlier than the open of business on the 150th day prior to the first anniversary date of the annual meeting for the preceding year (or, in the event such period has expired prior to first public announcement of the meeting, the tenth day following announcement of the meeting) and must include, among other information, the name and address of the stockholder giving the notice, information about the stockholder's ownership of securities in the company, certain information relating to each person whom such stockholder proposes to nominate for election as a director and a brief description of any business such stockholder proposes to bring before the meeting and the reason for bringing such proposal.

Limitation of liability of directors and officers

Our amended and restated certificate of incorporation provide that no director will be personally liable to us or our stockholders for monetary damages for breach of any duty as a director, except for the following:

- Any act or omission that the director at the time of such breach knew or believed was clearly in conflict with our best interest;
- The authorization of unlawful distributions as provided in Section 174 of Delaware Law; and
- Any transaction from which the director derived an improper personal benefit.

As a result, neither we nor our stockholders have the right, including through stockholders' derivative suits on our behalf, to recover monetary damages against a director for breach of any duty as a director, including breaches resulting from grossly negligent behavior, except in the situations described above.

Our amended and restated certificate of incorporation will provide that, to the fullest extent permitted by Delaware Law, we will indemnify any of our officers and directors in connection with any threatened, pending or completed action, suit or proceeding to which such person is, or is threatened to be made, a party, whether civil, criminal, administrative or investigative, arising out of the fact that the person is or was our director or officer, or served any other enterprise at our request as a director or officer.

We will reimburse the expenses, including attorneys' fees, incurred by a person indemnified by this provision in connection with any proceeding, including in advance of its final disposition, to the fullest

extent permitted by Delaware Law. Amending this provision will not reduce our indemnification obligations relating to actions taken before an amendment.

We expect to maintain insurance for our officers and directors against certain liabilities, including liabilities under the Securities Act, under insurance policies, the premiums of which will be paid by us. The effect of these will be to indemnify any of our officers or directors against expenses, judgments, attorneys' fees and other amounts paid in settlements incurred by an officer or director arising from claims against such persons for conduct in their capacities as officers or directors of Loyalty Ventures.

The limitation of liability and indemnification provisions that will be in our amended and restated certificate of incorporation may discourage stockholders from bringing a lawsuit against directors for breach of their fiduciary duties. These provisions may also have the effect of reducing the likelihood of derivative litigation against our directors and officers, even though such an action, if successful, might otherwise benefit us and our stockholders. In addition, the indemnification provisions may adversely affect your investment to the extent that, in a class action or direct suit, we are required to pay the costs of settlement and damage awards against directors and officers pursuant to these indemnification provisions. There is currently no pending material litigation or proceeding against any Loyalty Ventures directors, officers or employees for which indemnification is sought. We also intend to enter into indemnification agreements with each of our directors. These indemnification agreements will contain the same terms as described above with respect to our executive officers.

Forum selection

Pursuant to our amended and restated certificate of incorporation, as will be in effect upon the completion of the Separation, unless we consent in writing to the selection of an alternative forum, a state court located within the State of Delaware (or, if no state court located within the State of Delaware has jurisdiction, the federal court for the District of Delaware) shall be the sole and exclusive forum for (i) any derivative action or proceeding brought on our behalf; (ii) any action asserting a claim for or based on a breach of a fiduciary duty owed by any of our director or officer or other employee or agent to us or to our stockholders, including a claim alleging the aiding and abetting of such a breach of fiduciary duty; (iii) any action asserting a claim against us or any of our director or officer or other employee or agent arising pursuant to any provision of the Delaware General Corporation Law or our certificate of incorporation or bylaws; (iv) any action asserting a claim related to or involving us that is governed by the internal affairs doctrine; or (v) any action asserting an "internal corporate claim" as that term is defined in Section 115 of the Delaware General Corporation Law.

For claims brought under the Securities Act, Section 22 of the Securities Act creates concurrent jurisdiction for federal and state courts over all claims brought to enforce any duty or liability created by the Securities Act or the rules and regulations thereunder and our amended and restated certificate of incorporation will provide that the federal district courts of the United States of America will, to the fullest extent permitted by law, be the sole and exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act (the "Federal Forum Provision"). Application of our Federal Forum Provision means that suits brought by our stockholders to enforce any duty or liability created by the Securities Act must be brought in federal court and cannot be brought in state court.

Anti-takeover effects of some provisions

Some of the provisions of our amended and restated certificate of incorporation and amended and restated bylaws (as described above), including the stockholder approval requirements for certain business combinations (as described below) could make the following more difficult:

- Acquisition of control of us by means of a proxy contest or otherwise, or
- Removal of our incumbent officers and directors.

These provisions, including our ability to issue preferred stock and the classification of our board of directors, are designed to discourage coercive takeover practices and inadequate takeover bids. These provisions are also designed to encourage persons seeking to acquire control of us to first negotiate with our board of directors. We believe that the benefits of increased protection will give us the potential ability

to negotiate with the proponent of an unfriendly or unsolicited proposal to acquire or restructure us, and that the benefits of this increased protection will outweigh the disadvantages of discouraging those proposals, because negotiation of those proposals could result in an improvement of their terms.

Business combinations with interested stockholders

In general, Section 203 of the DGCL prohibits a publicly held Delaware corporation from engaging in a business combination, such as a merger, with a person or group owning 15% or more of the corporation's voting stock for a period of three years following the date the person became an interested stockholder, unless (with certain exceptions) the business combination or the transaction in which the person became an interested stockholder is approved in a prescribed manner. We will expressly elect not to be governed by the "business combination" provisions of Section 203 of the DGCL until such time as ADS Parent no longer beneficially owns % or more of the then outstanding shares of our common stock, at which time we will automatically become subject to Section 203 of the DGCL. However, our amended certificate of incorporation will contain similar provisions providing that we may not engage in certain "business combinations" with any "interested stockholder" for a three-year period following the time that the stockholder became an interested stockholder, unless (i) the business combination or the transaction which resulted in the stockholder becoming an interested stockholder was approved by the board of directors; (ii) upon consummation of the transaction that resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of our outstanding shares entitled to vote generally in the election of directors at the time the transaction commenced; or (iii) on or after such time, the business combination is approved by the board of directors and authorized at a meeting of stockholders, and not by written consent, by the affirmative vote of at least 66 2/3% of the outstanding shares entitled to vote generally in the election of directors that are not owned by the interested stockholder. Our amended certificate of incorporation will provide that ADS Parent and its affiliates and any of their respective direct or indirect transferees and any group as to which such persons are a party do not constitute "interested stockholders" for purposes of this provision.

Distributions of securities

Loyalty Ventures was formed on June 21, 2021, and since its formation, it has not sold any securities, including sales of reacquired securities, new issues (other than to a subsidiary of ADS pursuant to Section 4(a)(2) of the Securities Act in connection with its formation, which Loyalty Ventures did not register under the Securities Act because such issuance did not constitute a public offer), securities issued in exchange for property, services or other securities, and new securities resulting from the modification of outstanding securities.

Authorized but unissued shares

Our authorized but unissued shares of common stock and preferred stock will be available for future issuance without your approval. We may use additional shares for a variety of purposes, including future public offerings to raise additional capital, to fund acquisitions and as employee compensation. The existence of authorized but unissued shares of common stock and preferred stock could render more difficult or discourage an attempt to obtain control of Loyalty Ventures by means of a proxy contest, tender offer, merger or otherwise.

Transfer agent and registrar

The transfer agent and registrar for the common stock will be Computershare Trust Company, N.A.

Listing

We expect to apply to list our common stock on Nasdaq under the ticker symbol "LYLT."

WHERE YOU CAN FIND MORE INFORMATION

We have filed a registration statement on Form 10 with the SEC with respect to the shares of our common stock being distributed in the Separation as contemplated by this information statement. This

information statement is a part of, and does not contain all of the information set forth in, the registration statement and the exhibits to the registration statement. For further information with respect to our company and our common stock, please refer to the registration statement, including its exhibits. Statements made in this information statement relating to any contract or other document are not necessarily complete, and you should refer to the exhibits attached to the registration statement for the full text of the actual contract or document. You may review a copy of the registration statement, including its exhibits, at the Internet website maintained by the SEC at www.sec.gov. Information contained on any website referenced in this information statement is not incorporated by reference into this information statement or the registration statement of which this information statement forms a part.

After the Separation, we will become subject to the information and reporting requirements of the Exchange Act, and, in accordance with the Exchange Act, we will file periodic reports, proxy statements and other information with the SEC. Our future filings will be available from the SEC as described above.

LOYALTY VENTURES BUSINESS OF ALLIANCE DATA SYSTEMS CORPORATION

Index to Combined Financial Statements

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UNAUDITED CONDENSED COMBINED BALANCE SHEETS

	June 30, 2021	December 31, 2020
	(in thousands)	
ASSETS		
Cash and cash equivalents	$ 205,715	$ 278,841
Accounts receivable, net, less allowance for doubtful accounts ($5.3 million and $4.0 million at June 30, 2021 and December 31, 2020, respectively)	265,729	270,559
Inventories	162,254	164,306
Redemption settlement assets, restricted	745,086	693,461
Other current assets	21,262	23,000
Total current assets	1,400,046	1,430,167
Property and equipment, net	90,329	97,916
Right of use assets – operating	107,916	113,870
Deferred tax asset, net	66,839	70,137
Intangible assets, net	4,102	5,097
Goodwill	725,632	735,898
Investment in unconsolidated subsidiaries – related party	2	854
Other non-current assets	3,774	4,125
Total assets	$2,398,640	$2,458,064
LIABILITIES AND EQUITY		
Accounts payable	$ 65,831	$ 74,818
Accrued expenses	53,439	67,056
Deferred revenue	942,154	898,475
Current operating lease liabilities	9,888	9,942
Other current liabilities	103,384	64,990
Total current liabilities	1,174,696	1,115,281
Deferred revenue	100,630	105,544
Long-term operating lease liabilities	111,727	117,648
Other liabilities	24,572	25,290
Total liabilities	1,411,625	1,363,763
Commitments and contingencies		
Parent's net investment	1,012,586	1,093,920
Accumulated other comprehensive (loss) income	(25,571)	381
Total equity	987,015	1,094,301
Total liabilities and equity	$2,398,640	$2,458,064

See accompanying notes to unaudited condensed combined financial statements.

LOYALTYONE

UNAUDITED CONDENSED COMBINED STATEMENTS OF INCOME

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
	(in thousands)			
Revenues				
Redemption, net	$ 78,831	$ 84,675	$183,695	$205,547
Services	67,215	60,008	133,438	130,227
Other	4,859	6,388	10,326	13,402
Total revenue	150,905	151,071	327,459	349,176
Operating expenses				
Cost of operations (exclusive of depreciation and amortization disclosed separately below)	117,092	108,850	252,937	253,161
General and administrative	3,905	3,591	7,590	7,163
Depreciation and other amortization	8,977	6,547	17,571	12,954
Amortization of purchased intangibles	444	11,807	883	23,630
Total operating expenses	130,418	130,795	278,981	296,908
Operating income	20,487	20,276	48,478	52,268
Gain on sale of a business	—	—	—	(10,876)
Interest income, net	(113)	(82)	(182)	(349)
Income before income taxes and loss (income) from investment in unconsolidated subsidiaries	20,600	20,358	48,660	63,493
Provision for income taxes	6,090	441	15,074	13,849
Loss (income) from investment in unconsolidated subsidiaries – related party, net of tax	5	(10)	42	58
Net income	$ 14,505	$ 19,927	$ 33,544	$ 49,586

See accompanying notes to unaudited condensed combined financial statements.

LOYALTYONE

UNAUDITED CONDENSED COMBINED STATEMENTS OF COMPREHENSIVE INCOME

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
	(in thousands)			
Net income	$14,505	$19,927	$ 33,544	$49,586
Other comprehensive income (loss):				
Unrealized (loss) gain on securities available-for-sale	(2,076)	13,434	(8,476)	11,527
Tax benefit	693	—	693	—
Unrealized (loss) gain on securities available-for-sale, net of tax	(1,383)	13,434	(7,783)	11,527
Unrealized (loss) gain on cash flow hedges	(193)	(1,170)	928	(691)
Tax benefit (expense)	48	290	(156)	171
Unrealized (loss) gain on cash flow hedges, net of tax	(145)	(880)	772	(520)
Foreign currency translation adjustments	10,758	18,580	(18,941)	(2,762)
Other comprehensive income (loss), net of tax	9,230	31,134	(25,952)	8,245
Total comprehensive income, net of tax	$23,735	$51,061	$ 7,592	$57,831

See accompanying notes to unaudited condensed combined financial statements.

LOYALTYONE

UNAUDITED CONDENSED COMBINED STATEMENTS OF EQUITY

Three Months Ended June 30, 2021	(in thousands)
Balance at April 1, 2021	$958,426
Net income	14,505
Other comprehensive income	9,230
Change in Parent's net investment	4,854
Balance at June 30, 2021	$987,015

Three Months Ended June 30, 2020	(in thousands)
Balance at April 1, 2020	$923,115
Net income	19,927
Other comprehensive income	31,134
Change in Parent's net investment	3,832
Balance at June 30, 2020	$978,008

Six Months Ended June 30, 2021	(in thousands)
Balance at December 31, 2020	$1,094,301
Net income	33,544
Other comprehensive loss	(25,952)
Change in Parent's net investment	(114,878)
Balance at June 30, 2021	$ 987,015

Six Months Ended June 30, 2020	(in thousands)
Balance at December 31, 2019	$947,559
Net income	49,586
Other comprehensive income	8,245
Change in Parent's net investment	(27,382)
Balance at June 30, 2020	$978,008

See accompanying notes to unaudited condensed combined financial statements.

LOYALTYONE

UNAUDITED CONDENSED COMBINED STATEMENTS OF CASH FLOWS

	Six Months Ended June 30,	
	2021	2020
	(in thousands)	
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net income	$ 33,544	$ 49,586
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	18,454	36,584
Deferred income tax expense	2,579	189
Non-cash stock compensation	4,179	3,358
Gain on sale of a business	—	(10,876)
Change in other operating assets and liabilities, net of sale of business:		
Change in deferred revenue	11,240	11,805
Change in accounts receivable	5,672	111,463
Change in accounts payable and accrued expenses	(20,766)	(49,557)
Change in other assets	1,535	23,303
Change in other liabilities	34,135	(46,835)
Other	7,274	(1,356)
Net cash provided by operating activities	97,846	127,664
CASH FLOWS FROM INVESTING ACTIVITIES:		
Change in redemption settlement assets, restricted	(41,032)	(18,656)
Capital expenditures	(8,859)	(13,638)
Distributions from investments in unconsolidated subsidiaries – related party	795	—
Net cash used in investing activities	(49,096)	(32,294)
CASH FLOWS FROM FINANCING ACTIVITIES:		
Dividends paid to Parent	(120,000)	—
Net transfers from (to) Parent	192	(12,233)
Net cash used in financing activities	(119,808)	(12,233)
Effect of exchange rate changes on cash, cash equivalents and restricted cash	781	(2,776)
Change in cash, cash equivalents and restricted cash	(70,277)	80,361
Cash, cash equivalents and restricted cash at beginning of year	337,525	175,132
Cash, cash equivalents and restricted cash at end of year	$ 267,248	$255,493
SUPPLEMENTAL CASH FLOW INFORMATION:		
Interest paid	$ 151	$ 197
Income taxes paid, net	$ 26,708	$ 39,015

See accompanying notes to unaudited condensed combined financial statements.

LOYALTYONE

NOTES TO UNAUDITED CONDENSED COMBINED FINANCIAL STATEMENTS

1. DESCRIPTION OF BUSINESS, PLANNED SPINOFF AND BASIS OF PRESENTATION

Description of the Business

The business represents the LoyaltyOne reportable segment (the "Company") of Alliance Data Systems Corporation ("ADS" or "Parent"), which provides coalition and campaign-based loyalty solutions through the Canadian AIR MILES® Reward Program and BrandLoyalty Group B.V. ("BrandLoyalty"). The AIR MILES Reward Program is a full service outsourced coalition loyalty program for its sponsors who pay a fee per AIR MILES reward mile issued, in return for which the AIR MILES Reward Program provides all marketing, customer service, rewards and redemption management. BrandLoyalty designs, implements, conducts and evaluates innovative and tailor-made loyalty programs for high frequency retailers worldwide. These loyalty programs are designed to generate immediate changes in consumer behavior and are offered across Europe and Asia, as well as around the world. LoyaltyOne is owned by ADS.

Planned Spinoff of the LoyaltyOne segment

In May 2021, ADS announced its intention to spinoff the Company into a new, independent, publicly traded company ("SpinCo") through a distribution of 81% of SpinCo's shares to the stockholders of ADS. The transaction is expected to qualify as a tax-free reorganization and a tax-free distribution to ADS and its stockholders for U.S. federal income tax purposes. The spinoff is expected to be completed in the fourth quarter of 2021, subject to market and certain other conditions. At the time of the spinoff, ADS expects to retain a 19% interest in SpinCo.

Basis of Presentation

The Company has historically operated as part of ADS and not as a standalone company. The unaudited condensed combined financial statements have been derived from ADS' historical accounting records and are presented on a carve-out basis. All revenues and expenses as well as assets and liabilities directly associated with the business activity of the Company are included in the unaudited condensed combined financial statements. The unaudited condensed combined financial statements also include allocations of certain general and administrative expenses from the Parent. However, amounts recognized by the Company are not necessarily representative of the amounts that would have been reflected in the unaudited condensed combined financial statements had the Company operated independently of Parent. Related-party allocations are discussed further in Note 17, "Related Party Transactions." The cash and cash equivalents held by ADS at the corporate level are not specifically identifiable and therefore have not been reflected in the combined balance sheets. ADS' third-party long-term debt and the related interest expense have not been allocated for any of the periods presented as the Company was not a legal obligor of such debt.

Parent's net investment represents ADS' interest in the recorded net assets of the Company. All significant transactions between the Company and Parent have been included in the accompanying unaudited condensed combined financial statements. Transactions with Parent as contributions to the carve-out entity or distributions from the carve-out entity are reflected in the accompanying unaudited condensed combined statements of equity as "Changes in Parent's net investment" and in the accompanying unaudited condensed combined balance sheets within "Parent's net investment."

All significant intercompany accounts and transactions between the businesses comprising the Company have been eliminated in the accompanying unaudited condensed combined financial statements.

The Company's unaudited condensed combined financial statements and accompanying notes have been prepared in accordance with accounting principles generally accepted in the United States of America ("GAAP"). The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amount of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues

and expenses during the reporting period. Actual results could differ from those estimates. The Company's unaudited condensed combined financial statements and accompanying notes are presented in U.S. Dollars ("USD"), the Company's reporting currency.

The unaudited condensed combined financial statements included herein reflect all adjustments (consisting of normal, recurring adjustments) which are, in the opinion of management, necessary to state fairly the results for the interim periods presented. The results of operations for the interim periods presented are not necessarily indicative of the operating results to be expected for any subsequent interim period or for the fiscal year. Certain information and footnote disclosures normally included in financial statements prepared in accordance with GAAP have been condensed or omitted pursuant to such rules and regulations. However, the Company believes that the disclosures are adequate to make the information presented not misleading. These unaudited condensed combined financial statements should be read in conjunction with the combined financial statements and the notes thereto for the year ended December 31, 2020.

Recently Issued Accounting Standards

In March 2020, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") 2020-04, "Facilitation of the Effects of Reference Rate Reform on Financial Reporting." This ASU provides optional expedients and exceptions for applying GAAP to contracts, hedging relationships, and other transactions affected by reference rate reform if certain criteria are met. The amendments in this ASU apply only to contracts and hedging relationships that reference the London Interbank Offered Rate ("LIBOR") or another reference rate expected to be discontinued due to reference rate reform. The expedients and exceptions provided by the amendments do not apply to contract modifications made and hedging relationships entered into or evaluated after December 31, 2022. This ASU is elective and is effective upon issuance for all entities. The Company is evaluating the impact that adoption of ASU 2020-04 will have on its combined financial statements.

Recently Adopted Accounting Standards

In December 2019, the FASB issued ASU 2019-12, "Simplifying the Accounting for Income Taxes." ASU 2019-12 eliminated certain exceptions within ASC 740, "Income Taxes," and clarified certain aspects of ASC 740 to promote consistency among reporting entities. Most amendments within the standard were required to be applied on a prospective basis, while certain amendments must be applied on a retrospective or modified retrospective basis. The Company's adoption of this standard on January 1, 2021 did not have a material impact on its unaudited condensed combined financial statements.

2. REVENUE

The Company's products and services are reported under two segments — AIR MILES Reward Program and BrandLoyalty, as shown below. The following tables present revenue disaggregated by major source, as well as geographic region based on the location of the subsidiary that generally correlates with the location of the customer:

Three Months Ended June 30, 2021	AIR MILES Reward Program	BrandLoyalty	Total
		(in thousands)	
Disaggregation of Revenue by Major Source:			
Coalition loyalty program	$68,544	$ —	$ 68,544
Campaign-based loyalty solutions	—	76,630	76,630
Other	2	2,338	2,340
Revenue from contracts with customers	$68,546	$78,968	$147,514
Investment income	3,391	—	3,391
Total	$71,937	$78,968	$150,905

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NOTES TO UNAUDITED CONDENSED COMBINED FINANCIAL STATEMENTS — (CONTINUED)

Three Months Ended June 30, 2020	AIR MILES Reward Program	BrandLoyalty	Total
		(in thousands)	
Disaggregation of Revenue by Major Source:			
Coalition loyalty program	$61,586	$ —	$ 61,586
Campaign-based loyalty solutions	—	84,815	84,815
Other	17	1,566	1,583
Revenue from contracts with customers	$61,603	$86,381	$147,984
Investment income	3,087	—	3,087
Total	$64,690	$86,381	$151,071

Six Months Ended June 30, 2021	AIR MILES Reward Program	BrandLoyalty	Total
		(in thousands)	
Disaggregation of Revenue by Major Source:			
Coalition loyalty program	$135,290	$ —	$135,290
Campaign-based loyalty solutions	—	182,927	182,927
Other	1	2,338	2,339
Revenue from contracts with customers	$135,291	$185,265	$320,556
Investment income	6,903	—	6,903
Total	$142,194	$185,265	$327,459

Six Months Ended June 30, 2020	AIR MILES Reward Program	BrandLoyalty	Total
		(in thousands)	
Disaggregation of Revenue by Major Source:			
Coalition loyalty program	$132,932	$ —	$132,932
Campaign-based loyalty solutions	—	205,069	205,069
Other	1,921[(1)]	2,954	4,875
Revenue from contracts with customers	$134,853	$208,023	$342,876
Investment income	6,300	—	6,300
Total	$141,153	$208,023	$349,176

(1) Includes revenues from Precima®, a provider of retail strategy and customer data applications and analytics, which was sold by the Parent on January 10, 2020, which comprised $1.9 million for the six months ended June 30, 2020. See Note 3, “Dispositions,” for more information.

Three Months Ended June 30, 2021	AIR MILES Reward Program	BrandLoyalty	Total
		(in thousands)	
Disaggregation of Revenue by Geographic Region:			
United States	$ —	$ 1,497	$ 1,497
Canada	71,937	1,589	73,526
Europe, Middle East and Africa	—	52,431	52,431
Asia Pacific	—	19,809	19,809
Other	—	3,642	3,642
Total	$71,937	$78,968	$150,905

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NOTES TO UNAUDITED CONDENSED COMBINED FINANCIAL STATEMENTS — (CONTINUED)

Three Months Ended June 30, 2020	AIR MILES Reward Program	BrandLoyalty	Total
		(in thousands)	
Disaggregation of Revenue by Geographic Region:			
United States	$ —	$ 4,132	$ 4,132
Canada	64,690	34	64,724
Europe, Middle East and Africa	—	50,708	50,708
Asia Pacific	—	13,362	13,362
Other	—	18,145	18,145
Total	$64,690	$86,381	$151,071

Six Months Ended June 30, 2021	AIR MILES Reward Program	BrandLoyalty	Total
		(in thousands)	
Disaggregation of Revenue by Geographic Region:			
United States	$ —	$ 2,542	$ 2,542
Canada	142,194	11,270	153,464
Europe, Middle East and Africa	—	131,854	131,854
Asia Pacific	—	34,723	34,723
Other	—	4,876	4,876
Total	$142,194	$185,265	$327,459

Six Months Ended June 30, 2020	AIR MILES Reward Program	BrandLoyalty	Total
		(in thousands)	
Disaggregation of Revenue by Geographic Region:			
United States	$ 1,028	$ 5,246	$ 6,274
Canada	139,857	3,933	143,790
Europe, Middle East and Africa	268	119,008	119,276
Asia Pacific	—	50,411	50,411
Other	—	29,425	29,425
Total	$141,153	$208,023	$349,176

Contract Liabilities

The Company records a contract liability when cash payments are received in advance of its performance, which applies to the service and redemption of an AIR MILES reward mile and the reward products for its campaign-based loyalty solutions.

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NOTES TO UNAUDITED CONDENSED COMBINED FINANCIAL STATEMENTS — (CONTINUED)

A reconciliation of contract liabilities for the AIR MILES Reward Program is as follows:

	Deferred Revenue		
	Service	Redemption	Total
		(in thousands)	
Balance at January 1, 2021	$ 247,186	$ 756,833	$1,004,019
Cash proceeds	84,832	137,100	221,932
Revenue recognized[(1)]	(100,343)	(110,924)	(211,267)
Other	—	704	704
Effects of foreign currency translation	6,623	20,773	27,396
Balance at June 30, 2021	$ 238,298	$ 804,486	$1,042,784
Amounts recognized in the combined balance sheets:			
Deferred revenue (current)	$ 137,668	$ 804,486	$ 942,154
Deferred revenue (non-current)	$ 100,630	$ —	$ 100,630

(1) Reported on a gross basis herein.

The deferred redemption obligation associated with the AIR MILES Reward Program is effectively due on demand from the collector base, thus the timing of revenue recognition is based on the redemption by the collector. Service revenue is amortized over the expected life of a mile, with the deferred revenue balance expected to be recognized into revenue in the amount of $83.3 million in 2021, $96.4 million in 2022, $49.0 million in 2023, and $9.6 million in 2024.

The contract liabilities for BrandLoyalty's campaign-based loyalty solutions are recognized in other current liabilities in the Company's unaudited condensed combined balance sheets. The beginning balance as of January 1, 2021 was $66.9 million and the closing balance as of June 30, 2021 was $75.2 million, with the change due to cash payments received in advance of program performance, offset in part by revenue recognized of approximately $156.3 million during the six months ended June 30, 2021.

3. DISPOSITIONS

On January 10, 2020, the Parent sold Precima, a provider of retail strategy and customer data applications and analytics, to Nielsen Holdings plc for total consideration to the Parent of $43.8 million. The purchase and sale agreement provided for $10.0 million in contingent consideration based upon the occurrence of specified events and performance of the business, with two earnout determinations in September 2020 and September 2021, respectively. In September 2020, the Parent received cash of $5.0 million upon the earnout determination date. The assets and liabilities of Precima were included in the Company's AIR MILES Reward Program segment. As a result of the transaction, the Company recorded a pre-tax gain of $10.9 million in January 2020. The Company incurred $3.1 million in transaction costs associated with the disposition.

4. INVENTORIES

Inventories of $162.3 million and $164.3 million at June 30, 2021 and December 31, 2020, respectively, primarily consist of finished goods to be utilized as rewards in the Company's loyalty programs. Inventories are stated at the lower of cost and net realizable value and valued primarily on a first-in-first-out basis. The Company records valuation adjustments to its inventories if the cost of inventory exceeds the amount it expects to realize from the ultimate sale or disposal of the inventory. These estimates are based on management's judgment regarding future market conditions and an analysis of historical experience.

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NOTES TO UNAUDITED CONDENSED COMBINED FINANCIAL STATEMENTS — (CONTINUED)

5. REDEMPTION SETTLEMENT ASSETS, RESTRICTED

Redemption settlement assets consist of restricted cash and securities available-for-sale and are designated for settling redemptions by collectors of the AIR MILES Reward Program in Canada under certain contractual relationships with sponsors of the AIR MILES Reward Program. The principal components of redemption settlement assets, which are carried at fair value, are as follows:

	June 30, 2021				December 31, 2020			
	Amortized Cost	Unrealized Gains	Unrealized Losses	Fair Value	Amortized Cost	Unrealized Gains	Unrealized Losses	Fair Value
	(in thousands)							
Restricted cash	$ 56,132	$ —	$ —	$ 56,132	$ 55,427	$ —	$ —	$ 55,427
Mutual funds	26,866	—	—	26,866	26,850	—	—	26,850
Corporate bonds	651,604	12,454	(1,970)	662,088	592,247	19,110	(173)	611,184
Total	$734,602	$12,454	$(1,970)	$745,086	$674,524	$19,110	$(173)	$693,461

The following tables show the unrealized losses and fair value for those investments that were in an unrealized loss position as of June 30, 2021 and December 31, 2020, respectively, aggregated by investment category and the length of time that individual securities have been in a continuous loss position:

	June 30, 2021					
	Less than 12 months		12 Months or Greater		Total	
	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses
	(in thousands)					
Corporate bonds	$184,519	$(1,970)	$—	$—	$184,519	$(1,970)
Total	$184,519	$(1,970)	$—	$—	$184,519	$(1,970)

	December 31, 2020					
	Less than 12 months		12 Months or Greater		Total	
	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses
	(in thousands)					
Corporate bonds	$46,190	$(86)	$10,316	$(87)	$56,506	$(173)
Total	$46,190	$(86)	$10,316	$(87)	$56,506	$(173)

The amortized cost and estimated fair value of the securities at June 30, 2021 by contractual maturity are as follows:

	Amortized Cost	Estimated Fair Value
	(in thousands)	
Due in one year or less[1]	$169,752	$170,841
Due after one year through five years	489,738	499,350
Due after five year through ten years	18,980	18,763
Total	$678,470	$688,954

(1) Includes mutual funds, which do not have a stated maturity.

Market values were determined for each individual security in the investment portfolio. For available-for-sale debt securities in which fair value is less than cost, ASC 326 requires that credit-related impairment, if

any, is recognized through an allowance for credit losses and adjusted each period for changes in credit risk. The Company typically invests in highly-rated securities with low probabilities of default and has the intent and ability to hold the investments until maturity, and the Company performs an assessment each period for credit-related impairment. As of June 30, 2021, the Company does not consider its investments to be impaired.

Losses from the sale of investment securities were $0.2 million for the three and six months ended June 30, 2021. There were no realized gains or losses from the sale of investment securities for the three and six months ended June 30, 2020.

6. LEASES

The Company has operating leases for general office properties, warehouses, data centers, customer care centers, automobiles and certain equipment. As of June 30, 2021, the Company's leases have remaining lease terms of less than 1 year to 13 years, some of which may include renewal options. For leases in which the implicit rate is not readily determinable, the Company uses its incremental borrowing rate as of the lease commencement date to determine the present value of the lease payments. The incremental borrowing rate is based on the Company's specific rate of interest to borrow on a collateralized basis, over a similar term and in a similar economic environment as the lease.

Leases with an initial term of 12 months or less are not recognized on the balance sheet; the Company recognizes lease expense for these leases on a straight-line basis over the lease term. Additionally, the Company accounts for lease and nonlease components as a single lease component for its identified asset classes.

The components of lease expense were as follows:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
	(in thousands)			
Operating lease cost	$4,015	$3,749	$ 8,006	$ 7,726
Short-term lease cost	87	97	171	247
Variable lease cost	1,081	1,023	2,212	2,194
Total	$5,183	$4,869	$10,389	$10,167

Other information related to leases was as follows:

	June 30, 2021	June 30, 2020
Weighted-average remaining lease term (in years):		
Operating leases	11.0	11.8
Weighted-average discount rate:		
Operating leases	4.6%	4.5%

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NOTES TO UNAUDITED CONDENSED COMBINED FINANCIAL STATEMENTS — (CONTINUED)

Supplemental cash flow information related to leases was as follows:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
	(in thousands)			
Cash paid for amounts included in the measurement of lease liabilities:				
Operating cash flows from operating leases	$5,645	$5,873	$9,809	$10,083
Right of use assets obtained in exchange for lease obligations:				
Operating leases	$ 177	$ 165	$ 184	$ 2,870

Maturities of the lease liabilities as of June 30, 2021 were as follows:

Year	Operating Leases
	(in thousands)
2021 (excluding the six months ended June 30, 2021)	$ 6,976
2022	16,115
2023	14,693
2024	13,767
2025	13,216
Thereafter	92,617
Total undiscounted lease liabilities	157,384
Less: Amount representing interest	(35,769)
Total present value of minimum lease payments	$121,615
Amounts recognized in the June 30, 2021 combined balance sheet:	
Current operating lease liabilities	$ 9,888
Long-term operating lease liabilities	111,727
Total	$121,615

7. INTANGIBLE ASSETS AND GOODWILL

Intangible Assets

Intangible assets consist of the following:

	June 30, 2021			
	Gross Assets	Accumulated Amortization	Net	Amortization Life and Method
		(in thousands)		
Tradenames	$33,673	$(29,837)	$3,836	8-15 years – straight line
Collector database	56,470	(56,204)	266	5 years – straight line
Total intangible assets	$90,143	$(86,041)	$4,102	

LOYALTYONE

NOTES TO UNAUDITED CONDENSED COMBINED FINANCIAL STATEMENTS — (CONTINUED)

	December 31, 2020			
	Gross Assets	Accumulated Amortization	Net	Amortization Life and Method
	(in thousands)			
Customer contracts	$354,242	$(354,242)	$ —	7 years – straight line
Tradenames	34,691	(30,112)	4,579	8-15 years – straight line
Collector database	54,973	(54,455)	518	5 years – straight line
Total intangible assets	$443,906	$(438,809)	$5,097	

The estimated amortization expense related to intangible assets for the next five years and thereafter is as follows:

	For the Years Ending December 31,
	(in thousands)
2021 (excluding the six months ended June 30, 2021)	$ 874
2022	1,217
2023	1,217
2024	624
2025	32
Thereafter	138

Goodwill

The changes in the carrying amount of goodwill are as follows:

	AIR MILES Reward Program	BrandLoyalty	Total
		(in thousands)	
Balance at January 1, 2021	$ 193,276	$542,622	$735,898
Effects of foreign currency translation	5,262	(15,528)	(10,266)
Balance at June 30, 2021	$ 198,538	$527,094	$725,632

The Company tests goodwill for impairment annually, as of July 1, or when events and circumstances change that would indicate the carrying value may not be recoverable. As of June 30, 2021, the Company does not believe it is more likely than not that the fair value of any reporting unit is less than its carrying amount. However, in light of the COVID-19 pandemic and current uncertainty in the macroeconomic environment, future deterioration in the economy could adversely impact the Company's reporting units and result in a goodwill impairment.

8. INVESTMENTS IN UNCONSOLIDATED SUBSIDIARIES — RELATED PARTY

Under the equity method, the Company's share of its investees' earnings or loss is recognized in the combined statements of income. Gains and losses from investment in unconsolidated related party subsidiaries were de minimis for the three and six months ended June 30, 2021, respectively, and for the three and six months ended June 30, 2020, respectively.

At December 31, 2020, the Company owned a 99.9% interest in Comenity Canada L.P., a limited partnership, which is a consolidated subsidiary of the Parent and is accounted for using the equity method of accounting, as the Company exercises significant influence but does not control the entity. The investment is in the AIR MILES Reward Program segment. In March 2021, the Company received a partnership

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distribution from Comenity Canada L.P. of $0.8 million, and the Company's ownership interest declined from 99.9% to 98.0%.

At June 30, 2021, the Company's investment in Comenity Canada L.P. was de minimis. At December 31, 2020, the Company's investment in Comenity Canada L.P. was $0.9 million.

In August 2021, the Company's investment in Comenity Canada L.P. was sold to an affiliate of ADS for CDN $5.2 million.

9. DEBT

BrandLoyalty Credit Agreement

In the first quarter of 2021, BrandLoyalty and certain of its subsidiaries, as borrowers and guarantors, amended its credit agreement to extend the maturity date by one year from April 3, 2023 to April 3, 2024.

As of June 30, 2021 and December 31, 2020, there were no amounts outstanding under the BrandLoyalty Credit Agreement.

10. DERIVATIVE INSTRUMENTS

The Company uses derivatives to manage risks associated with certain assets and liabilities arising from the potential adverse impact of fluctuations in foreign currency exchange rates. Certain derivatives used to manage the Company's exposure to foreign currency exchange rate movements are not designated as hedges and do not qualify for hedge accounting. The fair value of the Company's derivative instruments as of June 30, 2021 was $0.9 million included in other current assets and $1.1 million included in other current liabilities in the Company's unaudited condensed combined balance sheets. The fair value of the Company's derivative instruments as of December 31, 2020 was $0.4 million included in other current assets and $1.5 million included in other current liabilities in the Company's unaudited condensed combined balance sheets.

11. SHARE-BASED PAYMENTS

Certain employees participate in share-based compensation plans of ADS. Under these plans, shares are reserved for grants of nonqualified stock options, incentive stock options, stock appreciation rights, restricted stock, restricted stock units, performance share awards, cash incentive awards, deferred stock units, and other stock-based and cash-based awards to selected officers, employees, non-employee directors and consultants performing services for ADS or its affiliates. Terms of all awards are determined by ADS's board of directors or the compensation committee of ADS's board of directors or its designee at the time of award.

During the six months ended June 30, 2021, ADS awarded both service-based and performance-based restricted stock units. For the service-based awards, the fair value of the restricted stock units is estimated using ADS's closing share price on the date of grant and typically vest ratably over a three-year period. The performance-based awards contain pre-defined vesting criteria that permit a range from 0% to 170% to be earned, subject to a market-based condition. The fair market value of these awards is $92.62 and was estimated utilizing Monte Carlo simulations of ADS' stock price correlation, expected volatility and risk-free rate over a three-year time horizon matching the performance period. If the performance targets are met, the restrictions will lapse with respect to the entire award on February 16, 2024, provided that the participant is employed by ADS on the vesting date.

Stock-based compensation expense recognized in the Company's unaudited condensed combined statements of income for the three and six months ended June 30, 2021 and 2020 is as follows:

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NOTES TO UNAUDITED CONDENSED COMBINED FINANCIAL STATEMENTS — (CONTINUED)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
	(in thousands)			
Cost of operations	$1,835	$1,514	$3,284	$2,511
General and administrative	490	440	895	847
Total	$2,325	$1,954	$4,179	$3,358

12. ACCUMULATED OTHER COMPREHENSIVE INCOME (LOSS)

The changes in each component of accumulated other comprehensive income (loss), net of tax effects, are as follows:

Three Months Ended June 30, 2021	Net Unrealized Gains (Losses) on Securities	Net Unrealized Gains (Losses) on Cash Flow Hedges	Foreign Currency Translation Adjustments[1]	Accumulated Other Comprehensive Loss
		(in thousands)		
Balance at March 31, 2021	$11,867	$ 217	$(46,885)	$ (34,801)
Changes in other comprehensive income (loss)	(1,383)	(145)	10,758	9,230
Balance at June 30, 2021	$10,484	$ 72	$(36,127)	$ (25,571)

Three Months Ended June 30, 2020	Net Unrealized Gains (Losses) on Securities	Net Unrealized Gains (Losses) on Cash Flow Hedges	Foreign Currency Translation Adjustments[1]	Accumulated Other Comprehensive Loss
		(in thousands)		
Balance at March 31, 2020	$ (1,521)	$ 227	$(113,661)	$ (114,955)
Changes in other comprehensive income (loss)	13,434	(880)	18,580	31,134
Balance at June 30, 2020	$11,913	$(653)	$ (95,081)	$ (83,821)

Six Months Ended June 30, 2021	Net Unrealized Gains (Losses) on Securities	Net Unrealized Gains (Losses) on Cash Flow Hedges	Foreign Currency Translation Adjustments[1]	Accumulated Other Comprehensive Loss
		(in thousands)		
Balance at December 31, 2020	$18,267	$(700)	$(17,186)	$ 381
Changes in other comprehensive income (loss)	(7,783)	772	(18,941)	(25,952)
Balance at June 30, 2021	$10,484	$ 72	$(36,127)	$ (25,571)

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NOTES TO UNAUDITED CONDENSED COMBINED FINANCIAL STATEMENTS — (CONTINUED)

Six Months Ended June 30, 2020	Net Unrealized Gains (Losses) on Securities	Net Unrealized Gains (Losses) on Cash Flow Hedges	Foreign Currency Translation Adjustments[1]	Accumulated Other Comprehensive Loss
		(in thousands)		
Balance at December 31, 2019	$ 386	$(133)	$(92,319)	$ (92,066)
Changes in other comprehensive income (loss)	11,527	(520)	(6,649)	4,358
Recognition resulting from the sale of Precima's foreign subsidiaries	—	—	3,887[2]	3,887
Balance at June 30, 2020	$11,913	$(653)	$(95,081)	$ (83,821)

(1) Primarily related to the impact of changes in the Canadian dollar and Euro foreign currency exchange rates.

(2) In accordance with ASC 830, upon the sale of Precima on January 10, 2020, $3.9 million of accumulated foreign currency translation adjustments attributable to Precima's foreign subsidiaries sold were reclassified from accumulated other comprehensive income (loss) and included in the calculation of the gain on sale of Precima.

Other reclassifications from accumulated other comprehensive income (loss) into net income for each of the periods presented were not material.

13. INCOME TAXES

For the three months ended June 30, 2021 and 2020, the Company utilized an effective tax rate of 29.6% and 2.2%, respectively, to calculate its provision for income taxes. For the six months ended June 30, 2021 and 2020, the Company utilized an effective tax rate of 31.0% and 21.8%, respectively, to calculate its provision for income taxes.

The increase in the effective tax rate for both the three and six months ended June 30, 2021 as compared to the respective prior year periods was due to discrete tax benefits related to the expiration of statutes of limitation and the resolution of tax audits in various foreign jurisdictions in the prior year.

14. FINANCIAL INSTRUMENTS

In accordance with ASC 825, "Financial Instruments," the Company is required to disclose the fair value of financial instruments for which it is practical to estimate fair value. To obtain fair values, observable market prices are used if available. In some instances, observable market prices are not readily available and fair value is determined using present value or other techniques appropriate for a particular financial instrument. These techniques involve judgment and as a result are not necessarily indicative of the amounts the Company would realize in a current market exchange. The use of different assumptions or estimation techniques may have a material effect on the estimated fair value amounts.

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NOTES TO UNAUDITED CONDENSED COMBINED FINANCIAL STATEMENTS — (CONTINUED)

Fair Value of Financial Instruments — The estimated fair values of the Company's financial instruments are as follows:

	June 30, 2021		December 31, 2020	
	Carrying Amount	Fair Value	Carrying Amount	Fair Value
	(in thousands)			
Financial assets				
Redemption settlement assets, restricted	$745,086	$745,086	$693,461	$693,461
Other investments	260	260	253	253
Derivative instruments	889	889	353	353
Financial liabilities				
Derivative instruments	1,058	1,058	1,505	1,505

The following techniques and assumptions were used by the Company in estimating fair values of financial instruments as disclosed herein:

Redemption settlement assets, restricted — Redemption settlement assets, restricted are recorded at fair value based on quoted market prices for the same or similar securities.

Other investments — Other investments consist of marketable securities and are included in other current assets in the combined balance sheets. Other investments are recorded at fair value based on quoted market prices for the same or similar securities.

Derivative instruments — The Company's foreign currency cash flow hedges and foreign currency exchange forward contracts are recorded at fair value based on a discounted cash flow analysis on the expected cash flows of each derivative. This analysis reflected the contractual terms of the derivatives, including the period to maturity, and used observable market-based inputs.

Financial Assets and Financial Liabilities Fair Value Hierarchy

ASC 820 establishes a three-tier fair value hierarchy, which prioritizes the inputs used in measuring fair value. These tiers include:

- Level 1, defined as observable inputs such as quoted prices in active markets;
- Level 2, defined as inputs other than quoted prices in active markets that are either directly or indirectly observable; and
- Level 3, defined as unobservable inputs where little or no market data exists, therefore requiring an entity to develop its own assumptions.

Financial instruments are considered Level 3 when their values are determined using pricing models, discounted cash flow methodologies or similar techniques and at least one significant model assumption or input is unobservable. Level 3 financial instruments also include those for which the determination of fair value requires significant management judgment or estimation. The use of different techniques to determine fair value of these financial instruments could result in different estimates of fair value at the reporting date.

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NOTES TO UNAUDITED CONDENSED COMBINED FINANCIAL STATEMENTS — (CONTINUED)

The following tables provide information for the assets and liabilities carried at fair value measured on a recurring basis as of June 30, 2021 and December 31, 2020:

	Balance at June 30, 2021	Fair Value Measurements at June 30, 2021 Using		
		Level 1	Level 2	Level 3
		(in thousands)		
Mutual funds[1]	$ 26,866	$26,866	$ —	$—
Corporate bonds[1]	662,088	—	662,088	—
Marketable securities[2]	260	260	—	—
Derivative instruments[3]	889	—	889	—
Total assets measured at fair value	$690,103	$27,126	$662,977	$—
Derivative instruments[3]	$ 1,058	$ —	$ 1,058	$—
Total liabilities measured at fair value	$ 1,058	$ —	$ 1,058	$—

	Balance at December 31, 2020	Fair Value Measurements at December 31, 2020 Using		
		Level 1	Level 2	Level 3
		(in thousands)		
Mutual funds[1]	$ 26,850	$26,850	$ —	$—
Corporate bonds[1]	611,184	—	611,184	—
Marketable securities[2]	253	253	—	—
Derivative instruments[3]	353	—	353	—
Total assets measured at fair value	$638,640	$27,103	$611,537	$—
Derivative instruments[3]	$ 1,505	$ —	$ 1,505	$—
Total liabilities measured at fair value	$ 1,505	$ —	$ 1,505	$—

(1) Amounts are included in redemption settlement assets, restricted in the unaudited condensed combined balance sheets.

(2) Amounts are included in other current assets in the unaudited condensed combined balance sheets.

(3) Amounts are included in other current assets and other current liabilities in the unaudited condensed combined balance sheets.

15. SEGMENT INFORMATION

Operating segments are defined by ASC 280, "Segment Reporting," as components of an enterprise about which separate financial information is available that is evaluated regularly by the chief operating decision maker in deciding how to allocate resources and in assessing performance. The operating segments are reviewed separately because each operating segment represents a strategic business unit that generally offers different products and services.

- The AIR MILES Reward Program is a full service outsourced coalition loyalty program for our sponsors, who pay us a fee per AIR MILES reward mile issued, in return for which we provide all marketing, customer service, rewards and redemption management.
- BrandLoyalty designs, implements, conducts and evaluates innovative and tailor-made loyalty programs for grocers and other high-frequency retailers worldwide. These loyalty programs are designed to generate immediate changes in consumer behavior and are offered through leading grocers across Europe and Asia, as well as around the world.

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NOTES TO UNAUDITED CONDENSED COMBINED FINANCIAL STATEMENTS — (CONTINUED)

- Corporate and other consists of corporate overhead not allocated to any of the Company's segments.

Income taxes and equity in earnings (losses) from related party investments accounted for under the equity method are not included in the computation of segment operating profit for internal evaluation purposes.

Three Months Ended June 30, 2021	AIR MILES Reward Program	BrandLoyalty	Corporate/ Other	Total
		(in thousands)		
Revenues	$71,937	$78,968	$ —	$150,905
Income (loss) before income taxes	$30,164	$ (5,659)	$(3,905)	$ 20,600
Interest (income) expense, net	(194)	81	—	(113)
Depreciation and amortization	6,126	3,295	—	9,421
Stock compensation expense	662	1,173	490	2,325
Adjusted EBITDA[(1)]	$36,758	$ (1,110)	$(3,415)	$ 32,233

Three Months Ended June 30, 2020	AIR MILES Reward Program	BrandLoyalty	Corporate/ Other	Total
		(in thousands)		
Revenues	$64,690	$86,381	$ —	$151,071
Income (loss) before income taxes	$32,262	$ (8,313)	$(3,591)	$ 20,358
Interest (income) expense, net	(186)	104	—	(82)
Depreciation and amortization	4,167	14,187	—	18,354
Stock compensation expense	613	901	440	1,954
Strategic transaction costs	79	—	—	79
Restructuring and other charges	72	—	—	72
Adjusted EBITDA[(1)]	$37,007	$ 6,879	$(3,151)	$ 40,735

Six Months Ended June 30, 2021	AIR MILES Reward Program	BrandLoyalty	Corporate/ Other	Total
		(in thousands)		
Revenues	$142,194	$185,265	$ —	$327,459
Income (loss) before income taxes	$ 60,326	$ (4,076)	$(7,590)	$ 48,660
Interest (income) expense, net	(376)	194	—	(182)
Depreciation and amortization	11,909	6,545	—	18,454
Stock compensation expense	1,350	1,934	895	4,179
Adjusted EBITDA[(1)]	$ 73,209	$ 4,597	$(6,695)	$ 71,111

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NOTES TO UNAUDITED CONDENSED COMBINED FINANCIAL STATEMENTS — (CONTINUED)

Six Months Ended June 30, 2020	AIR MILES Reward Program	BrandLoyalty	Corporate/ Other	Total
		(in thousands)		
Revenues	$141,153	$208,023	$ —	$349,176
Income (loss) before income taxes	$ 79,134	$ (8,478)	$(7,163)	$ 63,493
Interest (income) expense, net	(603)	254	—	(349)
Depreciation and amortization	8,405	28,179	—	36,584
Stock compensation expense	952	1,559	847	3,358
Gain on sale of business, net of strategic transaction costs	(7,969)	—	—	(7,969)
Strategic transaction costs	162	—	—	162
Restructuring and other charges	179	(50)	—	129
Adjusted EBITDA[1]	$ 80,260	$ 21,464	$(6,316)	$ 95,408

(1) Adjusted EBITDA is a non-GAAP financial measure equal to net income, the most directly comparable financial measure based on GAAP plus stock compensation expense, provision for income taxes, interest expense, net, depreciation and other amortization, and amortization of purchased intangibles. Adjusted EBITDA also excludes the gain on the sale of Precima, strategic transaction costs, which represent costs for professional services associated with strategic initiatives, and restructuring and other charges.

16. SUPPLEMENTAL CASH FLOW INFORMATION

The following table provides a reconciliation of cash and cash equivalents to the total of the amounts reported in the unaudited condensed combined statements of cash flows:

	June 30, 2021	June 30, 2020
	(in thousands)	
Cash and cash equivalents	$205,715	$201,749
Restricted cash included within other current assets[1]	5,401	3,873
Restricted cash included within redemption settlement assets, restricted[2]	56,132	49,871
Total cash, cash equivalents and restricted cash	$267,248	$255,493

(1) Includes cash restricted for travel deposits within the AIR MILES Reward Program.

(2) See Note 5, "Redemption Settlement Assets, Restricted," for additional information regarding the nature of restrictions on redemption settlement assets.

17. RELATED PARTY TRANSACTIONS

Transactions between the Company and ADS were considered to be effectively settled at the time the transaction was recorded. The net effect of the settlement of these intercompany transactions is reflected in the unaudited condensed combined statements of cash flows as a financing activity as net transfers to Parent and in the unaudited condensed combined balance sheets as Parent's net investment.

ADS allocated $3.9 million and $3.6 million for the three months ended June 30, 2021 and 2020, respectively, and $7.6 million and $7.2 million for the six months ended June 30, 2021 and 2020, respectively, of corporate overhead costs that directly or indirectly benefit LoyaltyOne that are included in general and administrative expense within the Company's unaudited condensed combined statements of income. These

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NOTES TO UNAUDITED CONDENSED COMBINED FINANCIAL STATEMENTS — (CONTINUED)

assessments relate to information technology, finance, accounting, and tax services provided, as well as human resources, and other functional support. These allocations were determined based on management estimates on the number of employees and non-employee costs associated with the use of these functions by the Company and may not be indicative of the costs that the Company would otherwise incur on a standalone basis.

In addition, the Company had certain investments in unconsolidated subsidiaries that were consolidated subsidiaries of the Parent. See Note 8, "Investments in Unconsolidated Subsidiaries — Related Party," for additional information.

In January 2021, the Company paid cash dividends to ADS of $124.2 million, of which $4.2 million was withheld for taxes.

18. SUBSEQUENT EVENTS

The Company has evaluated subsequent events through September 1, 2021, the date these financial statements were available to be issued, and determined that there have been no events, other than those disclosed herein, that have occurred that would require adjustment to the disclosures in the unaudited condensed combined financial statements.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Stockholders and the Board of Directors of Alliance Data Systems Corporation

Opinion on the Financial Statements

We have audited the accompanying combined balance sheets of LoyaltyOne (the "Company") as of December 31, 2020 and 2019, the related combined statements of income, comprehensive income, equity, and cash flows for each of the three years in the period ended December 31, 2020, and the related notes and Schedule II (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2020 and 2019, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2020, in conformity with accounting principles generally accepted in the United States of America.

Change in Accounting Principle

As discussed in Note 2 to the financial statements, the Company adopted Accounting Standards Codification (ASC) 842, *Leases*, using the modified retrospective approach on January 1, 2019.

Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB and in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits we are required to obtain and understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

Emphasis of a Matter

As discussed in Note 24 to the financial statements, the financial statements include allocations of expenses from the Parent, Alliance Data Systems Corporation. These allocations may not be reflective of the actual level of costs which would have been incurred had the Company operated as a separate entity apart from the Parent.

/s/ Deloitte & Touche LLP

Dallas, Texas
July 14, 2021

We have served as the Company's auditor since 1998.

LOYALTYONE

COMBINED BALANCE SHEETS

	December 31,	
	2020	2019
	(in thousands)	
ASSETS		
Cash and cash equivalents	$ 278,841	$ 124,981
Accounts receivable, net, less allowance for doubtful accounts ($4.0 million and $3.4 million at December 31, 2020 and 2019, respectively)	270,559	338,879
Inventories, net, less allowance for obsolescence ($10.9 million and $17.2 million at December 31, 2020 and 2019, respectively)	164,306	218,044
Redemption settlement assets, restricted	693,461	600,810
Other current assets	23,000	30,560
Total current assets	1,430,167	1,313,274
Property and equipment, net	97,916	111,239
Right of use assets – operating	113,870	115,851
Deferred tax asset, net	70,137	62,789
Intangible assets, net	5,097	52,819
Goodwill	735,898	690,814
Investment in unconsolidated subsidiaries – related party	854	451
Other non-current assets	4,125	6,183
Total assets	$2,458,064	$2,353,420
LIABILITIES AND EQUITY		
Accounts payable	$ 74,818	$ 98,670
Accrued expenses	67,056	83,330
Deferred revenue	898,475	807,897
Current operating lease liabilities	9,942	8,905
Other current liabilities	64,990	128,592
Total current liabilities	1,115,281	1,127,394
Deferred revenue	105,544	114,129
Deferred tax liability, net	—	1,797
Long-term operating lease liabilities	117,648	121,031
Other liabilities	25,290	41,510
Total liabilities	1,363,763	1,405,861
Commitments and contingencies (Note 16)		
Parent's net investment	1,093,920	1,039,625
Accumulated other comprehensive income (loss)	381	(92,066)
Total equity	1,094,301	947,559
Total liabilities and equity	$2,458,064	$2,353,420

See accompanying notes to the combined financial statements.

LOYALTYONE

COMBINED STATEMENTS OF INCOME

	Years Ended December 31,		
	2020	2019	2018
		(in thousands)	
Revenues			
Redemption, net	$473,067	$ 637,321	$ 676,279
Services	264,050	367,647	368,170
Other	27,689	28,163	23,929
Total revenue	764,806	1,033,131	1,068,378
Operating expenses			
Cost of operations (exclusive of depreciation and amortization disclosed separately below)	587,615	847,552	824,203
General and administrative	14,315	14,823	14,049
Depreciation and other amortization	28,988	32,152	32,585
Amortization of purchased intangibles	48,953	48,027	52,238
Total operating expenses	679,871	942,554	923,075
Operating income	84,935	90,577	145,303
Gain on sale of a business	(10,876)	—	—
Interest (income) expense, net	(834)	2,335	5,528
Income before income taxes and loss from investment in unconsolidated subsidiaries	96,645	88,242	139,775
Provision (benefit) for income taxes	21,324	11,331	(2,867)
Loss from investment in unconsolidated subsidiaries – related party, net of tax	246	1,681	5,033
Net income	$ 75,075	$ 75,230	$ 137,609

See accompanying notes to the combined financial statements.

LOYALTYONE

COMBINED STATEMENTS OF COMPREHENSIVE INCOME

	Years Ended December 31,		
	2020	2019	2018
		(in thousands)	
Net income	$ 75,075	$75,230	$137,609
Other comprehensive income (loss):			
Unrealized gain on securities available-for-sale	18,551	6,405	1,119
Tax expense	(670)	—	—
Unrealized gain on securities available-for-sale, net of tax	17,881	6,405	1,119
Unrealized (loss) gain on cash flow hedges	(639)	115	(93)
Tax benefit (expense)	72	(24)	16
Unrealized (loss) gain on cash flow hedges, net of tax	(567)	91	(77)
Foreign currency translation adjustments	75,133	(6,214)	(21,031)
Other comprehensive income (loss), net of tax	92,447	282	(19,989)
Total comprehensive income, net of tax	$167,522	$75,512	$117,620

See accompanying notes to the combined financial statements.

LOYALTYONE

COMBINED STATEMENTS OF EQUITY

	(in thousands)
Balance as of January 1, 2018	$ 482,500
Net income	137,609
Other comprehensive loss	(19,989)
Change in Parent's net investment	4,910
Balance as of December 31, 2018	605,030
Net income	75,230
Other comprehensive income	282
Change in Parent's net investment	267,017
Balance as of December 31, 2019	$ 947,559
Net income	75,075
Other comprehensive income	92,447
Change in Parent's net investment	(20,780)
Balance as of December 31, 2020	$1,094,301

See accompanying notes to the combined financial statements.

LOYALTYONE

COMBINED STATEMENTS OF CASH FLOWS

	Years Ended December 31,		
	2020	2019	2018
		(in thousands)	
CASH FLOWS FROM OPERATING ACTIVITIES:			
Net income	$ 75,075	$ 75,230	$137,609
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation and amortization	77,941	80,179	84,823
Deferred income tax benefit	(3,502)	(19,853)	(54,759)
Non-cash stock compensation	7,017	9,076	13,333
Loss from investments in unconsolidated subsidiaries – related party	246	1,681	5,033
Gain on sale of a business	(10,876)	—	—
Asset impairment charges	—	40,664	—
Gain on sale of an investment	—	—	(9,517)
Change in other operating assets and liabilities, net of sale of business:			
Change in deferred revenue	60,826	2,943	(17,464)
Change in accounts receivable	64,194	(36,104)	(91,856)
Change in accounts payable and accrued expenses	(40,361)	(50,459)	42,094
Change in other assets	79,009	12,845	(56,814)
Change in other liabilities	(86,787)	(15,332)	11,531
Other	(6,465)	4,829	1,396
Net cash provided by operating activities	216,317	105,699	65,409
CASH FLOWS FROM INVESTING ACTIVITIES:			
Change in redemption settlement assets, restricted	(40,677)	(9,496)	(42,203)
Capital expenditures	(24,319)	(41,457)	(34,000)
Acquisition of tradename	—	—	(1,520)
Proceeds from the sale of investment in unconsolidated subsidiary – related party	—	4,000	—
Investments in unconsolidated subsidiaries – related party	(736)	(6,093)	(800)
Net cash used in investing activities	(65,732)	(53,046)	(78,523)
CASH FLOWS FROM FINANCING ACTIVITIES:			
Borrowings under debt agreements	—	28,271	48,338
Repayments of borrowings	—	(203,634)	(54,734)
Repayments of borrowings from related parties	—	(127,845)	—
Contribution from the Parent	—	288,693	—
Dividends paid to Parent	—	—	(6,823)
Net transfers to Parent	(2,638)	(28,393)	(10,718)
Net cash used in financing activities	(2,638)	(42,908)	(23,937)
Effect of exchange rate changes on cash, cash equivalents and restricted cash	14,446	3,600	(11,533)
Change in cash, cash equivalents and restricted cash	162,393	13,345	(48,584)
Cash, cash equivalents and restricted cash at beginning of year	175,132	161,787	210,371
Cash, cash equivalents and restricted cash at end of year	$337,525	$ 175,132	$161,787
SUPPLEMENTAL CASH FLOW INFORMATION:			
Interest paid	$ 146	$ 5,786	$ 4,748
Income taxes paid, net	$ 76,750	$ 40,301	$ 87,157

See accompanying notes to the combined financial statements.

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LOYALTYONE

NOTES TO COMBINED FINANCIAL STATEMENTS

1. DESCRIPTION OF BUSINESS AND BASIS OF PRESENTATION

Description of the Business — The business represents the LoyaltyOne reportable segment (the "Company" or "LoyaltyOne"), which provides coalition and campaign-based loyalty solutions through the Canadian AIR MILES® Reward Program and BrandLoyalty Group B.V. ("BrandLoyalty"). The AIR MILES Reward Program is a full service outsourced coalition loyalty program for its sponsors who pay a fee per AIR MILES reward mile issued, in return for which the AIR MILES Reward Program provides all marketing, customer service, rewards and redemption management. BrandLoyalty designs, implements, conducts and evaluates innovative and tailor-made loyalty programs for high frequency retailers worldwide. These loyalty programs are designed to generate immediate changes in consumer behavior and are offered across Europe and Asia, as well as around the world. LoyaltyOne is owned by Alliance Data Systems Corporation ("ADS" or "Parent").

Basis of Presentation — The Company has historically operated as part of the Parent and not as a standalone company. The combined financial statements have been derived from Parent's historical accounting records and are presented on a carve-out basis. All revenues and expenses as well as assets and liabilities directly associated with the business activity of the Company are included in the combined financial statements. The combined financial statements also include allocations of certain general and administrative expenses from the Parent. However, amounts recognized by the Company are not necessarily representative of the amounts that would have been reflected in the combined financial statements had the Company operated independently of Parent. Related-party allocations are discussed further in Note 24, "Related Party Transactions." The cash and cash equivalents held by ADS at the corporate level are not specifically identifiable and therefore have not been reflected in the combined balance sheets. ADS' third-party long-term debt and the related interest expense have not been allocated for any of the periods presented as it was not the legal obligor of such debt.

Parent's net investment represents Parent's interest in the recorded net assets of the Company. All significant transactions between the Company and Parent have been included in the accompanying combined financial statements. Transactions with Parent as contributions to the carve-out entity or distributions from the carve-out entity are reflected in the accompanying combined statements of equity as "Changes in Parent's net investment" and in the accompanying combined balance sheets within "Parent's net investment."

All significant intercompany accounts and transactions between the businesses comprising the Company have been eliminated in the accompanying combined financial statements.

The Company's combined financial statements and accompanying notes have been prepared in accordance with accounting principles generally accepted in the United States of America ("GAAP"). The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amount of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. The Company's combined financial statements and accompanying notes are presented in U.S. Dollar ("USD"), the Company's reporting currency.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Principles of Consolidation — The accompanying combined financial statements include the accounts of the Company in which it has a controlling financial interest. Controlling financial interest is determined by a majority ownership interest and the absence of substantive third party participating rights. For investments in any entities in which the Company owns 50% or less of the outstanding voting stock but has significant influence over operating and financial decisions, the equity method of accounting is applied. The equity method of accounting is also applied to investments in any entities in which the Company has a majority ownership interest but does not have a controlling financial interest due to substantive participating rights held by the minority owner.

LOYALTYONE

NOTES TO COMBINED FINANCIAL STATEMENTS — (CONTINUED)

Cash and Cash Equivalents — The Company considers all highly liquid investments with an original maturity of three months or less to be cash equivalents.

Accounts Receivable, net — Accounts receivable, net consist primarily of amounts receivable from customers, which are recorded at the invoiced amount and do not bear interest. The Company maintains an allowance for doubtful accounts for estimated credit losses inherent in its accounts receivable. The Company analyzes the appropriateness of its allowance for doubtful accounts based on its assessment of various factors, including customer-specific experience, the age of the accounts receivable balance, customer creditworthiness, current economic trends, and changes in its customer payment terms and collection trends. Account balances are charged-off against the allowance after all reasonable means of collection have been exhausted and the potential for recovery is considered remote.

Inventories, net — Inventories, net are stated at the lower of cost and net realizable value and valued primarily on a first-in-first-out basis. The Company records valuation adjustments to its inventories if the cost of inventory exceeds the amount it expects to realize from the ultimate sale or disposal of the inventory. These estimates are based on management's judgment regarding future market conditions and an analysis of historical experience.

Redemption Settlement Assets, Restricted — The cash and investments related to the redemption fund for the AIR MILES Reward Program are subject to a security interest which is held in trust for the benefit of funding redemptions by consumers, referred to as collectors. These assets are restricted to funding rewards for the collectors by certain of the Company's sponsor contracts. Investments in equity securities are stated at fair value, with holding gains and losses recognized through net income. Investments in debt securities are stated at fair value, with the unrealized gains and losses, net of tax, reported as a component of accumulated other comprehensive income (loss), as the investments are classified as available-for-sale.

Property and Equipment — Furniture, equipment, computer software and development and leasehold improvements are carried at cost, less accumulated depreciation and amortization. Depreciation and amortization for furniture and equipment are computed on a straight-line basis, using estimated lives ranging from two to ten years. Software development is capitalized in accordance with Accounting Standards Codification ("ASC") 350-40, "Intangibles — Goodwill and Other — Internal — Use Software," and is amortized on a straight-line basis over the expected benefit period, which ranges from three to five years. Leasehold improvements are amortized over the remaining lives of the respective leases or the remaining useful lives of the improvements, whichever is shorter. Long-lived assets are tested for impairment when events or conditions indicate that the carrying value of an asset may not be fully recoverable from future cash flows.

Goodwill — Goodwill is not amortized, but is reviewed at least annually for impairment or more frequently if circumstances indicate that an impairment is probable, using qualitative or quantitative analysis.

Intangible Assets — The Company's identifiable intangible assets consist of amortizable intangible assets that are amortized on a straight-line basis over their respective estimated useful lives. The intangible assets are tested for impairment when events or conditions indicate that the carrying value of an asset may not be fully recoverable from future cash flows. Costs incurred to renew or extend the terms of intangible assets are expensed as incurred.

Income Taxes — The Company's operations are included in the consolidated U.S. federal, and certain state and local income tax returns filed by the Parent, where applicable. The Company also files certain separate foreign tax returns. Income tax expense and other income tax related information contained in the combined financial statements are presented on a separate return basis, which requires us to estimate tax expense as if the Company filed a separate return apart from the Parent. The Company's income taxes as presented in the combined financial statements may not be indicative of the income taxes that the Company will incur in the future.

LOYALTYONE

NOTES TO COMBINED FINANCIAL STATEMENTS — (CONTINUED)

Income taxes reported in earnings also include deferred income tax provisions and provisions for uncertain tax positions. Deferred income tax assets and liabilities are computed on differences between the financial statement bases and tax bases of assets and liabilities at the enacted tax rates. Changes in deferred income tax assets and liabilities associated with components of other comprehensive income are charged or credited directly to other comprehensive income. Otherwise, changes in deferred income tax assets and liabilities are included as a component of income tax expense. The effect on deferred income tax assets and liabilities attributable to changes in enacted tax rates are charged or credited to income tax expense in the period of enactment. Valuation allowances are established for certain deferred tax assets when realization is less than more-likely-than-not.

Liabilities are established for uncertain tax positions taken or positions expected to be taken in income tax returns when such positions, in our judgment, do not meet a more-likely-than-not threshold based on the technical merits of the positions. Additionally, liabilities may be established for uncertain tax positions when, in our judgment, the more-likely-than-not threshold is met, but the position does not rise to the level of highly certain based upon the technical merits of the position. Estimated interest and penalties related to uncertain tax positions are included as a component of income tax expense.

The Company uses the portfolio approach relating to the release of stranded tax effects recorded in accumulated other comprehensive income (loss). Under the portfolio approach, the net unrealized gains or losses recorded in accumulated other comprehensive income (loss) would be eliminated only on the date the entire portfolio of available-for-sale securities is sold or otherwise disposed of.

***Derivative Instruments* —** The Company uses derivatives to manage its exposure to various financial risks. The Company does not enter into derivatives for trading or other speculative purposes. Certain derivatives used to manage the Company's exposure to foreign currency exchange rate movements are not designated as hedges and do not qualify for hedge accounting.

Derivatives Designated as Hedging Instruments — The Company assesses both at the hedge's inception and on an ongoing basis, whether the derivatives that are used in the hedging transaction, including net investment hedges, have been highly effective in offsetting changes in the cash flows or remeasurement of the hedged items and whether the derivatives may be expected to remain highly effective in future periods. The Company discontinues hedge accounting prospectively when (1) it determines that the derivative is no longer highly effective in offsetting changes in cash flow of the hedged item; (2) the derivative expires or is sold, terminated, or exercised; (3) it is no longer probable that the forecasted transaction will occur; or (4) it determines that designating the derivative as a hedging instrument is no longer appropriate. Changes in the fair value of derivative instruments designated as hedging instruments, excluding any ineffective portion, are recorded in other comprehensive income (loss) until the hedged transactions affect net income. The ineffective portion of this hedging instrument is recognized through net income when the ineffectiveness occurs.

Derivatives not Designated as Hedging Instruments — Certain foreign currency exchange forward contracts are not designated as hedges as they do not meet the specific hedge accounting requirements of ASC 815, "Derivatives and Hedging." Changes in the fair value of the derivative instruments not designated as hedging instruments are recorded in the combined statements of income as they occur.

***Revenue Recognition* —** The Company recognizes revenue in accordance with ASC 606, "Revenue from Contracts with Customers." The Company recognizes revenues when control of the promised goods or services is transferred to the customer, in an amount that reflects the consideration the Company expects to be entitled to in exchange for those goods or services. In that determination, under ASC 606, the Company follows a five-step model that includes: (1) determination of whether a contract, an agreement between two or more parties that creates legally enforceable rights and obligations, exists; (2) identification of the performance obligations in the contract; (3) determination of the transaction price; (4) allocation of the transaction price to the performance obligations in the contract; and (5) recognition of revenue when (or as) the performance obligation is satisfied.

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NOTES TO COMBINED FINANCIAL STATEMENTS — (CONTINUED)

See Note 3, "Revenue," for more information about the Company's revenue and the associated timing and basis of revenue recognition.

Currency Translation — The assets and liabilities of the Company's subsidiaries outside the U.S. are translated into U.S. dollars at the rates of exchange in effect at the balance sheet dates, primarily from Canadian dollars and Euros. Income and expense items are translated at the average exchange rates prevailing during the period. Gains and losses resulting from currency transactions are recognized currently in income and those resulting from translation of financial statements are included in accumulated other comprehensive income (loss). The Company recognized net foreign transaction losses of $1.0 million for the year ended December 31, 2020, and gains of $1.5 million and $1.0 million for the years ended December 31, 2019 and 2018, respectively, which are included in cost of operations within the Company's combined statements of income.

Leases — The Company determines if an arrangement is a lease or contains a lease at inception. Operating lease right-of-use assets and lease liabilities are recognized at commencement based on the present value of lease payments over the lease term. As the implicit rate is typically not readily determinable in the Company's lease agreements, the Company uses its incremental borrowing rate as of the lease commencement date to determine the present value of the lease payments. The incremental borrowing rate is based on the Company's specific rate of interest to borrow on a collateralized basis, over a similar term and in a similar economic environment as the lease. Lease expense is recognized on a straight-line basis over the lease term. Leases with an initial term of 12 months or less are not recognized on the balance sheet; the Company recognizes lease expense for these leases on a straight-line basis over the lease term. Additionally, the Company accounts for lease and nonlease components as a single lease component for its identified asset classes. As of December 31, 2020 and 2019, the Company does not have any finance leases. Similar to other long-lived assets, right-of-use assets are tested for impairment when events or conditions indicate that the carrying value of an asset may not be fully recoverable from future cash flows.

Marketing and Advertising Costs — The Company participates in various marketing and advertising programs with certain clients and sponsors. The cost of marketing and advertising programs is expensed in the period incurred. The Company has recognized marketing and advertising expenses, including on behalf of its clients, of $22.8 million, $24.7 million and $30.0 million for the years ended December 31, 2020, 2019 and 2018, respectively.

Recently Issued Accounting Standards

In December 2019, the Financial Accounting Standards Board ("FASB") issued ASU 2019-12, "Simplifying the Accounting for Income Taxes." ASU 2019-12 eliminates certain exceptions within ASC 740, "Income Taxes," and clarifies certain aspects of ASC 740 to promote consistency among reporting entities. ASU 2019-12 is effective for interim and annual reporting periods beginning after December 15, 2020, with early adoption permitted. Most amendments within the standard are required to be applied on a prospective basis, while certain amendments must be applied on a retrospective or modified retrospective basis. The Company's adoption of this standard on January 1, 2021 did not have a material impact on its combined financial statements.

In March 2020, the FASB issued ASU 2020-04, "Facilitation of the Effects of Reference Rate Reform on Financial Reporting." This ASU provides optional expedients and exceptions for applying GAAP to contracts, hedging relationships, and other transactions affected by reference rate reform if certain criteria are met. The amendments in this ASU apply only to contracts and hedging relationships that reference the London Interbank Offered Rate ("LIBOR") or another reference rate expected to be discontinued due to reference rate reform. The expedients and exceptions provided by the amendments do not apply to contract modifications made and hedging relationships entered into or evaluated after December 31, 2022. This ASU is elective and is effective upon issuance for all entities. The Company is evaluating the impact that adoption of ASU 2020-04 will have on its combined financial statements.

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NOTES TO COMBINED FINANCIAL STATEMENTS — (CONTINUED)

Recently Adopted Accounting Standards

In February 2016, the FASB issued ASU 2016-02, "Leases," ASC 842, that replaced previous lease guidance and required lessees to record right-of-use assets and corresponding lease liabilities on the balance sheet. Companies continue to classify leases as either finance or operating, with classification affecting the pattern of expense recognition in the statements of income. Companies were permitted to adopt ASC 842 using a modified retrospective approach or transition relief provided by ASU 2018-11, "Leases (Topic 842): Targeted Improvements," that removed certain comparative period requirements and required a cumulative-effect adjustment to the opening balance of retained earnings in the period of adoption. The Company adopted the standard on January 1, 2019 using the transition relief provided by ASU 2018-11.

During 2018, the Company completed its evaluation of ASC 842, including the impact on its policies, processes, systems and controls. As a result, the Company identified changes to and modified certain of its accounting policies and practices, including the implementation of new lease accounting software. Although there were no significant changes to the Company's accounting systems or controls upon adoption of ASC 842, the Company modified certain of its existing controls and added new controls to incorporate the revisions made to its accounting policies and practices.

The Company elected the transition practical expedients permitted under ASC 842-10-65-1 under which it was not required to reassess (i) whether expired or existing contracts were or contained leases as defined by ASC 842, (ii) the classification of such leases, and (iii) whether previously capitalized initial direct costs qualified for capitalization under ASC 842. The Company also elected the practical expedient to use hindsight in determining the lease term. Additionally, the Company made the accounting policy election to account for lease and nonlease components as a single lease component for its identified asset classes.

The cumulative effect of the changes made to the combined January 1, 2019 balance sheet for the adoption of ASC 842 established operating lease liabilities of approximately $137.0 million and corresponding right-of-use assets of approximately $122.8 million, based upon the operating lease liabilities adjusted for deferred rent and lease incentives, which resulted in the reclassification of approximately $14.2 million in liabilities to the right-of-use asset. There was no cumulative-effect adjustment to retained earnings as a result of the adoption of ASC 842.

The Company's adoption of ASC 842 had no significant impact to our combined statements of income or combined statements of cash flows. Based on the evaluation of ASC 842, the Company does not expect it to have a material impact on its results of operations or cash flows in the periods after adoption.

ASC 842 also requires expanded qualitative and quantitative disclosure regarding the Company's leasing activities. See Note 8, "Leases," for the Company's ASC 842 disclosures.

In January 2016, the FASB issued ASU 2016-01, "Recognition and Measurement of Financial Assets and Financial Liabilities." ASU 2016-01 requires that equity investments be measured at fair value with changes in fair value recognized in net income. For equity investments without readily determinable fair values, entities have the option to either measure these investments at fair value or at cost adjusted for changes in observable prices minus impairment. Additionally, ASU 2016-01 requires entities that elect the fair value option for financial liabilities to recognize changes in fair value related to instrument-specific credit risk in other comprehensive income. Finally, entities must assess valuation allowances for deferred tax assets related to available-for-sale debt securities in combination with their other deferred tax assets. The Company adopted this standard on January 1, 2018, resulting in a cumulative-effect adjustment of $1.3 million that was reclassified from accumulated other comprehensive income (loss) to retained earnings on the combined January 1, 2018 balance sheet, with no change to total equity in 2018 related to the adoption.

LOYALTYONE

NOTES TO COMBINED FINANCIAL STATEMENTS — (CONTINUED)

In June 2016, the FASB issued ASU 2016-13, "Measurement of Credit Losses on Financial Instruments," or ASC 326. ASC 326 modified the impairment model for available-for-sale debt securities and provided for a simplified accounting model for purchased financial assets with credit deterioration since their origination. ASC 326 impacts the Company's valuation of its accounts receivable and available-for-sale debt securities. The Company's adoption of ASC 326 on January 1, 2020 did not have a material impact on its combined financial statements.

In August 2018, the FASB issued ASU 2018-13, "Changes to the Disclosure Requirements for Fair Value Measurement." ASU 2018-13 modifies the disclosure requirements on fair value measurements from ASC 820, "Fair Value Measurement." The Company's adoption of this standard on January 1, 2020 did not have a material impact on its combined financial statements.

In August 2018, the FASB issued ASU 2018-15, "Customer's Accounting for Implementation Costs Incurred in a Cloud Computing Arrangement that is a Service Contract." ASU 2018-15 requires customers in a cloud computing arrangement that is a service contract to follow the internal-use software guidance in ASC 350-40 to determine which implementation costs may be capitalized. The amendments in ASU 2018-15 can be applied either retrospectively or prospectively to all implementation costs incurred after the date of adoption. The Company adopted ASU 2018-15 on January 1, 2020 on a prospective basis and the adoption did not have a material impact on its combined financial statements.

3. REVENUE

Under ASC 606, revenue is recognized when control of the promised goods or services is transferred to the customer, in an amount that reflects the consideration the Company expects to be entitled to in exchange for those goods or services. The Company's contracts with its customers state the terms of sale, including the description, quantity, and price of the product or service purchased. Payment terms can vary by contract, but the period between invoicing and when payment is due is not significant. Taxes assessed on revenue-producing transactions are excluded from revenues.

The Company's products and services are reported under two segments — AIR MILES Reward Program and BrandLoyalty, as shown below. The following tables present revenue disaggregated by major source, as well as geographic region based on the location of the subsidiary that generally correlates with the location of the customer:

Year Ended December 31, 2020	AIR MILES Reward Program	BrandLoyalty	Total
		(in thousands)	
Disaggregation of Revenue by Major Source:			
Coalition loyalty program	$262,470	$ —	$262,470
Campaign-based loyalty solutions	—	487,685	487,685
Other	1,899[(1)]	—	1,899
Revenue from contracts with customers	$264,369	$487,685	$752,054
Investment income	12,752	—	12,752
Total	$277,121	$487,685	$764,806

LOYALTYONE

NOTES TO COMBINED FINANCIAL STATEMENTS — (CONTINUED)

Year Ended December 31, 2019	AIR MILES Reward Program	BrandLoyalty	Total
		(in thousands)	
Disaggregation of Revenue by Major Source:			
Coalition loyalty program	$290,054	$ —	$ 290,054
Campaign-based loyalty solutions	—	635,516	635,516
Other	81,337[(1)]	13,594	94,931
Revenue from contracts with customers	$371,391	$649,110	$1,020,501
Investment income	12,630	—	12,630
Total	$384,021	$649,110	$1,033,131

Year Ended December 31, 2018	AIR MILES Reward Program	BrandLoyalty	Total
		(in thousands)	
Disaggregation of Revenue by Major Source:			
Coalition loyalty program	$352,336	$ —	$ 352,336
Campaign-based loyalty solutions	—	613,748	613,748
Other	71,008[(1)]	19,696	90,704
Revenue from contracts with customers	$423,344	$633,444	$1,056,788
Investment income	11,590	—	11,590
Total	$434,934	$633,444	$1,068,378

(1) Includes revenues from Precima®, a provider of retail strategy and customer data applications and analytics, which was sold by the Parent on January 10, 2020, which comprised $1.9 million, $80.4 million and $70.1 million for the years ended December 31, 2020, 2019 and 2018, respectively. See Note 4, "Dispositions," for more information.

Year Ended December 31, 2020	AIR MILES Reward Program	BrandLoyalty	Total
		(in thousands)	
Disaggregation of Revenue by Geographic Region:			
United States	$ 1,028	$ 10,062	$ 11,090
Canada	275,825	11,051	286,876
Europe, Middle East and Africa	268	332,364	332,632
Asia Pacific	—	80,546	80,546
Other	—	53,662	53,662
Total	$277,121	$487,685	$764,806

LOYALTYONE

NOTES TO COMBINED FINANCIAL STATEMENTS — (CONTINUED)

Year Ended December 31, 2019	AIR MILES Reward Program	BrandLoyalty	Total
		(in thousands)	
Disaggregation of Revenue by Geographic Region:			
United States	$ 37,969	$ 2,142	$ 40,111
Canada	336,105	16,058	352,163
Europe, Middle East and Africa	9,947	439,193	449,140
Asia Pacific	—	121,731	121,731
Other	—	69,986	69,986
Total	$384,021	$649,110	$1,033,131

Year Ended December 31, 2018	AIR MILES Reward Program	BrandLoyalty	Total
		(in thousands)	
Disaggregation of Revenue by Geographic Region:			
United States	$ 18,838	$ 4,226	$ 23,064
Canada	395,832	15,526	411,358
Europe, Middle East and Africa	20,264	442,912	463,176
Asia Pacific	—	121,995	121,995
Other	—	48,785	48,785
Total	$434,934	$633,444	$1,068,378

AIR MILES Reward Program

The AIR MILES Reward Program is a coalition loyalty program for sponsors, who pay the Company a fee per AIR MILES reward mile issued, in return for which the AIR MILES Reward Program provides all marketing, customer service, rewards and redemption management.

Total consideration from the issuance of AIR MILES reward miles is allocated to three performance obligations: redemption, service, and brand, based on a relative standalone selling price basis. Because the standalone selling price is not directly observable for the three performance obligations, the Company estimates the standalone selling price for the redemption and the service performance obligations based on cost plus a reasonable margin. The Company estimates the standalone selling price of the brand performance obligation using a relief from royalty approach. Accordingly, management determines the estimated standalone selling price by considering multiple inputs and methods, including discounted cash flows and available market data in consideration of applicable margins and royalty rates to utilize. The number of AIR MILES reward miles issued and redeemed are factored into the estimates, as management estimates the standalone selling prices and volumes over the term of the respective agreements in order to determine the allocation of consideration to each performance obligation delivered. The redemption performance obligation incorporates the expected number of AIR MILES reward miles to be redeemed, and therefore, the amount of redemption revenue recognized is subject to management's estimate of breakage, or those AIR MILES reward miles estimated to be unredeemed by the collector base.

Redemption revenue is recognized at a point in time, as AIR MILES reward miles are redeemed. For the fulfillment of certain rewards where the AIR MILES Reward Program does not control the goods or services before they are transferred to the collector, revenue is recorded on a net basis. Service revenue is recognized over time using a time-elapsed output method, the estimated life of an AIR MILES reward mile. Revenue from the brand is recognized over time, using an output method, when an AIR MILES reward mile is issued. Revenue associated with both the service and brand is included in service revenue in the Company's combined statements of income.

LOYALTYONE

NOTES TO COMBINED FINANCIAL STATEMENTS — (CONTINUED)

The amount of revenue recognized in a period is subject to the estimate of breakage and the estimated life of an AIR MILES reward mile. Breakage and the life of an AIR MILES reward mile are based on management's estimate after viewing and analyzing various historical trends including vintage analysis, current run rates and other pertinent factors, such as the impact of macroeconomic conditions and changes in the program structure. For the years ended December 31, 2018, 2019 and 2020, the Company's breakage rate was 20%. For the years ended December 31, 2018, 2019 and 2020, the Company's estimated life of a mile was 38 months.

Contract Liabilities. The Company records a contract liability when cash payments are received in advance of its performance, which applies to the service and redemption of an AIR MILES reward mile.

A reconciliation of contract liabilities for the AIR MILES Reward Program is as follows:

	Deferred Revenue		
	Service	Redemption	Total
		(in thousands)	
Balance at January 1, 2019	$ 247,975	$ 627,300	$ 875,275
Cash proceeds	191,992	313,319	505,311
Revenue recognized[(1)]	(193,725)	(309,231)	(502,956)
Other	—	561	561
Effects of foreign currency translation	12,363	31,472	43,835
Balance at December 31, 2019	$ 258,605	$ 663,421	$ 922,026
Cash proceeds	173,089	286,177	459,266
Revenue recognized[(1)]	(188,790)	(211,482)	(400,272)
Other	—	1,410	1,410
Effects of foreign currency translation	4,282	17,307	21,589
Balance at December 31, 2020	$ 247,186	$ 756,833	$1,004,019
Amounts recognized in the combined balance sheets:			
Deferred revenue (current)	$ 141,642	$ 756,833	$ 898,475
Deferred revenue (non-current)	$ 105,544	$ —	$ 105,544

(1) Reported on a gross basis herein.

The deferred redemption obligation associated with the AIR MILES Reward Program is effectively due on demand from the collector base, thus the timing of revenue recognition is based on the redemption by the collector. Service revenue is amortized over the expected life of a mile, with the deferred revenue balance expected to be recognized into revenue in the amount of $141.7 million in 2021, $75.1 million in 2022, $29.5 million in 2023, and $0.9 million in 2024.

BrandLoyalty

BrandLoyalty designs, implements, conducts and evaluates innovative and tailor-made campaign-based loyalty solutions for grocers and other high-frequency retailers worldwide. The campaign-based loyalty solutions typically last between 6 and 20 weeks, depending on the nature of the program, with contract terms usually less than one year in length. These programs are tailored for the specific retailer client and are designed to reward key customer segments based on their spending levels during defined campaign periods. Revenue is recognized at the point in time control passes from BrandLoyalty to the retailer.

Contract Liabilities. The Company records a contract liability when cash payments are received in advance of its performance, which applies to the reward products for its campaign-based loyalty solutions.

LOYALTYONE

NOTES TO COMBINED FINANCIAL STATEMENTS — (CONTINUED)

The contract liabilities for BrandLoyalty's campaign-based loyalty solutions are recognized in other current liabilities in the Company's combined balance sheets. In 2020, the beginning balance as of January 1, 2020 was $108.8 million and the closing balance as of December 31, 2020 was $59.6 million, with the change due to revenue recognized of approximately $375.9 million, offset in part by cash payments received in advance of program performance revenue during the year ended December 31, 2020. In 2019, the beginning balance as of January 1, 2019 was $98.9 million and the closing balance as of December 31, 2019 was $108.8 million, with the change due to cash payments received in advance of program performance, offset in part by revenue recognized of approximately $526.6 million during the year ended December 31, 2019.

Practical Expedients

The Company does not disclose the value of unsatisfied performance obligations for (i) contracts with an original expected length of one year or less and (ii) contracts for which we recognize revenue at the amount to which the Company has the right to invoice for services performed.

The Company has elected the practical expedient from ASC 340-40 with respect to contract costs, and expenses the incremental costs as incurred for those costs that would otherwise be recognized with an amortization period of one year or less. These costs are recorded to cost of operations expense in the Company's combined statements of income.

4. DISPOSITIONS

On January 10, 2020, the Parent sold Precima, a provider of retail strategy and customer data applications and analytics, to Nielsen Holdings plc for total consideration to the Parent of $43.8 million. The purchase and sale agreement provided for $10.0 million in contingent consideration based upon the occurrence of specified events and performance of the business, with two earnout determinations in September 2020 and September 2021, respectively. In September 2020, the Parent received cash of $5.0 million upon the earnout determination date. The assets and liabilities of Precima were included in the Company's AIR MILES Reward Program segment. The following table summarizes the assets and liabilities of Precima as of the sale date:

	January 10, 2020
	(in thousands)
Assets:	
Cash and cash equivalents	$10,713
Accounts receivable, net	17,154
Other current assets	2,889
Property and equipment, net	9,653
Goodwill	3,206
Other assets	2,051
Total assets	$45,666
Liabilities:	
Accounts payable	$ 223
Accrued expenses	2,470
Other current liabilities	14,709
Deferred tax liability	2,037
Other liabilities	71
Total liabilities	$19,510

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NOTES TO COMBINED FINANCIAL STATEMENTS — (CONTINUED)

In accordance with ASC 830, "Foreign Currency Matters," $3.9 million of accumulated foreign currency translation adjustments attributable to Precima's foreign subsidiaries sold were reclassified from accumulated other comprehensive income (loss) and included in the calculation of the gain/loss on sale.

As a result of the transaction, the Company recorded a pre-tax gain of $10.9 million. The Company incurred $3.1 million in transaction costs associated with the disposition.

In 2018, the Parent sold its 37% investment in CBSM-Companhia Brasileira de Solucoes de Marketing S.A. ("CBSM"), operator of Brazil's dotz loyalty program. The Parent received aggregate consideration of $15.0 million to be paid in installments. As a result of the transaction, the Company recognized a $9.5 million gain on the sale of the asset, which was included in cost of operations within the Company's combined statements of income.

5. PREPAID EXPENSES

Prepaid expenses relate to prepayment made for future services in advance and will be expensed over time as the benefit of the services is received in the future, expected within one year. Prepaid expenses, which are included in other current assets, consisted of the following:

	December 31,	
	2020	2019
	(in thousands)	
Licenses	$11,583	$ 7,368
Maintenance	4,557	4,573
Other	2,869	5,419
Prepaid expenses	$19,009	$17,360

6. INVENTORIES, NET

Inventories, net of $164.3 million and $218.0 million at December 31, 2020 and 2019, respectively, primarily consist of finished goods to be utilized as rewards in the Company's loyalty programs. For the year ended December 31, 2019, asset impairment charges of $18.4 million related to the discontinuance of certain reward product lines within inventory were recorded to the allowance for inventory obsolescence for the BrandLoyalty segment.

7. REDEMPTION SETTLEMENT ASSETS, RESTRICTED

Redemption settlement assets consist of restricted cash and securities available-for-sale and are designated for settling redemptions by collectors of the AIR MILES Reward Program in Canada under certain contractual relationships with sponsors of the AIR MILES Reward Program. The principal components of redemption settlement assets, which are carried at fair value, are as follows:

	December 31, 2020				December 31, 2019			
	Amortized Cost	Unrealized Gains	Unrealized Losses	Fair Value	Amortized Cost	Unrealized Gains	Unrealized Losses	Fair Value
	(in thousands)							
Restricted cash	$ 55,427	$ —	$ —	$ 55,427	$ 39,309	$ —	$ —	$ 39,309
Mutual funds	26,850	—	—	26,850	25,095	—	—	25,095
Corporate bonds	592,247	19,110	(173)	611,184	536,020	2,385	(1,999)	536,406
Total	$674,524	$19,110	$(173)	$693,461	$600,424	$2,385	$(1,999)	$600,810

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NOTES TO COMBINED FINANCIAL STATEMENTS — (CONTINUED)

The following tables show the unrealized losses and fair value for those investments that were in an unrealized loss position as of December 31, 2020 and 2019, respectively, aggregated by investment category and the length of time that individual securities have been in a continuous loss position:

	December 31, 2020					
	Less than 12 months		12 Months or Greater		Total	
	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses
	(in thousands)					
Corporate bonds	$46,190	$(86)	$10,316	$(87)	$56,506	$(173)
Total	$46,190	$(86)	$10,316	$(87)	$56,506	$(173)

	December 31, 2019					
	Less than 12 months		12 Months or Greater		Total	
	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses
	(in thousands)					
Corporate bonds	$166,588	$(1,330)	$155,118	$(669)	$321,706	$(1,999)
Total	$166,588	$(1,330)	$155,118	$(669)	$321,706	$(1,999)

The amortized cost and estimated fair value of the securities at December 31, 2020 by contractual maturity are as follows:

	Amortized Cost	Estimated Fair Value
	(in thousands)	
Due in one year or less[1]	$144,932	$146,015
Due after one year through five years	470,209	487,973
Due after five year through ten years	3,956	4,046
Total	$619,097	$638,034

(1) Includes mutual funds, which do not have a stated maturity.

The amortized cost and estimated fair value of the securities at December 31, 2019 by contractual maturity are as follows:

	Amortized Cost	Estimated Fair Value
	(in thousands)	
Due in one year or less[1]	$129,477	$129,368
Due after one year through five years	427,761	428,228
Due after five year through ten years	3,877	3,905
Total	$561,115	$561,501

(1) Includes mutual funds, which do not have a stated maturity.

Market values were determined for each individual security in the investment portfolio. Effective January 1, 2020, the Company adopted ASC 326, which replaced the other-than-temporary impairment model for available-for-sale debt securities. For available-for-sale debt securities in which fair value is less than cost, ASC 326 requires that credit-related impairment, if any, be recognized through an allowance for

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NOTES TO COMBINED FINANCIAL STATEMENTS — (CONTINUED)

credit losses and adjusted each period for changes in credit risk. The Company typically invests in highly-rated securities with low probabilities of default and has the intent and ability to hold the investments until maturity, and the Company performs an assessment each period for credit-related impairment. As of December 31, 2020, the Company does not consider its investments to be impaired.

There were no realized gains or losses from the sale of investment securities for the year ended December 31, 2020. For the years ended December 31, 2019 and 2018, realized gains and losses from the sale of investment securities were de minimis.

8. LEASES

The Company has operating leases for general office properties, warehouses, data centers, customer care centers, automobiles and certain equipment. As of December 31, 2020, the Company's leases have remaining lease terms of less than 1 year to 13 years, some of which may include renewal options.

The components of lease expense were as follows:

	Years Ended December 31,	
	2020	2019
	(in thousands)	
Operating lease cost	$15,580	$16,379
Short-term lease cost	451	1,142
Variable lease cost	4,224	4,106
Total	$20,255	$21,627

Lease expense was $17.6 million for the year ended December 31, 2018.

Other information related to leases was as follows:

	December 31, 2020	December 31, 2019
Weighted-average remaining lease term (in years):		
Operating leases	11.4	12.2
Weighted-average discount rate:		
Operating leases	4.6%	4.5%

Supplemental cash flow information related to leases was as follows:

	Years Ended December 31,	
	2020	2019
	(in thousands)	
Cash paid for amounts included in the measurement of lease liabilities:		
Operating cash flows from operating leases	$17,449	$18,183
Right-of-use assets obtained in exchange for lease obligations:		
Operating leases	$ 3,028	$ 6,145

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NOTES TO COMBINED FINANCIAL STATEMENTS — (CONTINUED)

Maturities of the lease liabilities as of December 31, 2020 were as follows:

Year	Operating Leases
	(in thousands)
2021	$ 15,450
2022	16,038
2023	14,669
2024	13,796
2025	13,252
Thereafter	92,846
Total undiscounted lease liabilities	166,051
Less: Amount representing interest	(38,461)
Total present value of minimum lease payments	$127,590
Amounts recognized in the December 31, 2020 combined balance sheet:	
Current operating lease liabilities	$ 9,942
Long-term operating lease liabilities	117,648
Total	$127,590

9. PROPERTY AND EQUIPMENT

Property and equipment consist of the following:

	December 31,	
	2020	2019
	(in thousands)	
Computer software and development	$ 162,622	$ 163,236
Furniture and equipment	28,656	30,498
Leasehold improvements	32,205	34,154
Construction in progress	9,709	21,348
Total	233,192	249,236
Accumulated depreciation and amortization	(135,276)	(137,997)
Property and equipment, net	$ 97,916	$ 111,239

Depreciation expense totaled $7.0 million, $9.4 million and $11.0 million for the years ended December 31, 2020, 2019 and 2018, respectively. Amortization expense on capitalized software totaled $22.0 million, $22.8 million and $21.6 million for the years ended December 31, 2020, 2019, and 2018, respectively.

As of December 31, 2020 and 2019, unamortized capitalized software costs included in the combined balance sheets totaled $55.8 million and $57.0 million, respectively.

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NOTES TO COMBINED FINANCIAL STATEMENTS — (CONTINUED)

10. INTANGIBLE ASSETS AND GOODWILL

Intangible Assets

Intangible assets consist of the following:

	December 31, 2020			
	Gross Assets	Accumulated Amortization	Net	Amortization Life and Method
			(in thousands)	
Customer contracts	$354,242	$(354,242)	$ —	7 years – straight line
Tradenames	34,691	(30,112)	4,579	8-15 years – straight line
Collector database	54,973	(54,455)	518	5 years – straight line
Total intangible assets	$443,906	$(438,809)	$5,097	

	December 31, 2019			
	Gross Assets	Accumulated Amortization	Net	Amortization Life and Method
			(in thousands)	
Customer contracts	$325,149	$(278,699)	$46,450	7 years – straight line
Tradenames	31,842	(26,488)	5,354	8-15 years – straight line
Collector database	53,896	(52,881)	1,015	5 years – straight line
Total intangible assets	$410,887	$(358,068)	$52,819	

Amortization expense related to intangible assets was approximately $49.0 million, $48.0 million and $52.2 million for the years ended December 31, 2020, 2019 and 2018, respectively.

The estimated amortization expense related to intangible assets for the next five years and thereafter is as follows:

	For the Years Ending December 31,
	(in thousands)
2021	$1,772
2022	1,254
2023	1,254
2024	643
2025	33
Thereafter	141

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NOTES TO COMBINED FINANCIAL STATEMENTS — (CONTINUED)

Goodwill

The changes in the carrying amount of goodwill for the years ended December 31, 2020 and 2019, respectively, are as follows:

	AIR MILES Reward Program	BrandLoyalty	Total
		(in thousands)	
Balance at January 1, 2019	$183,576	$509,541	$693,117
Effects of foreign currency translation	9,180	(11,483)	(2,303)
Balance at December 31, 2019	$192,756	$498,058	$690,814
Goodwill allocated to sale of Precima	(3,206)	—	(3,206)
Effects of foreign currency translation	3,726	44,564	48,290
Balance at December 31, 2020	$193,276	$542,622	$735,898

Approximately $3.2 million of the AIR MILES Reward Program's goodwill was allocated to Precima upon sale in January 2020, based on a relative fair value allocation of the businesses.

ADS completed its annual impairment tests for goodwill on July 31, 2019 and 2018 and determined at each date that no impairment exists. On July 1, 2020, ADS voluntarily changed its annual goodwill impairment testing date from July 31 to July 1 to allow additional time for testing due to the COVID-19 pandemic and current uncertainty in the macroeconomic environment and determined at July 1, 2020 that no impairment exists. Accordingly, management determined that the change in accounting principle is preferable under the circumstance. This change has been applied prospectively from July 1, 2020, as retrospective application is deemed impracticable due to the inability to objectively determine the assumptions and significant estimates used in earlier periods without the benefit of hindsight. This change was not material to the Company's combined financial statements as it did not delay, accelerate, or avoid any potential goodwill impairment charge. As of December 31, 2020, the Company does not believe it is more-likely-than-not that the fair value of either reporting unit is less than its carrying amount. No further testing of goodwill impairments will be performed until July 1, 2021, unless events occur or circumstances indicate an impairment is probable.

11. INVESTMENTS IN UNCONSOLIDATED SUBSIDIARIES — RELATED PARTY

The Company owns interests in certain entities, which are consolidated subsidiaries of the Parent, which are accounted for using the equity method of accounting, as the Company exercises significant influence but does not control the entities. The investments consisted of the following, both in the AIR MILES Reward Program segment:

		Proportion of Ownership Interest	
Name of Investee	Type	December 31, 2020	December 31, 2019
ICOM Information & Communications L.P.	Limited partnership	—%	—%
Comenity Canada L.P.	Limited partnership	99.9%	99.9%

Under the equity method, the Company's share of its investees' earnings or loss is recognized in the combined statements of income. Losses from investments in unconsolidated related party subsidiaries totaled approximately $0.3 million, $2.3 million, and $6.8 million for the years ended December 31, 2020, 2019, and 2018, respectively.

On February 13, 2019, the Company made a capital contribution of $5.3 million to ICOM Information & Communications L.P. ("ICOM") to fund losses. On February 28, 2019, the Company sold its investment in ICOM to Epsilon Interactive CA, ULC, a subsidiary of ADS, for cash consideration of $4.0 million.

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NOTES TO COMBINED FINANCIAL STATEMENTS — (CONTINUED)

For the years ended December 31, 2020, 2019, and 2018, the Company made capital contributions to Comenity Canada L.P. of $0.7 million, $0.7 million, and $0.8 million, respectively.

At December 31, 2020 and 2019, the Company's investment in Comenity Canada L.P. was $0.9 million and $0.5 million, respectively.

12. RESTRUCTURING AND OTHER CHARGES

In 2019, the Parent, under the direction of its board of directors, evaluated the cost structure and executed on certain cost saving initiatives at each segment. These charges included restructuring and other exit activities related to reductions in force, terminations of certain reward product lines, reduction or closure of certain leased office space, asset impairments, changes in management structure and fundamental reorganizations that affect the nature and focus of operations. Restructuring and other charges incurred were recorded to cost of operations within the Company's combined statements of income. These charges related to actions taken in 2019 did not continue in 2020. The restructuring and other charges incurred in 2020 and charged to expense relate to changes in the Company's original estimate and consisted of adjustments to the Company's liability, including the impact of foreign currency translations.

The following tables summarize the restructuring and other charges incurred by reportable segment for all restructuring activities for the periods presented:

Year Ended December 31, 2020	Termination Benefits	Asset Impairments	Lease Termination Costs	Other Exit Costs	Total
			(in thousands)		
AIR MILES Reward Program	$141	$—	$—	$17	$158
BrandLoyalty	(52)	—	—	2	(50)
Total	$ 89	$—	$—	$19	$108

Year Ended December 31, 2019	Termination Benefits	Asset Impairments	Lease Termination Costs	Other Exit Costs	Total
			(in thousands)		
AIR MILES Reward Program	$2,651	$ 420	$203	$ 213	$ 3,487
BrandLoyalty	4,954	40,244	—	2,095	47,293
Total	$7,605	$40,664	$203	$2,308	$50,780

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NOTES TO COMBINED FINANCIAL STATEMENTS — (CONTINUED)

The Company's liability for restructuring and other charges is recognized in accrued expenses in its combined balance sheets. The following table summarizes the activities related to the restructuring and other charges, as discussed above, for the periods presented:

	Termination Benefits	Asset Impairments	Lease Termination Costs	Other Exit Costs	Total
			(in thousands)		
Liability as of January 1, 2019	$ —	$ —	$ —	$ —	$ —
Charged to expense	7,605	40,664	203	2,308	50,780
Adjustments for non-cash charges	—	(40,664)	(203)	—	(40,867)
Cash payments	(3,959)	—	—	(2,160)	(6,119)
Liability as of December 31, 2019	$ 3,646	$ —	$ —	$ 148	$ 3,794
Charged to expense	89	—	—	19	108
Adjustments for non-cash charges	—	—	—	—	—
Cash payments	(2,466)	—	—	(167)	(2,633)
Liability as of December 31, 2020	$ 1,269	$ —	$ —	$ —	$ 1,269

The Company's outstanding liability related to restructuring and other charges is expected to be settled by the end of 2021.

13. ACCRUED EXPENSES

Accrued expenses consist of the following:

	December 31,	
	2020	2019
	(in thousands)	
Accrued payroll and benefits	$29,838	$32,924
Accrued taxes	14,256	16,939
Accrued other liabilities	22,962	33,467
Accrued expenses	$67,056	$83,330

14. DEBT

Note Payable — Related Party

In January 2017, the AIR MILES Reward Program entered into a promissory note with Alliance Data Lux Financing S.à r.l., a subsidiary of the Parent, to borrow CDN $142.8 million ($112.2 million as of December 31, 2020). The maturity of the note payable was January 27, 2022, with a fixed interest rate of 6.5% per year. Under the terms of the note payable, the AIR MILES Reward Program had the right to make prepayments of the principal amount of the debt at any time, without notice and without premium or penalty. No principal payments of the note payable were required until maturity. In March 2017, the AIR MILES Reward Program repaid CDN $60.0 million of its note payable, and in September 2019, the AIR MILES Reward Program repaid its remaining CDN $82.8 million balance outstanding.

In May 2017, BrandLoyalty and certain of its subsidiaries entered into a loan with Alliance Data Lux Financing S.à r.l., a subsidiary of the Parent for €60.0 million ($73.3 million as of December 31, 2020) with a fixed interest rate of 2.86% with a maturity date of May 2022. The loan is wholly subordinated to loans under the BrandLoyalty credit agreement. The loan, including interest, was repaid in full in September 2019.

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NOTES TO COMBINED FINANCIAL STATEMENTS — (CONTINUED)

As of December 31, 2020 and 2019, there were no amounts outstanding under the applicable notes payable.

BrandLoyalty Credit Agreement

BrandLoyalty and certain of its subsidiaries, as borrower and guarantors, were parties to a credit agreement that provided for an A-1 term loan facility of €90.0 million and an A-2 term loan facility of €100.0 million, subject to certain principal repayments, a committed revolving line of credit of €37.5 million and an uncommitted revolving line of credit of €37.5 million, all of which were scheduled to mature in June 2020. In September 2019, the Company repaid the €115.0 million in term loans outstanding under the BrandLoyalty credit agreement and repaid the €32.5 million amount outstanding under the revolving line of credit.

In April 2020, BrandLoyalty and certain of its subsidiaries, as borrowers and guarantors, terminated its existing facility and entered into a new credit agreement (the "2020 BrandLoyalty Credit Agreement") that provides for a committed revolving line of credit of €30.0 million ($36.6 million as of December 31, 2020), an uncommitted revolving line of credit of €30.0 million ($36.6 million as of December 31, 2020), and an accordion feature permitting BrandLoyalty to request an increase in either the committed or uncommitted line of credit up to €80.0 million ($97.7 million as of December 31, 2020) in aggregate. Each of the committed and uncommitted revolving line of credit are scheduled to mature on April 3, 2023, subject to BrandLoyalty's request to extend for two additional one-year terms at the absolute discretion of the lenders at the time of such requests.

In the first quarter of 2021, BrandLoyalty and certain of its subsidiaries, as borrowers and guarantors, amended its credit agreement to extend the maturity date by one year from April 3, 2023 to April 3, 2024.

All advances under the 2020 BrandLoyalty Credit Agreement are denominated in Euros. The interest rate fluctuates and is equal to EURIBOR, as defined in the 2020 BrandLoyalty Credit Agreement, plus an applicable margin based on BrandLoyalty's senior net leverage ratio. The 2020 BrandLoyalty Credit Agreement contains a senior net leverage ratio financial covenant, as well as usual and customary negative covenants, representations, general and information undertakings and events of default.

As of December 31, 2020 and 2019, respectively, there were no amounts outstanding under the credit agreements.

15. DERIVATIVE INSTRUMENTS

The Company uses derivatives to manage risks associated with certain assets and liabilities arising from the potential adverse impact of fluctuations in foreign currency exchange rates. Certain derivatives used to manage the Company's exposure to foreign currency exchange rate movements are not designated as hedges and do not qualify for hedge accounting. The fair value of the Company's derivative instruments as of December 31, 2020 was $0.4 million included in other current assets and $1.5 million included in other current liabilities in the Company's combined balance sheets. The fair value of the Company's derivative instruments as of December 31, 2019 was $0.2 million included in other current assets and $0.3 million included in other current liabilities in the Company's combined balance sheets.

16. COMMITMENTS AND CONTINGENCIES

AIR MILES Reward Program

The Company has entered into contractual arrangements with certain AIR MILES Reward Program sponsors that result in fees being billed to those sponsors upon the redemption of AIR MILES reward miles issued by those sponsors. The Company has obtained letters of credit and other assurances from those sponsors for the Company's benefit that expire at various dates. These letters of credit and other assurances totaled $150.5 million and $141.7 million at December 31, 2020, and 2019, respectively, which exceeds the

amount of the Company's estimate of its obligation to provide travel and other rewards upon the redemption of AIR MILES reward miles issued by those sponsors, in the respective periods.

The Company currently has an obligation to provide AIR MILES Reward Program collectors with travel and other rewards upon the redemption of AIR MILES reward miles. The Company believes that the redemption settlement assets, including the letters of credit and other assurances mentioned above, are sufficient to meet that obligation.

The Company has entered into certain long-term arrangements with airlines and other suppliers in connection with AIR MILES Reward Program redemptions. These long-term arrangements allow the Company to retain preferred pricing, subject to meeting agreed upon annual volume commitments for rewards purchased.

Legal Proceedings

From time to time the Company is involved in various claims and lawsuits arising in the ordinary course of business that it believes will not have a material effect on its business, financial condition or cash flows, including claims and lawsuits alleging breaches of the Company's contractual obligations.

17. SHARE-BASED PAYMENTS

Certain employees participate in share-based compensation plans of ADS. Under these plans, shares are reserved for grants of nonqualified stock options, incentive stock options, stock appreciation rights, restricted stock, restricted stock units, performance share awards, cash incentive awards, deferred stock units, and other stock-based and cash-based awards to selected officers, employees, non-employee directors and consultants performing services for ADS or its affiliates. Terms of all awards are determined by ADS' board of directors or the compensation committee of ADS' board of directors or its designee at the time of award.

ADS accounts for stock-based compensation in accordance with ASC 718, "Compensation — Stock Compensation." Under the fair value recognition provisions, stock-based compensation expense is measured at the grant date based on the fair value of the award and is recognized ratably over the requisite service period.

As the amount of stock-based compensation expense recognized is based on awards ultimately expected to vest, the amount recognized in the Company's results of operations has been reduced for estimated forfeitures. ADS estimates forfeitures at each grant date, with forfeiture estimates to be revised, if necessary, in subsequent periods if actual forfeitures differ from those estimates. Forfeitures were estimated based on ADS' historical experience. ADS' estimated annual forfeiture rate is 5% for the year ended December 31, 2020, 2019, and 2018, respectively.

During 2020, 2019, and 2018, ADS awarded both service-based and performance-based restricted stock units. Fair value of the restricted stock units is estimated using ADS' closing share price on the date of grant. Service-based restricted stock unit awards typically vest ratably over a three-year period. Performance-based restricted stock unit awards vest ratably over a three-year period if specified performance measures tied to ADS' financial performance are met. For each of the years ended December 31, 2020 and 2019, stock compensation expense was not accrued for the 2020 and 2019 performance-based awards, respectively, as the probable outcome was 0% achievement.

Stock-based compensation expense recognized in the Company's combined statements of income for the years ended December 31, 2020, 2019 and 2018, is as follows:

	Years Ended December 31,		
	2020	2019	2018
	(in thousands)		
Cost of operations	$5,498	$7,204	$10,017
General and administrative	1,519	1,872	3,316
Total	$7,017	$9,076	$13,333

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NOTES TO COMBINED FINANCIAL STATEMENTS — (CONTINUED)

The income tax benefits related to stock-based compensation expense for the years ended December 31, 2020, 2019 and 2018 were $0.1 million, $0.9 million and $1.7 million, respectively.

As of December 31, 2020, there was a total of approximately $5.7 million of unrecognized expense associated with employees of LoyaltyOne, adjusted for estimated forfeitures, related to non-vested, stock-based equity awards granted to employees, which is to be recognized over a weighted average period of approximately 1.5 years.

18. EMPLOYEE BENEFIT PLANS

The Company provides certain defined contribution benefit plans to its associates, for which eligible associates may defer a portion of their compensation that is matched by the Company, based on plan guidelines and subject to certain restrictions. The Company's contributions to these plans were $4.0 million, $4.2 million and $4.2 million for the years ended December 31, 2020, 2019 and 2018, respectively.

19. ACCUMULATED OTHER COMPREHENSIVE INCOME (LOSS)

The changes in each component of accumulated other comprehensive income (loss), net of tax effects, are as follows:

	Net Unrealized Gains (Losses) on Securities	Net Unrealized Gains (Losses) on Cash Flow Hedges	Foreign Currency Translation Adjustments	Accumulated Other Comprehensive Income (Loss)
		(in thousands)		
Balance as of January 1, 2018	$ (7,138)	$(147)	$(65,074)	$ (72,359)
Changes in other comprehensive income (loss) before reclassifications	(208)	(77)	(21,031)	(21,316)
Amounts reclassified from other comprehensive income (loss)	1,327[(1)]	—	—	1,327
Changes in other comprehensive income (loss)	1,119	(77)	(21,031)	(19,989)
Balance at December 31, 2018	$ (6,019)	$(224)	$(86,105)	$ (92,348)
Changes in other comprehensive income (loss) before reclassifications	6,405	91	(6,214)	282
Amounts reclassified from other comprehensive income (loss)	—	—	—	—
Changes in other comprehensive income (loss)	6,405	91	(6,214)	282
Balance at December 31, 2019	$ 386	$(133)	$(92,319)	$ (92,066)
Changes in other comprehensive income (loss) before reclassifications	17,881	(567)	71,246	88,560
Amounts reclassified from other comprehensive income (loss)	—	—	3,887[(2)]	3,887
Changes in other comprehensive income (loss)	17,881	(567)	75,133	92,447
Balance at December 31, 2020	$18,267	$(700)	$(17,186)	$ 381

(1) Reflects a $1.3 million cumulative-effect reclassification to retained earnings as of January 1, 2018 related to the adoption of ASU 2016-01, "Recognition and Measurement of Financial Assets and Financial Liabilities." For more information, see Note 2, "Summary of Significant Accounting Policies."

(2) In accordance with ASC 830, upon the sale of Precima on January 10, 2020, $3.9 million of accumulated foreign currency translation adjustments attributable to Precima's foreign subsidiaries sold were reclassified from accumulated other comprehensive income (loss) and included in the calculation of the gain on sale of Precima.

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NOTES TO COMBINED FINANCIAL STATEMENTS — (CONTINUED)

Other reclassifications from accumulated other comprehensive loss into net income for each of the periods presented were not material.

20. INCOME TAXES

The components of income before income taxes and loss from investment in unconsolidated subsidiaries and income tax expense are as follows:

	Years Ended December 31,		
	2020	2019	2018
		(in thousands)	
Components of income before income taxes and loss from investment in unconsolidated subsidiaries:			
Domestic	$ (5,326)	$ (25,078)	$ (29,021)
Foreign	101,971	113,320	168,796
Total	$ 96,645	$ 88,242	$139,775
Components of income tax expense:			
Current			
Federal	$ 63	$ (76)	$ (1,921)
State	(303)	—	52
Foreign	25,066	31,260	53,761
Total current	24,826	31,184	51,892
Deferred			
Federal	(63)	124	1,424
State	303	—	(52)
Foreign	(3,742)	(19,977)	(56,131)
Total deferred	(3,502)	(19,853)	(54,759)
Total provision for income taxes	$ 21,324	$ 11,331	$ (2,867)

A reconciliation of recorded federal provision for income taxes to the expected amount computed by applying the federal statutory rate for all periods to income before income taxes and loss from investment in unconsolidated subsidiaries is as follows:

	Years Ended December 31,		
	2020	2019	2018
		(in thousands)	
Expected expense at statutory rate	$20,296	$ 18,532	$ 29,353
Increase (decrease) in income taxes resulting from:			
Foreign rate differential	1,861	1,203	8,155
Foreign restructuring	3,598	—	(48,033)
Impact of sale transaction	3,360	—	(3,237)
Global intangible low-taxed income	(8,339)	2,895	5,444
Non-deductible expenses	2,396	4,162	1,858
Uncertain tax positions	(7,706)	(14,856)	4,332
Valuation allowance	5,066	(196)	429
Other	792	(409)	(1,168)
Total	$21,324	$ 11,331	$ (2,867)

LOYALTYONE

NOTES TO COMBINED FINANCIAL STATEMENTS — (CONTINUED)

H.R. 1, originally known as the Tax Cuts and Jobs Act of 2017 (the "2017 Tax Reform") was enacted on December 22, 2017. The 2017 Tax Reform permanently reduced the corporate tax rate to 21% from 35%, effective January 1, 2018 and implemented a change from a system of worldwide taxation with deferral to a hybrid territorial system. This system taxes excess foreign profits above a deemed routine return through the Global Intangible Low-Taxed Income ("GILTI") regime. The Company recognizes tax on GILTI, to the extent that it applies, as an expense in the period incurred.

The Company recorded a benefit of $8.3 million for the year ended December 31, 2020 related to the impact of the final regulations issued by the Treasury and Internal Revenue Service regarding GILTI. Benefits for uncertain tax positions of $7.7 million and $14.9 million were recognized in tax years ended December 31, 2020 and 2019, respectively, primarily due to the expiration of statutes of limitation and the resolution of tax audit issues in various foreign jurisdictions. In 2018, the Company realized a $48.0 million deferred tax benefit resulting from a foreign restructuring of non-U.S. intangibles. This restructuring supported a strategic shift for the impacted entities by consolidating intangibles that historically existed across legal entities.

Deferred tax assets and liabilities consist of the following:

	December 31,	
	2020	2019
	(in thousands)	
Deferred tax assets		
Deferred revenue	$ 14,960	$ 9,454
Net operating loss carryforwards and other carryforwards	69,132	76,177
Lease liabilities	32,934	31,107
Accrued expenses and other	9,844	14,180
Intangible assets	31,478	25,902
Total deferred tax assets	158,348	156,820
Valuation allowance	(47,854)	(58,586)
Deferred tax assets, net of valuation allowance	110,494	98,234
Deferred tax liabilities		
Depreciation	11,394	10,165
Right of use assets	28,963	27,077
Total deferred tax liabilities	40,357	37,242
Net deferred tax asset	$ 70,137	$ 60,992
Amounts recognized in the combined balance sheets:		
Non-current assets	$ 70,137	$ 62,789
Non-current liabilities	—	(1,797)
Total – Net deferred tax asset	$ 70,137	$ 60,992

The deferred tax assets associated with net operating losses ("NOLs") included in the table above reflect NOLs as if the Company was a taxpayer separate from the Parent. As of December 31, 2020 the Company has actual federal NOLs of $7.7 million as well as hypothetical federal NOLs of $22.2 million. With the exception of NOLs generated after December 31, 2017, the actual federal NOLs expire at various times through the year 2037. As of December 31, 2020, the Company also maintains actual state NOLs of $7.7 million as well as hypothetical state NOLs of $21.6 million. These actual state NOLs will expire at various times through the year 2040. The Company has $240.7 million of foreign NOLs and $6.6 million of foreign capital losses at December 31, 2020. The foreign NOLs and capital losses have an unlimited

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NOTES TO COMBINED FINANCIAL STATEMENTS — (CONTINUED)

carryforward period. The Company does not believe it is more-likely-than-not that any federal or state NOLs, a portion of the foreign NOLs, or any of the capital losses will be utilized. Therefore, in accordance with ASC 740-10-30, "Income Taxes — Overall — Initial Measurement," the Company has established a valuation allowance against those carryforwards unlikely to be utilized. The hypothetical federal and state NOLs, along with the corresponding valuation allowances, will be eliminated at the time a separation is executed. The Company's valuation allowance, and corresponding NOLs, decreased $10.7 million during the year ended December 31, 2020, due primarily to nondeductible expenses in foreign jurisdictions.

At December 31, 2020, the Company did not have any excess financial reporting basis over tax basis from a U.S. federal tax perspective primarily as a result of the GILTI regime pursuant to the 2017 Tax Reform. The Company may have, in certain state or foreign jurisdictions, amounts of financial reporting basis that exceeds tax basis as of December 31, 2020. However, these amounts are immaterial and no additional state or foreign tax liability has been recorded. Finally, despite the immaterial nature, the Company intends to permanently reinvest any previously undistributed earnings of our foreign subsidiaries in the operations outside the United States to support its international growth.

A reconciliation of the beginning and ending amount of unrecognized tax benefits is as follows (in thousands):

Balance at January 1, 2018	$ 45,156
Increases related to prior years' tax positions	—
Decreases related to prior years' tax positions	(6,304)
Increases related to current year tax positions	38,476
Settlements during the period	—
Lapses of applicable statutes of limitation	(849)
Foreign currency translation adjustment	(2,248)
Balance at December 31, 2018	$ 74,231
Increases related to prior years' tax positions	—
Decreases related to prior years' tax positions	(10,484)
Increases related to current year tax positions	—
Settlements during the period	—
Lapses of applicable statutes of limitation	(4,251)
Foreign currency translation adjustment	1,081
Balance at December 31, 2019	$ 60,577
Increases related to prior years' tax positions	903
Decreases related to prior years' tax positions	(40,267)
Increases related to current year tax positions	—
Settlements during the period	—
Lapses of applicable statutes of limitation	(6,431)
Foreign currency translation adjustment	4,663
Balance at December 31, 2020	$ 19,445

Included in the balance at December 31, 2020 are tax positions reclassified from deferred income taxes. Deductibility or taxability is highly certain for these tax positions but there is uncertainty about the timing of such deductibility or taxability. Because of the impact of deferred tax accounting, other than interest and penalties, this timing uncertainty, if realized, would not have a material effect on the annual effective tax rate but could accelerate the payment of cash to the taxing authority to an earlier period.

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NOTES TO COMBINED FINANCIAL STATEMENTS — (CONTINUED)

The Company recognizes potential accrued interest and penalties related to unrecognized tax benefits in income tax expense. The Company has potential cumulative interest and penalties with respect to unrecognized tax benefits of approximately $5.8 million, $7.4 million and $9.5 million at December 31, 2020, 2019 and 2018, respectively. For the years ended December 31, 2020, 2019 and 2018, the Company recorded a benefit of approximately $1.8 million and $2.3 million and an expense of $2.1 million, respectively, for potential interest and penalties with respect to unrecognized tax benefits.

At December 31, 2020, 2019 and 2018, the Company had unrecognized tax benefits of approximately $15.5 million, $58.6 million and $72.8 million, respectively, that, if recognized, would impact the effective tax rate. The Company does not anticipate a significant change to the total amount of unrecognized tax benefits over the next twelve months.

The Company's domestic operations have been included in the Parent's federal and state tax returns and are not separately subject to audit. The Company's foreign operations are separately subject to tax in multiple foreign jurisdictions. With some exceptions, the tax returns filed by the Company's foreign operations are no longer subject to foreign income tax examinations for years before 2013.

21. FINANCIAL INSTRUMENTS

Fair Value of Financial Instruments — The estimated fair values of the Company's financial instruments are as follows:

	December 31, 2020		December 31, 2019	
	Carrying Amount	Fair Value	Carrying Amount	Fair Value
	(in thousands)			
Financial assets				
Redemption settlement assets, restricted	$693,461	$693,461	$600,810	$600,810
Other investments	253	253	248	248
Derivative instruments	353	353	175	175
Financial liabilities				
Derivative instruments	1,505	1,505	275	275

The following techniques and assumptions were used by the Company in estimating fair values of financial instruments as disclosed herein:

Redemption settlement assets, restricted — Redemption settlement assets, restricted are recorded at fair value based on quoted market prices for the same or similar securities.

Other investments — Other investments consist of marketable securities and are included in other current assets in the combined balance sheets. Other investments are recorded at fair value based on quoted market prices for the same or similar securities.

Derivative instruments — The Company's foreign currency cash flow hedges and foreign currency exchange forward contracts are recorded at fair value based on a discounted cash flow analysis on the expected cash flows of each derivative. This analysis reflected the contractual terms of the derivatives, including the period to maturity, and used observable market-based inputs.

Financial Assets and Financial Liabilities Fair Value Hierarchy

ASC 820 establishes a three-tier fair value hierarchy, which prioritizes the inputs used in measuring fair value. These tiers include:

- Level 1, defined as observable inputs such as quoted prices in active markets;

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NOTES TO COMBINED FINANCIAL STATEMENTS — (CONTINUED)

- Level 2, defined as inputs other than quoted prices in active markets that are either directly or indirectly observable; and
- Level 3, defined as unobservable inputs where little or no market data exists, therefore requiring an entity to develop its own assumptions.

Financial instruments are considered Level 3 when their values are determined using pricing models, discounted cash flow methodologies or similar techniques and at least one significant model assumption or input is unobservable. Level 3 financial instruments also include those for which the determination of fair value requires significant management judgment or estimation. The use of different techniques to determine fair value of these financial instruments could result in different estimates of fair value at the reporting date.

The following tables provide information for the assets and liabilities carried at fair value measured on a recurring basis as of December 31, 2020 and 2019:

	Balance at December 31, 2020	Fair Value Measurement at December 31, 2020 Using		
		Level 1	Level 2	Level 3
		(in thousands)		
Mutual funds[1]	$ 26,850	$26,850	$ —	$ —
Corporate bonds[1]	611,184	—	611,184	—
Marketable securities[2]	253	253	—	—
Derivative instruments[3]	353	—	353	—
Total assets measured at fair value	$638,640	$27,103	$611,537	$ —
Derivative instruments[3]	$ 1,505	$ —	$ 1,505	$ —
Total liabilities measured at fair value	$ 1,505	$ —	$ 1,505	$ —

	Balance at December 31, 2019	Fair Value Measurement at December 31, 2019 Using		
		Level 1	Level 2	Level 3
		(in thousands)		
Mutual funds[1]	$ 25,095	$25,095	$ —	$ —
Corporate bonds[1]	536,406	—	536,406	—
Marketable securities[2]	248	248	—	—
Derivative instruments[3]	175	—	175	—
Total assets measured at fair value	$561,924	$25,343	$536,581	$ —
Derivative instruments[3]	$ 275	$ —	$ 275	$ —
Total liabilities measured at fair value	$ 275	$ —	$ 275	$ —

(1) Amounts are included in redemption settlement assets in the combined balance sheets.

(2) Amounts are included in other current assets in the combined balance sheets.

(3) Amounts are included in other current assets and other current liabilities in the combined balance sheets.

There were no transfers between Levels 1 and 2 within the fair value hierarchy for the years ended December 31, 2020 and 2019. There were no Level 3 financial instruments held during the years ended

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NOTES TO COMBINED FINANCIAL STATEMENTS — (CONTINUED)

December 31, 2020 and 2019. There were no assets and liabilities disclosed but not carried at fair value as of December 31, 2020 and 2019.

Assets and Liabilities Measured at Fair Value on a Nonrecurring Basis

For the year ended December 31, 2019, as part of restructuring and other charges, the Company recorded asset impairments of $40.7 million related to the discontinuance of certain product lines within inventory and the impairment of certain prepaid assets and fixed assets. See Note 12, "Restructuring and Other Charges," for more information.

22. SEGMENT INFORMATION

Operating segments are defined by ASC 280, "Segment Reporting," as components of an enterprise about which separate financial information is available that is evaluated regularly by the chief operating decision maker in deciding how to allocate resources and in assessing performance. The operating segments are reviewed separately because each operating segment represents a strategic business unit that generally offers different products and services.

- The AIR MILES Reward Program is a full service outsourced coalition loyalty program for our sponsors, who pay us a fee per AIR MILES reward mile issued, in return for which we provide all marketing, customer service, rewards and redemption management.
- BrandLoyalty designs, implements, conducts and evaluates innovative and tailor-made loyalty programs for grocers and other high-frequency retailers worldwide. These loyalty programs are designed to generate immediate changes in consumer behavior and are offered through leading grocers across Europe and Asia, as well as around the world.
- Corporate and other consists of corporate overhead not allocated to any of the Company's segments.

Income taxes and equity in earnings (losses) from related party investments accounted for under the equity method are not included in the computation of segment operating profit for internal evaluation purposes.

Year Ended December 31, 2020	AIR MILES Reward Program	BrandLoyalty	Corporate/ Other	Total
		(in thousands)		
Revenues	$277,121	$487,685	$ —	$764,806
Income (loss) before income taxes	$131,630	$ (20,670)	$(14,315)	$ 96,645
Interest (income) expense, net	(1,071)	237	—	(834)
Depreciation and amortization	18,658	59,283	—	77,941
Stock compensation expense	2,137	3,361	1,519	7,017
Gain on sale of business, net of strategic transaction costs	(7,816)	—	—	(7,816)
Strategic transaction costs	329	—	—	329
Restructuring and other charges	158	(50)	—	108
Adjusted EBITDA[(1)]	$144,025	$ 42,161	$(12,796)	$173,390
Capital expenditures	$ 17,360	$ 6,959	$ —	$ 24,319

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NOTES TO COMBINED FINANCIAL STATEMENTS — (CONTINUED)

Year Ended December 31, 2019	AIR MILES Reward Program	Brand Loyalty	Corporate/ Other	Total
		(in thousands)		
Revenues	$384,021	$649,110	$ —	$1,033,131
Income (loss) before income taxes	$137,474	$ (34,409)	$(14,823)	$ 88,242
Interest (income) expense, net	(1,722)	4,057	—	2,335
Depreciation and amortization	21,088	59,091	—	80,179
Stock compensation expense	3,878	3,326	1,872	9,076
Strategic transaction costs	963	18	—	981
Restructuring and other charges	3,487	47,293	—	50,780
Adjusted EBITDA[(1)]	$165,168	$ 79,376	$(12,951)	$ 231,593
Capital expenditures	$ 29,094	$ 12,363	$ —	$ 41,457

Year Ended December 31, 2018	AIR MILES Reward Program	BrandLoyalty	Corporate/ Other	Total
		(in thousands)		
Revenues	$434,934	$633,444	$ —	$1,068,378
Income (loss) before income taxes	$157,411	$ (3,587)	$(14,049)	$ 139,775
Interest (income) expense, net	(981)	6,509	—	5,528
Depreciation and amortization	22,072	62,751	—	84,823
Gain on sale of an investment	(9,517)	—	—	(9,517)
Stock compensation expense	5,942	4,075	3,316	13,333
Adjusted EBITDA[(1)]	$174,927	$ 69,748	$(10,733)	$ 233,942
Capital expenditures	$ 20,003	$ 13,997	$ —	$ 34,000

(1) Adjusted EBITDA is a non-GAAP financial measure equal to net income, the most directly comparable financial measure based on GAAP plus stock compensation expense, provision for income taxes, interest expense, net, depreciation and other amortization, and amortization of purchased intangibles. Adjusted EBITDA also excludes the gain on the sale of Precima, the gain on the sale of an investment in dotz, strategic transaction costs, which represent costs for professional services associated with strategic initiatives, and restructuring and other charges.

The table below reconciles the reportable segments' total assets to combined total assets:

	AIR MILES Reward Program	BrandLoyalty	Corporate/Other	Total
		(in thousands)		
Total Assets				
December 31, 2020	$1,332,388	$1,089,937	$35,739	$2,458,064
December 31, 2019	$1,202,811	$1,121,328	$29,281	$2,353,420

With respect to information concerning principal geographic areas, revenues are based on the location of the subsidiary that generally correlates with the location of the customer. Information concerning principal geographic areas is as follows:

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NOTES TO COMBINED FINANCIAL STATEMENTS — (CONTINUED)

	United States	Canada	Europe Middle East and Africa	Asia Pacific	Other	Total
			(in thousands)			
Revenues						
Year Ended December 31, 2020	$11,090	$286,876	$332,632	$ 80,546	$53,662	$ 764,806
Year Ended December 31, 2019	$40,111	$352,163	$449,140	$121,731	$69,986	$1,033,131
Year Ended December 31, 2018	$23,064	$411,358	$463,176	$121,995	$48,785	$1,068,378
Long Lived Assets						
December 31, 2020	$ —	$311,530	$714,317	$ 1,902	$ 148	$1,027,897
December 31, 2019	$11,533	$311,536	$713,838	$ 2,993	$ 246	$1,040,146

As of December 31, 2020, 2019 and 2018, revenues from the Bank of Montreal were $117.3 million, $120.9 million and $146.9 million, respectively, which represented approximately 15%, 12% and 14% of respective combined revenues, and are included in the AIR MILES Reward Program segment.

23. SUPPLEMENTAL CASH FLOW INFORMATION

The following table provides a reconciliation of cash and cash equivalents to the total of the amounts reported in the combined statements of cash flows:

	December 31, 2020	December 31, 2019	December 31, 2018
		(in thousands)	
Cash and cash equivalents	$278,841	$124,981	$104,963
Restricted cash included within other current assets[1]	3,257	10,842	12,937
Restricted cash included within redemption settlement assets, restricted[2]	55,427	39,309	43,887
Total cash, cash equivalents and restricted cash	$337,525	$175,132	$161,787

(1) Includes cash restricted for travel deposits within the AIR MILES Reward Program.

(2) See Note 7, "Redemption Settlement Assets," for additional information regarding the nature of restrictions on redemption settlement assets.

In 2018, the Company paid a non-cash dividend in the form of a receivable to ADS for $23.7 million.

24. RELATED PARTY TRANSACTIONS

Transactions between the Company and ADS were considered to be effectively settled at the time the transaction was recorded. The net effect of the settlement of these intercompany transactions was reflected in the combined statements of cash flows as a financing activity as net transfers to Parent and in the combined balance sheets as Parent's net investment.

ADS allocated $14.3 million, $14.8 million and $14.0 million of corporate overhead costs that directly or indirectly benefit LoyaltyOne for the years ended December 31, 2020, 2019 and 2018, respectively, that are included in general and administrative expense within the Company's combined statements of income. These assessments relate to information technology, finance, accounting, and tax services provided, as well as human resources, and other functional support. These allocations were determined based on management estimates on the number of employees and non-employee costs associated with the use of these functions by the Company and may not be indicative of the costs that the Company would otherwise incur on a standalone basis.

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NOTES TO COMBINED FINANCIAL STATEMENTS — (CONTINUED)

In 2018, the Company paid a non-cash dividend in the form of a receivable to ADS for $23.7 million and a cash dividend of $6.8 million.

In 2019, the Company received a capital contribution of $288.7 million, and the cash was used to repay certain notes payable due to subsidiaries of ADS. See Note 14, "Debt," for additional information.

In addition, the Company had certain investments in unconsolidated subsidiaries that were consolidated subsidiaries of the Parent. See Note 11, "Investments in Unconsolidated Subsidiaries — Related Party," for additional information.

In January 2021, the Company paid cash dividends to ADS of $124.2 million, of which $4.2 million was withheld for taxes.

25. SUBSEQUENT EVENTS

The Company has evaluated subsequent events through the date these financial statements were available to be issued and determined that there have been no events, other than those disclosed herein, that have occurred that would require adjustment to the disclosures in the combined financial statements.

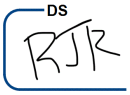
SCHEDULE II

CONSOLIDATED VALUATION AND QUALIFYING ACCOUNTS

Description	Balance at Beginning of Year	Charged to Costs and Expenses	Write-offs Net of Revenue	Balance at End of Year
		(in thousands)		
Allowance for Doubtful Accounts – Accounts receivable:				
Year Ended December 31, 2020	$ 3,396	$ 1,128	$ (571)	$ 3,953
Year Ended December 31, 2019	$ 224	$ 3,600	$ (428)	$ 3,396
Year Ended December 31, 2018	$ 38	$ 273	$ (87)	$ 224
Allowance for Obsolescence – Inventories:				
Year Ended December 31, 2020	$17,246	$ 9,074	$(15,446)	$10,874
Year Ended December 31, 2019	$ 3,887	$24,304	$(10,945)	$17,246
Year Ended December 31, 2018	$ 3,953	$ 3,748	$ (3,814)	$ 3,887

(1) Amounts written off during the year, net of recoveries and foreign exchange impact.

This is Exhibit “K” referred to in the Affidavit of Joseph L. Motes III affirmed by Joseph L. Motes III of the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on February 9, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

RJ REID

September 2021

Lender Presentation

Loyalty Ventures Inc.

Legal Disclaimer

This presentation contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. Forward-looking statements give our expectations or forecasts of future events and can generally be identified by the use of words such as “believe,” “expect,” “anticipate,” “estimate,” “intend,” “project,” “plan,” “likely,” “may,” “should” or other words or phrases of similar import. Similarly, statements that describe our business strategy, outlook, objectives, plans, intentions or goals also are forward-looking statements. Examples of forward-looking statements include, but are not limited to, statements we make regarding, and the guidance we give with respect to, our anticipated operating or financial results, completion of the spinoff by Alliance Data Systems Corporation and future economic conditions, including, but not limited to, fluctuation in currency exchange rates, market conditions and COVID-19 impacts related to reduction in demand from clients, supply chain disruption with respect to our rewards, disruptions in the airline or travel industries and labor shortages due to quarantine.

We believe that our expectations are based on reasonable assumptions. Forward-looking statements, however, are subject to a number of risks and uncertainties that could cause actual results to differ materially from the projections, anticipated results or other expectations expressed in this presentation, and no assurances can be given that our expectations will prove to have been correct. These risks and uncertainties include, but are not limited to, factors set forth in the Risk Factors section of both (1) Alliance Data Systems Corporation’s Annual Report on Form 10-K for the most recently ended fiscal year, which may be updated in Item 1A of, or elsewhere in, its Quarterly Reports on Form 10-Q filed for periods subsequent to such Form 10-K; and (2) our Registration Statement on Form 10-12B. Our forward-looking statements speak only as of the date made, and we undertake no obligation, other than as required by applicable law, to update or revise any forward-looking statements, whether as a result of new information, subsequent events, anticipated or unanticipated circumstances or otherwise.

In addition to the results presented in accordance with generally accepted accounting principles, or GAAP, the Company may present financial measures that are non-GAAP measures, such as constant currency financial measures and adjusted EBITDA. Constant currency excludes the impact of fluctuations in foreign exchange rates. The Company calculates constant currency by converting our current period local currency financial results using the prior period exchange rates. Adjusted EBITDA eliminates the non-cash depreciation of tangible assets and amortization of intangible assets, including certain intangible assets that were recognized in business combinations, and the non-cash effect of stock compensation expense. Adjusted EBITDA also eliminates the effect of gains on the sale of a business and/or certain investments, strategic transaction costs and restructuring and other charges. Adjusted EBITDA is also impacted by estimated incremental expenses for Loyalty Ventures Inc. Corporate. In addition, Precima®, a provider of strategy and customer data application and analytics, which has historically been reported within the AIR MILES Reward Program segment in the historical carve-out financial statements, was excluded from the financial information presented as it was sold on January 10, 2020.

Today's Presenters

Charles Horn
CEO
Loyalty Ventures

Blair Cameron
President
AIR MILES

Claudia Mennen
CEO
BrandLoyalty

Jeff Chesnut
CFO
Loyalty Ventures

Jeff Tusa
SVP, Corporate Development & Treasurer
Loyalty Ventures

Today's Agenda

SECTION 1 TRANSACTION OVERVIEW

SECTION 2 SITUATION OVERVIEW

SECTION 3 COMPANY OVERVIEW

SECTION 4 OVERVIEW OF AIR MILES

SECTION 5 OVERVIEW OF BRANDLOYALTY

SECTION 6 INVESTMENT HIGHLIGHTS

SECTION 7 FINANCIAL OVERVIEW

SECTION 8 APPENDIX

Loyalty Ventures Inc.

SECTION 1

TRANSACTION OVERVIEW

Transaction Overview

Transaction

- Alliance Data Systems Corporation ("ADS") is spinning off the existing Loyalty Ventures segment, which includes the following businesses:
  - **AIR MILES® Reward Program**, based in Toronto, Canada's most recognized loyalty program
  - **BrandLoyalty**, the Netherlands-based, global provider of tailor-made loyalty campaigns for high-frequency retailers
- With $755 million in revenue(1), $167 million in Pro Forma Adjusted EBITDA(2)(3), 22.2% Pro Forma Adjusted EBITDA margin in the LTM 8/31/21, the Company will have an attractive financial profile with flexibility to focus on deleveraging, as well as funding other strategic initiatives

Financing Approach

- Post-spin, Loyalty Ventures expects to take a conservative capital structure approach
- The contemplated capital structure includes the following financing:
  - $150 million Secured Cash Flow Revolving Credit Facility (undrawn at close)
  - $175 million Term Loan A
  - $500 million Term Loan B
- The transaction will result in pro forma net and gross total leverage of 3.3x and 4.0x, respectively, based on LTM 8/31/2021A Pro Forma Adj. EBITDA of $167 million(2)(3)
- Loyalty Ventures targets an opening cash balance of $120 million as of 8/31/2021A and a new, undrawn $150 million Secured Cash Flow Revolving Credit Facility ("Revolver")

Notes:
1. Unless otherwise noted, figures shown throughout the presentation are USD in millions
2. Adj. EBITDA is unburdened for stock-based compensation and one-time expenses and burdened for estimated incremental expenses for Loyalty Ventures Corporate
3. Includes add-backs related to severance, run-rate payroll savings and run-rate real estate savings as a result of BrandLoyalty's cost savings plan

Sources & Uses and Pro Forma Capitalization

Sources (US$mm)	
New Revolver ($150)	$--
New Term Loan A	175
New Term Loan B	500
Cash from Balance Sheet	100
Total Sources	$775

Uses (US$mm)	
Dividend to ADS	$750
Estimated Fees & Expenses	25
Total Uses	$775

Capitalization (US$mm)

	Maturity	Pro Forma 8/31/2021A
Cash and Cash Equivalents		$120
New Revolver ($150)	5 years	$--
New Term Loan A	5 years	175
New Term Loan B	6 years	500
Total Debt		**$675**
Adjusted EBITDA (1)		**$163**
Add-Backs & Adjustments (2)		4
Pro Forma Adjusted EBITDA (1) (2)		**$167**
Total Debt / Pro Forma Adjusted EBITDA		4.0x
Net Total Debt / Pro Forma Adjusted EBITDA		3.3x

Notes:
1. Adj. EBITDA is unburdened for stock-based compensation and one-time expenses and burdened for estimated incremental expenses for Loyalty Ventures Corporate.
2. Includes add-backs related to severance, run-rate payroll savings and run-rate real estate savings as a result of BrandLoyalty's cost savings plan

Summary of Terms

Borrower:	Loyalty Ventures Inc. ("Borrower") and only with respect to the Revolver, Brand Loyalty Group B.V., Brand Loyalty Holding B.V., and Brand Loyalty International B.V. ("Designated Borrowers")		
Guarantors:	Each Borrower and certain existing and future direct and indirect Material Subsidiaries of Loyalty Ventures Inc.		
Security:	First priority lien and security interest in substantially all current and future assets of each Loan Party, subject to exceptions for non-US Loan Parties		
Facility:	**New $150 million Revolving Credit Facility**	**New $175 million Term Loan A**	**New $500 million Term Loan B**
Maturity:	5 years (2026)	5 years (2026)	6 years (2027)
Pricing:	Total Leverage / Margin / Commitment Fee > 4.25x / L + 375 bps / 50 bps ≤ 4.25x but > 3.75x / L + 350 bps / 50 bps ≤ 3.75x but > 3.25x / L + 325 bps / 45 bps ≤ 3.25x / L + 300 bps / 40 bps		TBD
Amortization:	None	7.50% per annum (paid quarterly and pro rata across the TLA & TLB)	
Optional Prepayments:	Pre-payable at Par		NC-1 / 102 / 101
Mandatory Prepayments:	N/A	▪ 100% Asset Sales ($30 million minimum annual threshold); 365 day reinvestment period + 180 days if committed in 365 days (ratable across TLA & TLB) ▪ 100% non-permitted Debt Issuances (ratable across TLA & TLB) ▪ 50% ECF with step-downs to 25% and 0% when Secured Leverage below 3.50x and 3.00x, respectively (TLB only)	
Accordion:	Greater of (i) $80 million and (ii) 50% of EBITDA, plus unlimited subject to Secured Leverage Ratio 4.00x (50 bps MFN for 12 months)		
Financials Covenant:	Maximum Gross Total Leverage of 5.00x, stepping down to 4.50x on 12/31/22 and 4.25x on 12/31/23		None

Execution Timeline

September 2021						
Su	M	Tu	W	Th	F	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

October 2021						
Su	M	Tu	W	Th	F	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

November 2021						
Su	M	Tu	W	Th	F	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

= Key Transaction Date

Week of:	Event:
September 27	Term Loan B Lender Call (9/28)
October 4	Term Loan B Commitments Due (10/8 at 2:00 PM ET)
November 8	Anticipated Closing of Spin Transaction (11/8)

Loyalty Ventures Inc.

SECTION 2

SITUATION OVERVIEW

Situation Overview

Strategic Rationale

- Spin of LoyaltyOne (will do business as Loyalty Ventures post-spin) from Alliance Data positions both Card Services and LoyaltyOne to pursue individual and unique growth paths by clarifying equity stories for both businesses
- Allows appropriate capital structure for each as separate businesses
  - Improves Card Services' balance sheet ratios and positioning with bank regulators
  - Enables LoyaltyOne to reinvest its cash flows back into the business

Complementary Business Models

- LoyaltyOne's clients are focused on acquiring and retaining loyal and profitable customers
  - LoyaltyOne uses the information gathered through its loyalty programs to help clients design and implement effective marketing programs
- The AIR MILES Reward Program and BrandLoyalty provide significant value to clients and partners by generating incremental sales and profits, and to consumers by allowing them to earn rewards on everyday purchases
- Both LoyaltyOne businesses are data-driven, with lengthy historical databases that enable the businesses to optimize programs to fit retailers' goals

Comprehensive Solutions

- With its robust data facilitating a unique view of consumers, LoyaltyOne offers comprehensive loyalty solutions at scale
- Campaigns are not one size fits all – LoyaltyOne is able to tailor programs to retailers
  - Program / campaign durations stretch from weeks long to permanent
  - Scope ranges from targeting specific consumer segments to all consumers

Loyalty Ventures Inc.

SECTION 3

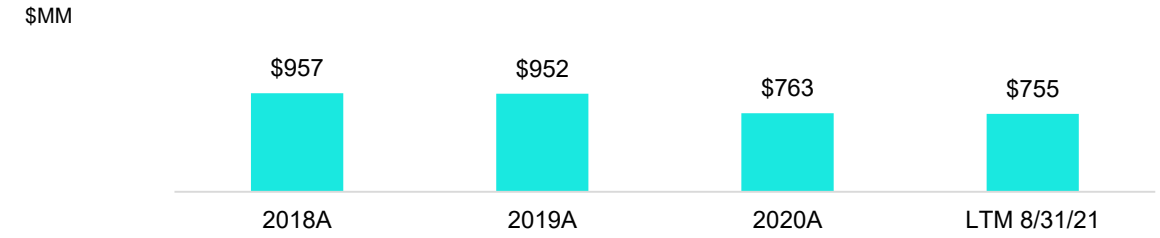
COMPANY OVERVIEW

Company Overview

Business Overview

- Leading global provider of tech-enabled loyalty solutions
- Owns and operates the AIR MILES Reward Program, the industry leader in Canadian loyalty programs, and Netherlands-based BrandLoyalty, a global provider of campaign-based loyalty solutions
- The AIR MILES Reward Program allows Collectors to earn rewards on everyday purchases, which can be redeemed at a broad range of suppliers in the travel, hospitality, electronics and entertainment industries
- BrandLoyalty designs, implements, conducts and analyzes innovative and tailor-made loyalty campaigns for grocers and retailers worldwide
- Employs ~1,430 individuals

Revenue (1)(2)



	2018A	2019A	2020A	LTM 8/31/21
PF Adj. EBITDA (1)(3)(4)	$228	$230	$171	$167
% Margin	24%	24%	22%	22%

Key Statistics

10MM Collector Accounts

2/3 Of Canadian Households

300+ Brands / Suppliers

"Most Influential" Canadian Brand (5)

155MM Short-Term Rewards (6)

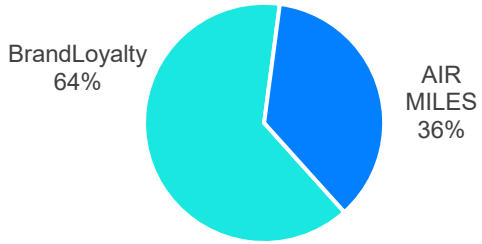
5.3Bn+ Instant Loyalty Rewards (6)

200 Retailers(6) in…

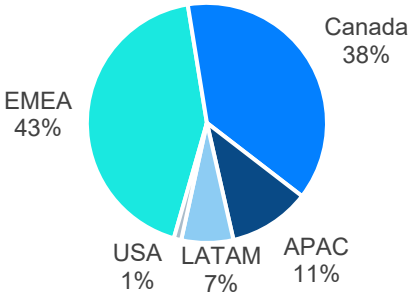
54 Countries

Financial Breakdown (FY 2020)

Revenue by Business



Revenue by Geography



Source: Company information
1. Adjusted for sale of Precima in January 2020
2. In 2019, presentation of revenue switched to a net-basis due to the outsourcing of rewards inventory, 2018 AIR MILES Revenue is reduced by $40.5 million to reflect a net-basis for comparison purposes
3. Adj. EBITDA is unburdened for stock-based compensation and one-time expenses and burdened for estimated incremental expenses for LV Corporate; LTM 8/31/21 includes pro forma adjustments
4. 2018A PF Adj. EBITDA removes the gain on sale of an investment in the operator of the dotz coalition loyalty program in Brazil
5. According to Canada's Ipsos Influence Index
6. FY 2016 – FY 2020

Segment Overview

	AIR MILES	brandloyalty
Overview	**#1 loyalty program in Canada** [1]	**Changes grocery shopper behavior on a mass scale through campaign-based loyalty solutions**
Key Brands	AMERICAN EXPRESS, BMO, SAFEWAY, Shell, Sobeys, Jean Coutu	E.Leclerc, coop, Sobeys, MARVEL, Carrefour, SAFEWAY, DISNEY, vivo, LIDL
Key Statistics	**10MM** Collector Accounts **2/3** Of Canadian Households **300+** Brands / Suppliers	**155MM** Short-Term Rewards [2] **5.3Bn+** Instant Loyalty Rewards [2] **900+** Campaigns [2] **200** Retailers[2] in… **54** …Countries
Financial Profile	• Transaction-based model • 50% - 55% EBITDA margins	• Campaign-based model • 10% - 15% EBITDA margins

Source: Company information
Notes:
1. Based on internal research studies on Loyalty Brand Awareness and Loyalty Program handling of COVID-19; Research sample included both Canadian AIR MILES Collectors and non-Collectors
2. FY 2016 – FY 2020

Loyalty Venture's Global Scale and Geographic Reach

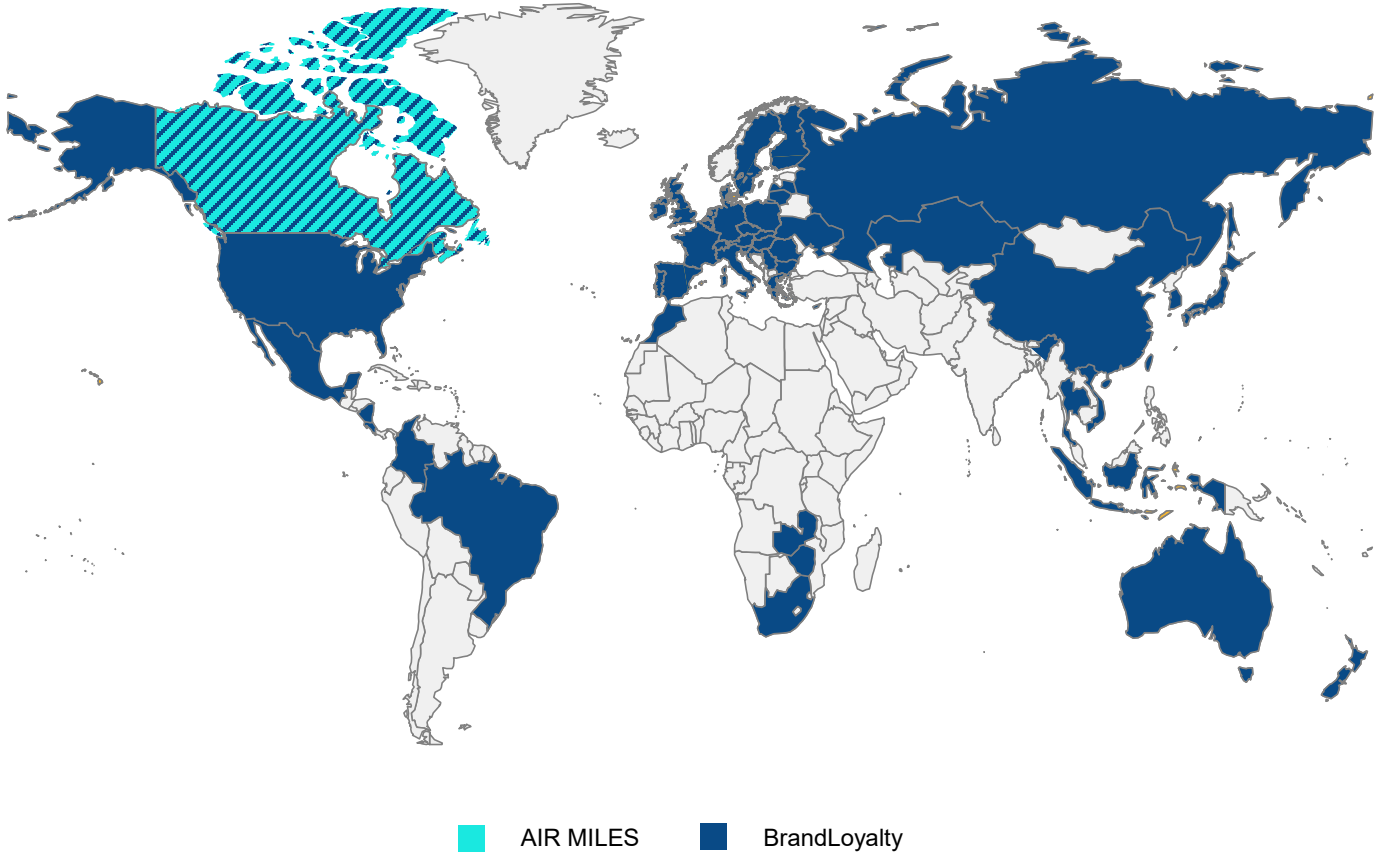
Loyalty Venture's Footprint Spans the Globe

1 Continent

1 Country

300+ Brands

~8,300 (1) Locations to Earn



brandloyalty

6 Continents

54 Countries

20 Sales offices

~200 (2) Retailers

~112,000 (2) Stores

Source: Company information.
Notes:
1. Represents number of sponsor locations
2. FY 2016 – FY 2020.

Loyalty Ventures Inc.

SECTION 4

OVERVIEW OF AIR MILES

#1 Loyalty Program in Canada Built Over Three Decades

25+ Year Operating History with Headquarters in Toronto, Ontario

Our Technology Stack

Loyalty Platform

Data & Analytics Services

Marketing Services

Our Network

Our Solutions & Services

Loyalty Program Management

Fully Managed Loyalty Platform | **Loyalty Consulting & Optimization** | **Coalition-Based Currency**

Real-time loyalty platform and expert teams to help Sponsors manage program, diagnose performance, understand trends and maximize ROI

Collector Intelligence

Data | **Analytics** | **Data Hub**

Using world-class data management and analytics platforms to integrate shopper information and turn it into meaningful Collector insights

Collector Engagement

Cross Channel Orchestration | **Lifecycle Management** | **Digital Properties**

Using traditional and AI-powered marketing tools to reach and engage Collectors across channels

We Are The Clear Industry Leader

Differentiated by Diversity of Spend and Scale

			EARN	REDEEM
Select Competitors	**Program Type**	**# of Individual Collectors**	**% Household Spend Covered (1)**	**Rewards Types**
AIR MILES	Coalition	~17MM (2)	~80%	
optimum	Partner	~18MM (3)	~50%	
SCENE	Partner	~10MM	~25%	
RBC rewards	Affiliate	7MM	~40%	
aeroplan	Frequent Flyer	~5MM	~45%	

OTHER COMPETITORS

plum rewards, BEST BUY, NATIONAL BANK, mbna, Scotia Rewards, MARRIOTT BONVOY, CIBC Aventura, Meridian, TD Bank, Triangle, Canadian Tire

Broadly Recognized and Awarded Brand

#1 Loyalty Program in Canada (4)

Loyalty Program Awareness | Highest Rated for Handling of COVID-19

ahead of

optimum | aeroplan | Triangle | SCENE

Significant Embedded Value as Secondary Canadian Currency

5.0Bn Miles
Earned and Issued in 2020

~CAD $600MM
in Value Redeemed Annually

AIR MILES is Part of the Fabric of Canadian Culture

Entertainment | Cash Discounts
Merchandise | Travel

Notes:
1. Coverage of household spend calculated using Canadian Census Program data, excludes mortgages and taxes
2. 10MM accounts comprised of approximately 1/3rd individuals and 2/3rd households. Estimates 2 members per household
3. PCO self-reported 18MM Collector base - likely includes duplicate accounts from Collectors with several account numbers; market research based on consumer survey yields ~11MM PCO members.
4. Based on internal research studies on Loyalty Brand Awareness and Loyalty Program handling of COVID-19; Research sample included both Canadian AIR MILES Collectors and non-Collectors.

Key Part of Everyday Canadian Commerce

Culturally Ingrained

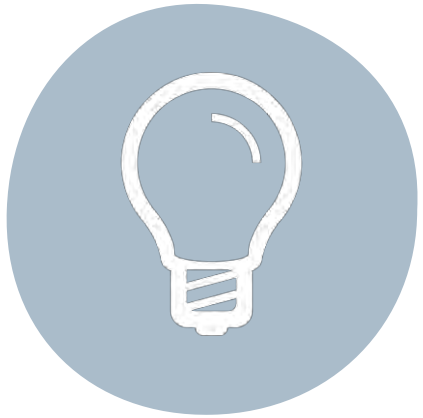
10MM Collector accounts

Comprehensive Network

Categories cover 80% of household spend

Wide Selection of Rewards

~CAD $600MM of redemption value annually



Collector Insights

40MM 1:1 personalized offers per month

Scaled Ecosystem: Breadth and Depth of Collector and Sponsor Base

COLLECTOR ACCOUNTS

10MM

Collector accounts with strong population penetration throughout Canada

Truly Pan-Canadian Scale

SPONSORS

300+ brands

covering 80% of the average household spend categories (1)

Credit Card	Grocery	Gas	Pharmacy	Liquor	Hardware	Specialty Retail
American Express	IGA	Irving	Jean Coutu	Liquor Mart	Kent	The Children's Place
BMO	Metro	Jiffy Lube	Lawtons	Liquor Store	Tim-Br Mart	Global Pet Foods
	Safeway	Shell	Live Well With Pharmasave	NSLC	Canada's Building Centre	Hudson's Bay
	Sobeys		Sobeys Pharmacy	Safeway Wines & Spirits		Staples
				Sobeys Liquor		

Notes:
1. Coverage of household spend calculated using Canadian Census Program data, excludes mortgages and taxes.

Closed Loop Data Access Provides Deep Insight Into Consumer

- Comprehensive shopper profiles developed across numerous online, offline, 1st and 3rd party data
- Granular client segmentation informs campaign and loyalty program creation for clients
- Real time feedback, measurement and attribution enable shopper insights and in flight changes

Notes:
1. Client data collected only after obtaining user consent

AIR MILES Platform Drives Powerful Network Effects

1. Collector Shops at Sponsor and Swipes AIR MILES Card or Types in AIR MILES Identifier
2. AIR MILES Matches a Collector ID # to Purchase Details
3. Collector Genome Provides Comprehensive View of All Collectors
4. Target Key Demographic or Sell More Product by Running Offers or Promotional Campaigns
5. AIR MILES Engages Collectors Through Multi-Channel Marketing and Rewards

How AIR MILES Makes Money

Revenue

MILES RELATED

ONLINE & OFFLINE

Collector Checks Out & AM Collector Number is Captured with the Transaction

Collector May Pay with an AM Credit Card, and Earn More Miles

Sponsor Issues the Collector Miles Associated with the Transaction

Sponsor Pays AIR MILES for the Miles Issued

NON-MILESRELATED

Marketing

Investment Income

Other

Expense

REDEMPTION

Collector Redeems for Reward

XX¢ Cost Per Mile

AIR MILES Pays for the Reward

AIR MILES Nets the Difference Between the Miles Redeemed and the Cost of the Reward

PLATFORM & DELIVERY

Payroll & Benefits

Technology

Rent

Marketing

= Adj. EBITDA (1)

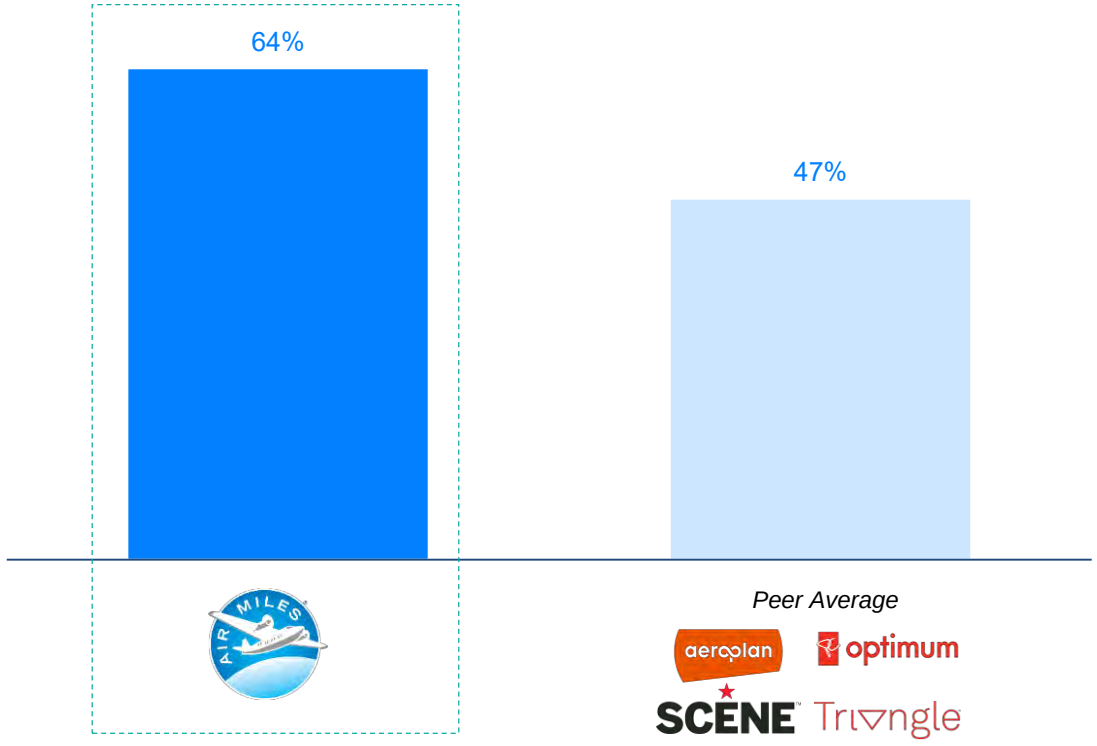
MILES ISSUED	X	PRICE PER MILE	=	**GROSS BILLINGS**		MILES REDEEMED	X	COST PER MILE	=	**COST OF REDEMPTION**	
MILES REVENUE	+	**NON-MILES REVENUE**	=	**GROSS REVENUE**		**GROSS REVENUE**	–	**COST OF REDEMPTION**	=	**NET REVENUE**	**NET REVENUE** – **SG&A** = **Adj. EBITDA (1)**

Source: Company information.
Notes:
1. Adj. EBITDA is unburdened for stock-based compensation and one-time expenses.

Impact of COVID-19 on AIR MILES Performance

Loyalty Programs Handling of COVID-19 "Really Well" (1)(2)

Ratings Based on a Pre-Coded List



Proactive Engagement With All Stakeholders

Business Impact

- Response to COVID created goodwill with Collectors – driving positive brand perception
- Program Satisfaction remains stable

Collector Engagement

- Active collectors at participating sponsors continues to improve compared to COVID impacted period in 2020
- First time earners rebounding with growth coming from traditional channels such as in-store acquisition

Sponsor Activity

- Overall spend at Sponsors trending to pre-March 2020 levels across all verticals including Gas and Credit cards
- Grocery activity maintains strong metrics experienced in 2020

Redemption Impact

- Travel miles redemption recovering, however risks surrounding travel variance lingers
- Non-travel miles redeemed continue strong performance driven by Merchandise, which saw a significant increase in 2020

Notes:

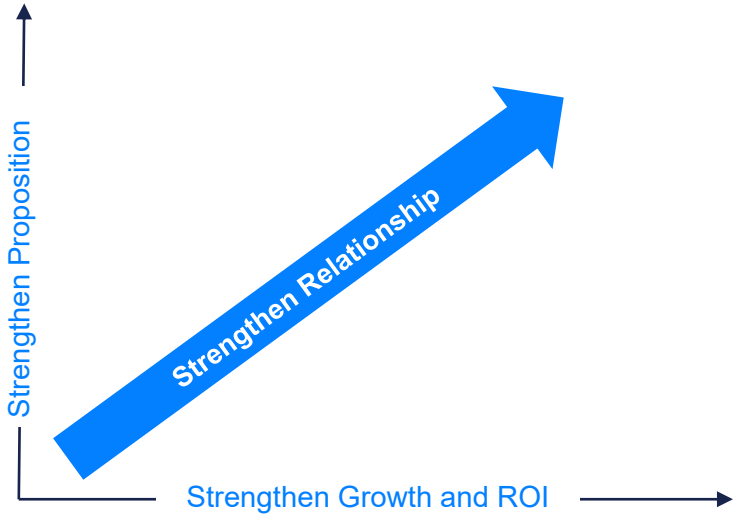
1. Based on internal research studies as of February 2021; Research sample included both Canadian AIR MILES Collectors and non-Collectors
2. The survey question stated "Listed below are different companies you may or may not be familiar with. As a consumer, how do you feel each of the following companies are handling the COVID-19 situation?". The results are based on all Collectors who are aware of what the respective program is doing (excludes those saying "unsure")

Loyalty Ventures Inc.

SECTION 5

OVERVIEW OF BRANDLOYALTY

BrandLoyalty's Winning Loyalty Campaigns Connect Retailers, Partners and Shoppers



Our Business

*Creating more **loyal shoppers** for our clients with transactional and emotional benefits*

Sales Growth and ROI

- *Increase basket size and categories*
- *Grow Penetration*
- *Increase shopper frequency*
- *Improve retention*
- *Push Categories*
- *Increase Customer Lifetime Value*

Strengthen Proposition

- *Improve NPS*
- *Grow client intimacy*
- *Grow client satisfaction*
- *Engage/activate members*
- *Drive Sustainability & Healthy Eating*

Delivering Next Generation Happiness Through Creative Loyalty Solutions

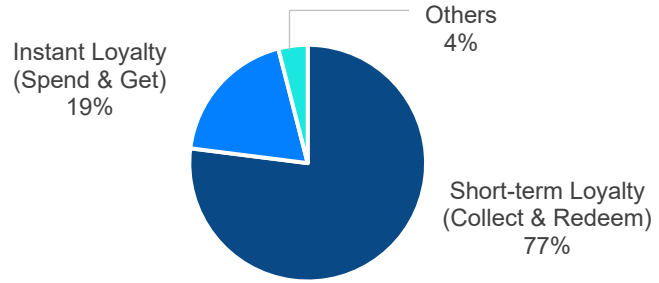
Business Snapshot

- World's **leading provider** of campaign-based loyalty solutions
- Designed to connect **high frequency** retailers, partners and shoppers to **positively impact shopper behavior** on a mass scale
- **Creative** loyalty solutions spanning both the **offline and online** worlds
- Collaboration with **powerful brands**
- **Smart risk taking** through sequential sales on a global scale
- Focus on **sustainability** and **health goals** to meet the needs of the next generation

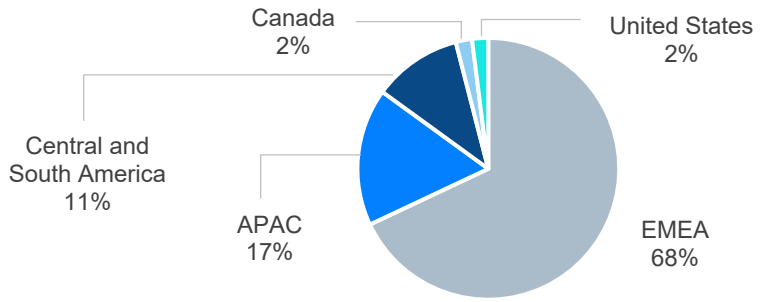
Operational Snapshot

~155MM Short-term Loyalty (Collect & Redeem) rewards (1)	**5.3Bn** Instant Loyalty (Spend & Get) reward (1)	**90%** of revenue from traditional grocery retail
~112K Stores(1)	**900+** campaigns (1)	**~200** Retailers (1)
54 Countries	**20** Sales Offices	

Revenue by Product (2)



Revenue by Geography(2)



Notes:
1. FY 2016 – FY 2020
2. Based on FY 2020

Scaled Ecosystem of Premium Retailers and Partners

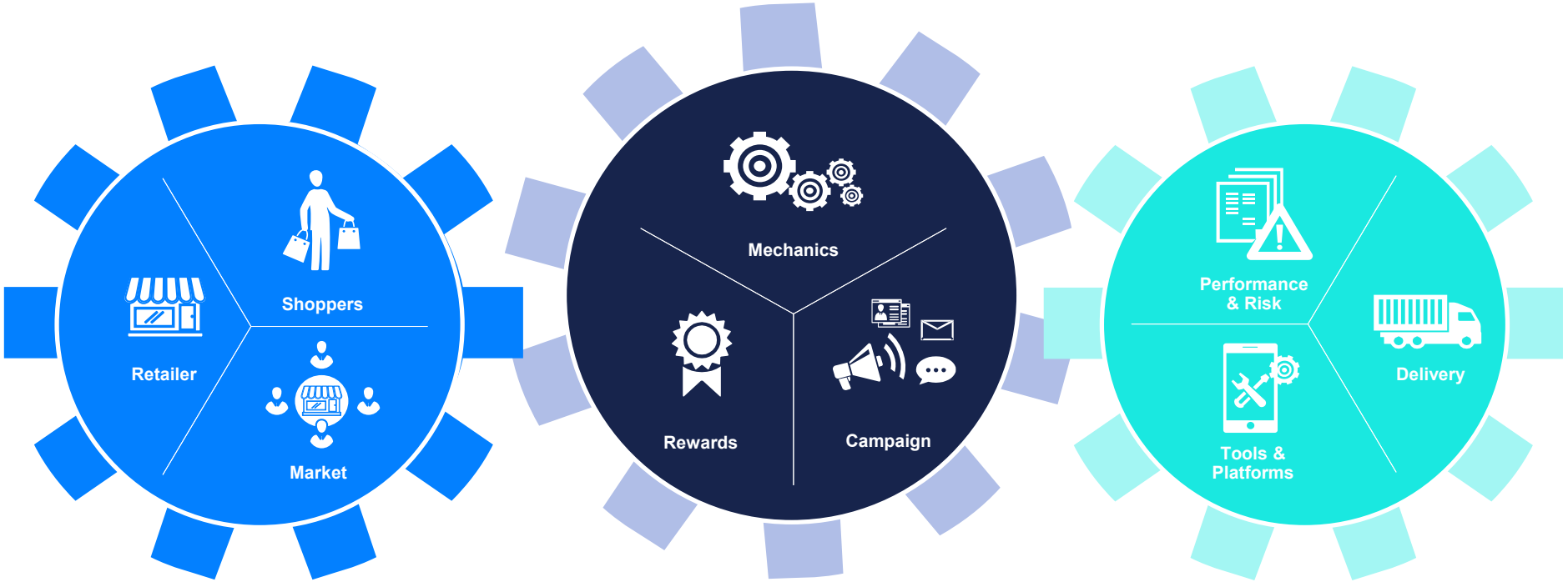
~200 Leading Retailers With An International Footprint

Globally Relevant And Recognized Partners

MARVEL
Disney
Stikeez
STAR WARS
ZWILLING J.A.HENCKELS
WMF
BALLARINI 1889
blomus
royalvkb
vivo
Villeroy & Boch Group
SPIEGELAU

Our Value Proposition: Changing Shopper Behavior On A Massive Scale Through Campaign-Based Loyalty Solutions

Optimizing Client KPIs to Deliver Maximum Impact



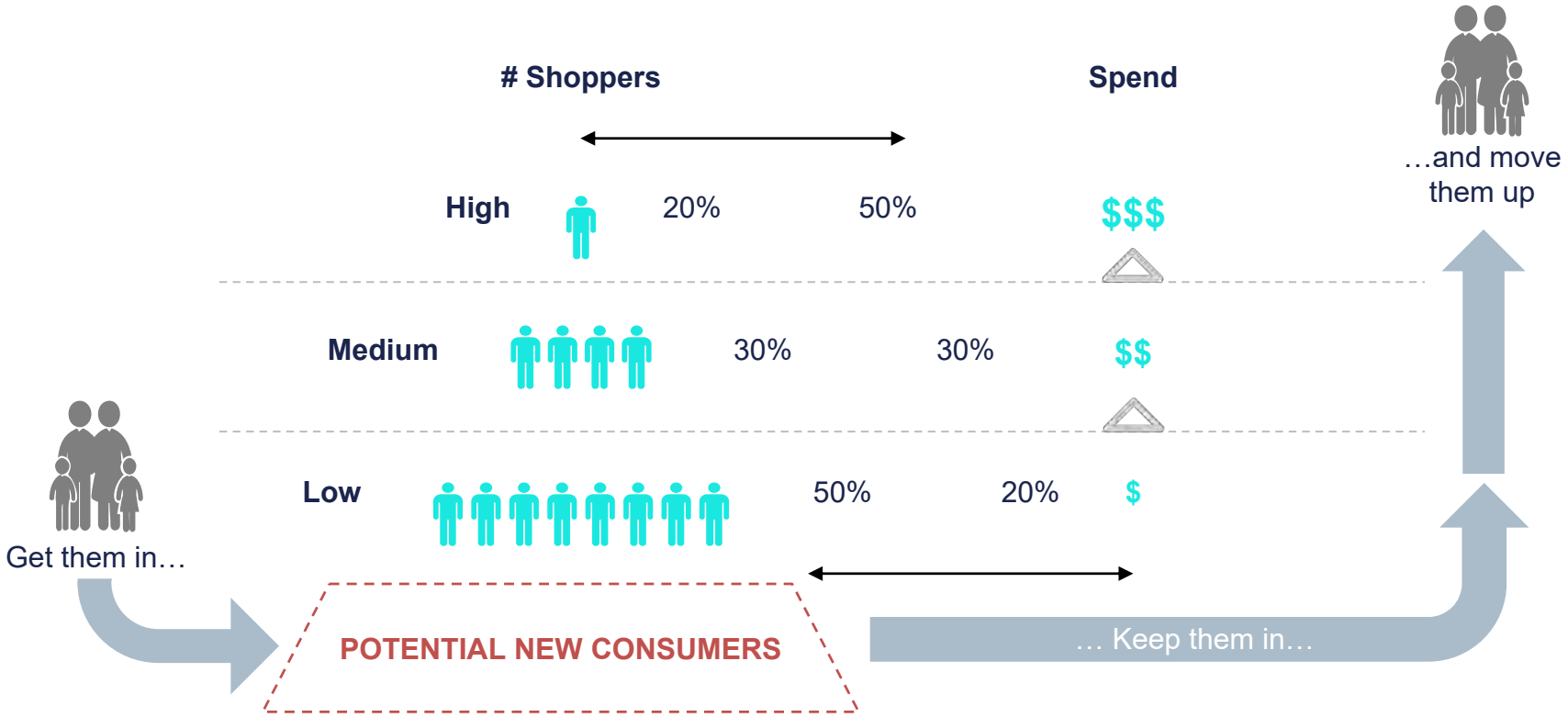
Strategy **Solution** **Execution**

Loyalty Journey of the Retailer

Mechanics – Campaign-Based Loyalty Solutions

Get Them In, Keep Them In And Move Them Up

- **Short-term Loyalty (Collect & Redeem)** is targeted at specific existing shopper segments with the aim to increase the share of wallet ("move them up") for the retailer
- **Instant Loyalty (Spend & Get)** is designed to generate traffic growth ("get them in") and increase basket size for the retailer



Mechanics – Campaign-Based Loyalty Solutions (Cont'd)

Inventory Implications

- Right of return is applicable on Collect & Redeem campaigns (77% of BrandLoyalty FY2020 revenues)
  - 10% over-delivery required to supply stores
- 90% volume forecast accuracy achieved after 50-60% of campaign duration
- Partners have limited storage capacity, requiring inventory buffers to match supply with campaign demand

Targeted Campaign-Based Loyalty Solutions

	Short-term Loyalty (Collect & Redeem)	Instant Loyalty (Spend & Get)
% of Revenue [1]	77%	19%
Target	Specific shopper segments	Families with children, online consumers
Retailer's goal	Increase share of wallet, reduce churn, increase basket size	Traffic growth, increase basket size
Reward categories	Knives, Ovenware, Cookware, Storage, Glassware, etc.	Branded gifts
Reward value	Medium-High	Low
Redemption	Number of stamps to reach spend requirement, number of visits/orders to reach a threshold	Instant
Spend requirement	Depending on shopper type to achieve client target	Depending on average basket size
Digital activation	Digital collecting, content, gifting	Virtual reality, augmented reality, gamification

Notes:
1. Excludes Other Revenue

We Help Clients Retain and Grow Existing Shoppers While Attracting New Ones

Client KPIs

- Basket Size
- Shopper Lifetime Value
- Shopper Churn

Solutions

- Shopper Insights
- Tailored Campaigns
- Shopper Rewards

Tools & Services

- Campaign Predictor
- Performance Dashboard
- BrightStamps
- StorePal

Capabilities

- AI / ML Analytics
- Image Recognition
- Data Visualization
- Social Media Plugins

How BrandLoyalty Makes Money

	Cash Flow	Revenue	COGS
Collect & Redeem	Rewards Delivered x Selling Price = Net Invoiced Billings	Rewards Redeemed x Selling Price = BL Campaign Revenue	Rewards Redeemed x (Cost of Reward + Campaign Costs) = Campaign COGS
Right of Return	Rewards Returned x Selling Price = Credited Billings		
Spend & Get	Rewards Delivered x Selling Price = Net Invoiced Billings	= BL Campaign Revenue	Rewards Delivered x (Cost of Reward + Campaign Costs) = Campaign COGS
No Right of Return			

BrandLoyalty's Performance During COVID

Challenge Action

BrandLoyalty Proactively Addressed Numerous COVID-Related Disruptions…

Early 2020
- COVID-19 begins impacting retailers and supply chains

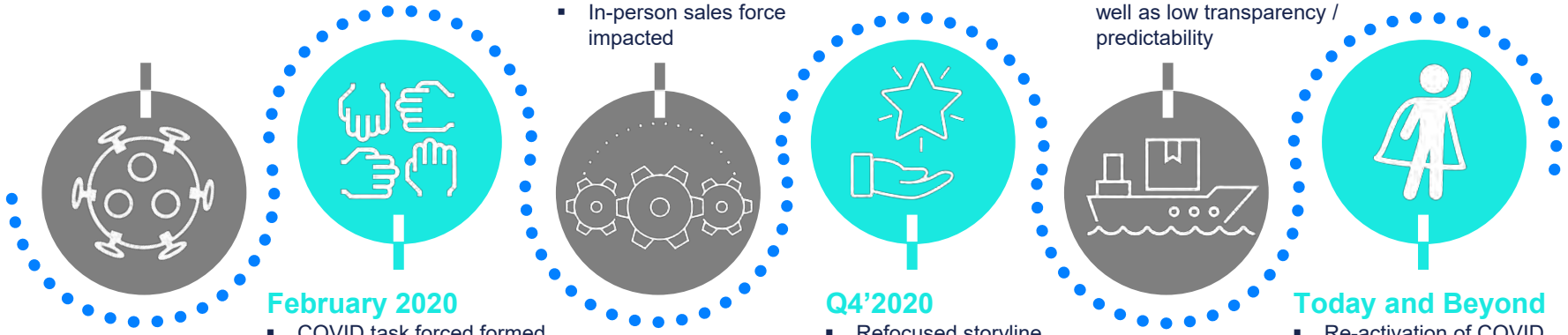
February 2020
- COVID task forced formed
- Led deep supply chain collaboration
- Tactical commercial and legal actions
- Shift to digital where appropriate

Rest of 2020
- Retailers focused on operational challenges – not long term planning
- In-person sales force impacted

Q4'2020
- Refocused storyline around rewarding shoppers, avoiding price wars
- Retrained sales force to sell in a virtual environment

March 2021-Today
- Port and Suez Canal closures combined with 9x higher container costs, as well as low transparency / predictability

Today and Beyond
- Re-activation of COVID task-force
- Actioned price / contract adjustments
- Clear communication with clients and management



…With Favorable Results

At-risk campaigns mostly postponed – ***not cancelled*** – throughout 2020

Limited items out of stock despite supply chain disruptions

Short term contract signing, ***high sales from available stock*** and ***higher client uptake in 2021***

Reduced inventory

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SECTION 6

INVESTMENT HIGHLIGHTS

Investment Highlights

1. Loyalty Venture's Global Scale and Geographic Reach
2. Rich, Omnichannel Shopper Data Platforms Power Actionable Sponsor Insights
3. Agile, Versatile and Scalable Technology Platforms
4. Deep, Long-Term Relationships With Clients and Sponsors
5. Powerful Network Effects
6. Highly Attractive Financial Profile
7. Experienced Management Team With Deep Industry Expertise

Loyalty Venture's Global Scale and Geographic Reach

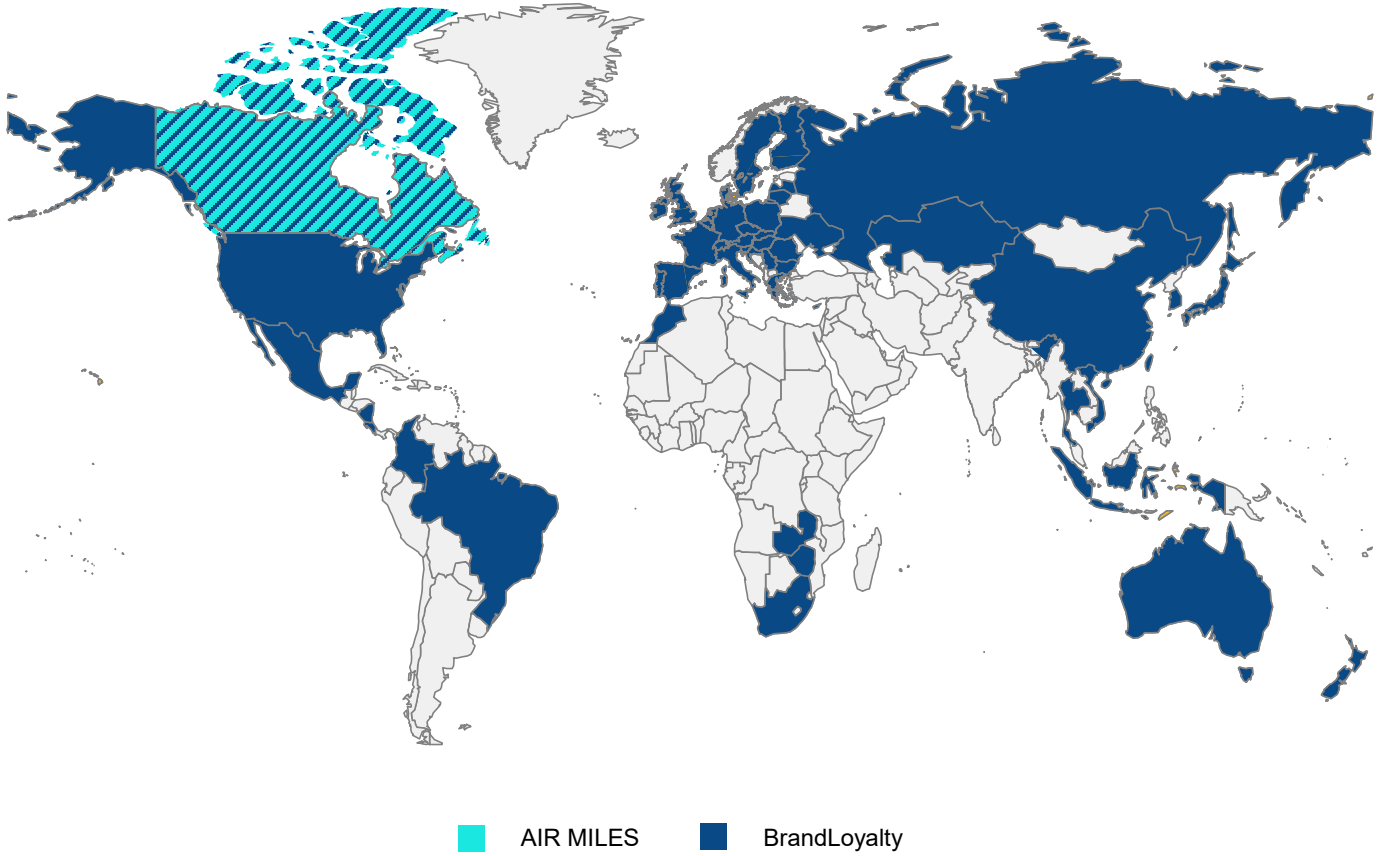
Loyalty Venture's Footprint Spans the Globe

1 Continent

1 Country

300+ Brands

~8,300 (1) Locations to Earn



brandloyalty

6 Continents

54 Countries

20 Sales offices

~200 (2) Retailers

~112,000 (2) Stores

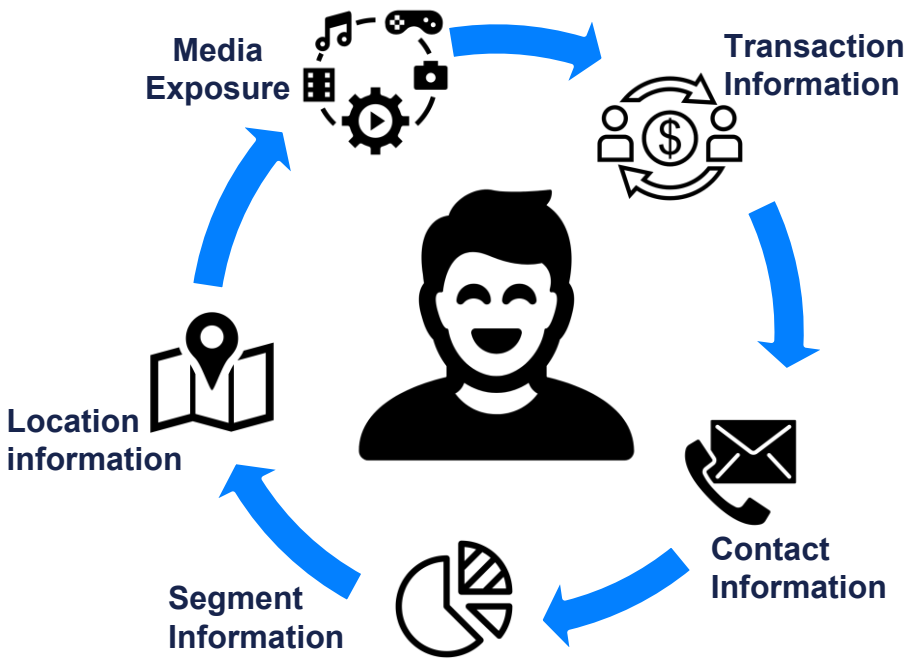
Source: Company information.
Notes:
1. Represents number of sponsor locations
2. FY 2016 – FY 2020.

Rich, Omni Channel Shopper Data Platforms

Data Sources

- Online
- Offline
- 1st Party
- 3rd Party

Profile of the Shopper



Client Use Cases

- Client Segmentation
- Campaign Management
- Real Time Feedback
- Personalization

Increase Loyalty	Increase Categories	Increase Basket Size	Increase Frequency	Increase ROI	Enhanced Measurements & Attribution

Agile, Versatile & Scalable Technology Platform

brandloyalty

Solution

- Client Intelligence
- Client Lifecycle Management
- 1:1 Targeted Marketing
- Shopper / Retailer Insights
- Tailored Campaign
- Shopper Rewards

Tools & Services

- Data Hub
- Metrics Factory
- Feature Factory
- Campaign Predictor
- Performance Dashboard
- Activation App
- StorePal
- BrightStamps

Scalable Tech Platform

- AI / ML Analytics
- Image Recognition
- Data Visualization
- Social Media Plugins

Deep, Long-Term Relationship With Client and Sponsors

Loyalty Ventures Serves Retailers in High Frequency, Non-Discretionary Verticals

AIR MILES

brandloyalty

IRVING, IGA, jiffy lube, Shell, Sobeys, metro, SAFEWAY, Sobeys Liquor, Jean Coutu, Lawtons Drugs, LIVE WELL WITH PHARMASAVE, Sobeys Pharmacy, SAFEWAY, KENT, LIQUOR MART, LIQUOR Store, NSLC BEER · WINE · SPIRITS, BMO, THE CHILDREN'S PLACE, GLOBAL PET FOODS eat.play.love., HUDSON'S BAY, STAPLES, TIM-BR, Canada's Building Centre, AMERICAN EXPRESS

REWE, Carrefour, ESSELUNGA, coop, Sobeys, IGA, Sainsbury's, МАГНИТ, Kroger, E.Leclerc, LIDL, Albert Heijn, GPA, SAFEWAY

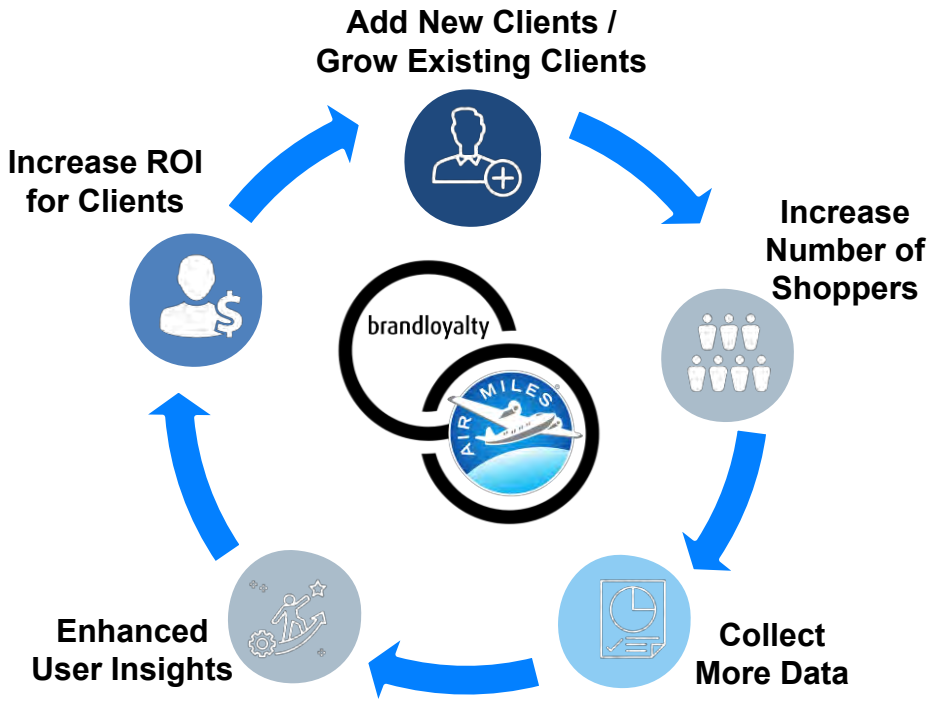
Key Highlights

- ***#1 loyalty program in Canada***[1] with 300+ sponsors and rewards suppliers across ~8,300 locations[2]
- Sponsor base ***covers 80% of the average household spend categories*** in Canada
- Stable client base generates ***recurring campaign demand***
- ***Global retailer and supplier network*** in 54 countries
- Maintains close relationships with ***20 national sales offices***

Notes:
1. Based on internal research studies on Loyalty Brand Awareness and Loyalty Program handling of COVID-19; Research sample included both Canadian AIR MILES Collectors and non-Collectors
2. Represents number of sponsor locations

Powerful Network Effects

Virtuous Cycle…



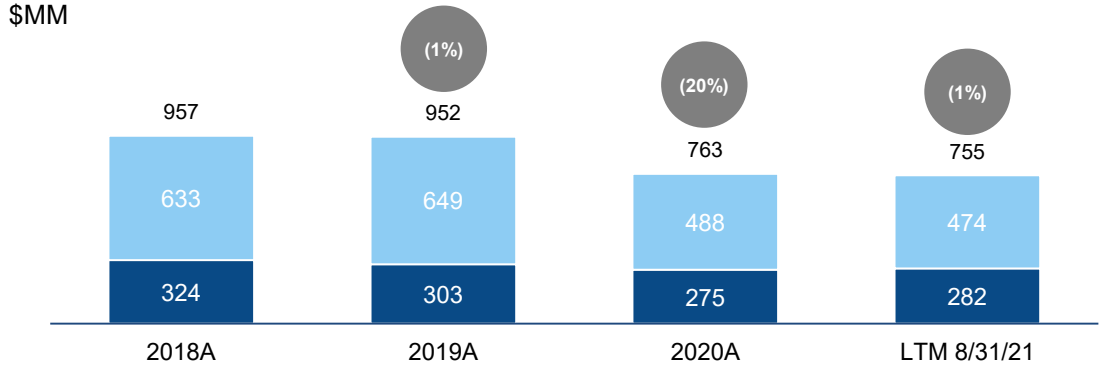
Loyalty Ventures is the platform that ***drives client and shopper growth***, resulting in ***enhanced user insights and client ROI***

…Drives Powerful Network Effects to Grow The Ecosystem

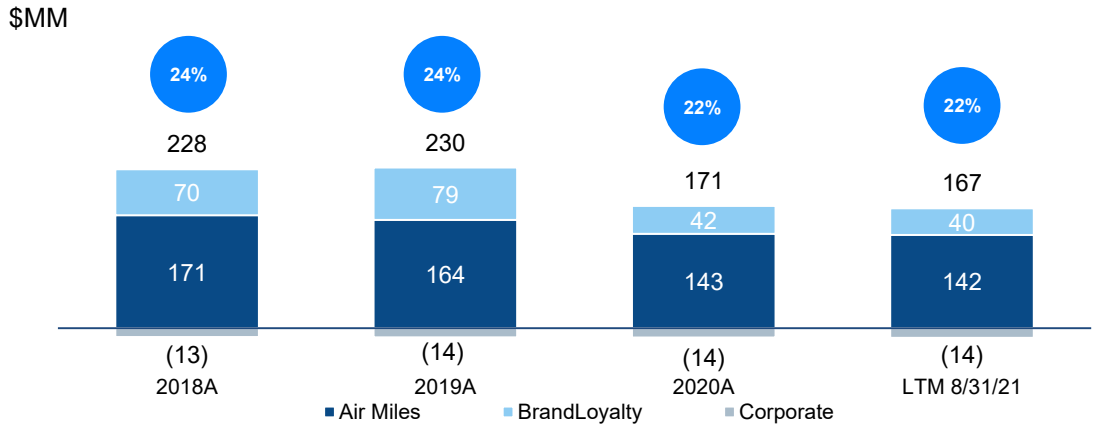
As our platform attracts new clients and shoppers, ***all stakeholders mutually benefit from powerful network effects***

Highly Attractive Financial Profile

Revenue (1)(2)



PF Adj. EBITDA (1)(3)(4)(5)



Key Commentary

Revenue rebounding from 2020, which was impacted by COVID-19. Goal of ***mid to high-single digit stable top-line growth***

Stable EBITDA margin profile with variable cost structure – provides protection in downturns

Growth %

Margin %

Source: Company information

Notes:
1. Adjusted for sale of Precima in January 2020.
2. In 2019, presentation of revenue switched to a net-basis due to the outsourcing of rewards inventory, 2018 AIR MILES Revenue is reduced by $40.5 million to reflect a net-basis for comparison purposes
3. Adj. EBITDA is unburdened for stock-based compensation and one-time expenses and burdened for estimated incremental expenses for Loyalty Ventures Corporate
4. 2018A PF Adj. EBITDA removes the gain on sale of an investment in the operator of the dotz coalition loyalty program in Brazil
5. LTM 8/31/21 includes add-backs related to severance, run-rate payroll savings and run-rate real estate savings as a result of BrandLoyalty's cost savings plan

Experienced Management Team

Deep History Of Public Company Leadership Experience

Charles Horn

CEO

Loyalty Ventures

12 Years at LoyaltyVentures | **27** Years of Experience

Blair Cameron

President

AIR MILES

16 Years at LoyaltyVentures | **26** Years of Experience

Claudia Mennen

CEO

BrandLoyalty

9 Years at LoyaltyVentures | **25** Years of Experience

Jeff Chesnut

CFO

Loyalty Ventures

10 Years at LoyaltyVentures | **24** Years of Experience

Jeff Tusa

SVP, Corporate Development & Treasurer

Loyalty Ventures

6 Years at LoyaltyVentures | **20** Years of Experience

Years of Experience

Select Companies

LoyaltyOne: Senior Vice President And Senior Advisor	LoyaltyOne: Senior Vice President And Chief Client Officer	LoyaltyOne: Chief Financial Officer	AllianceData: Senior Vice President And Treasurer
AllianceData: CFO and Interim CEO	Mark's: Head Of Marketing And Merchandising	GreenGas: Chief Financial Officer	AllianceData: Vice President, Corporate Development

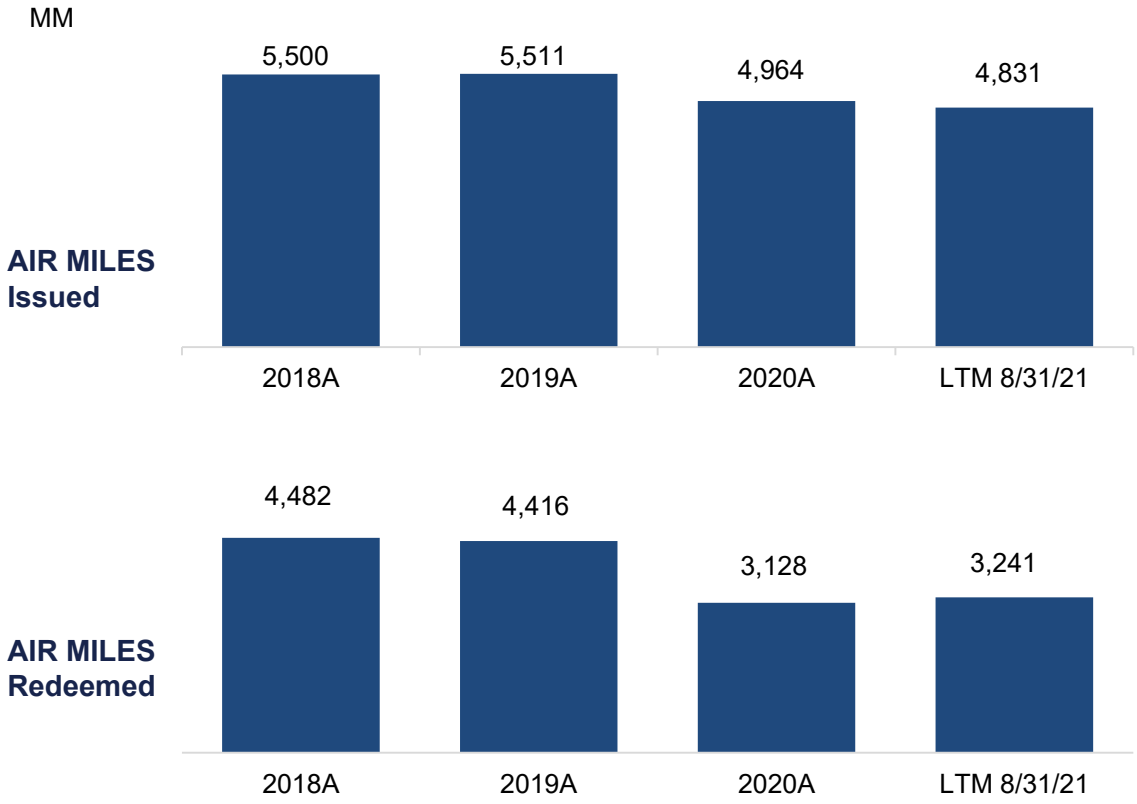
Loyalty Ventures Inc.

SECTION 7

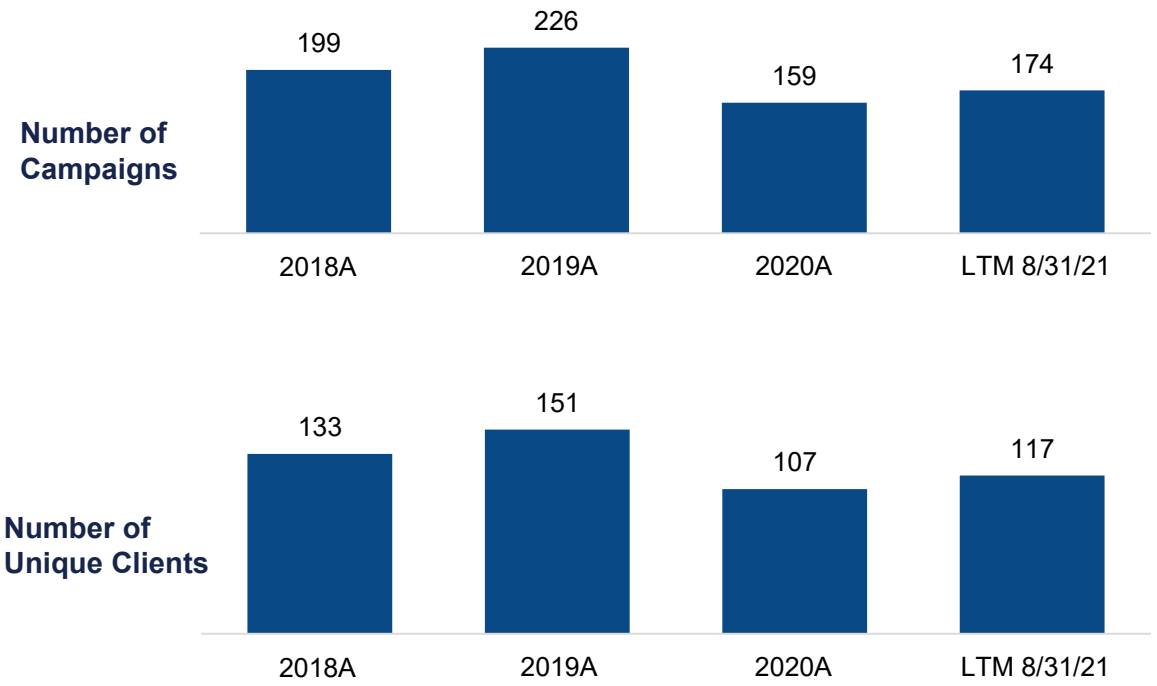
FINANCIAL OVERVIEW

Key Operating Metrics

AIR MILES – Key Metrics



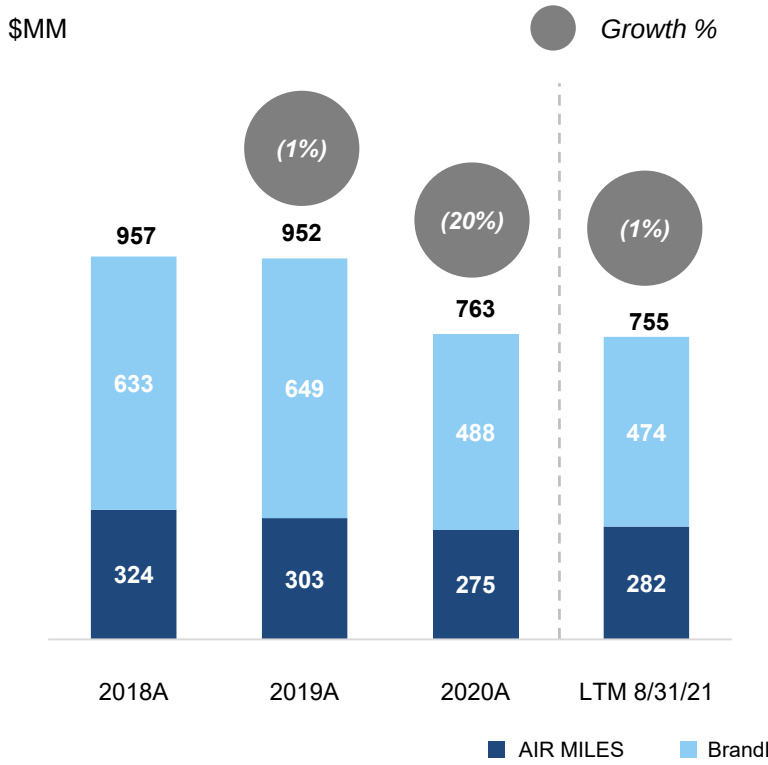
BrandLoyalty – Key Metrics (1)



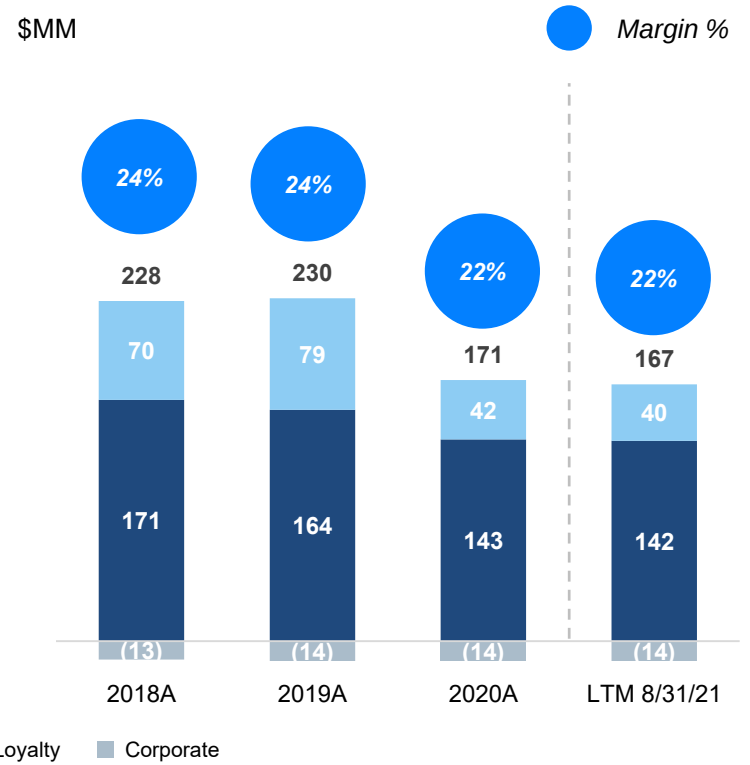
Source: Company information
Notes:
1. Numbers based on starting year, excluding Icemobile

2018 – LTM 8/31/21 Financial Performance

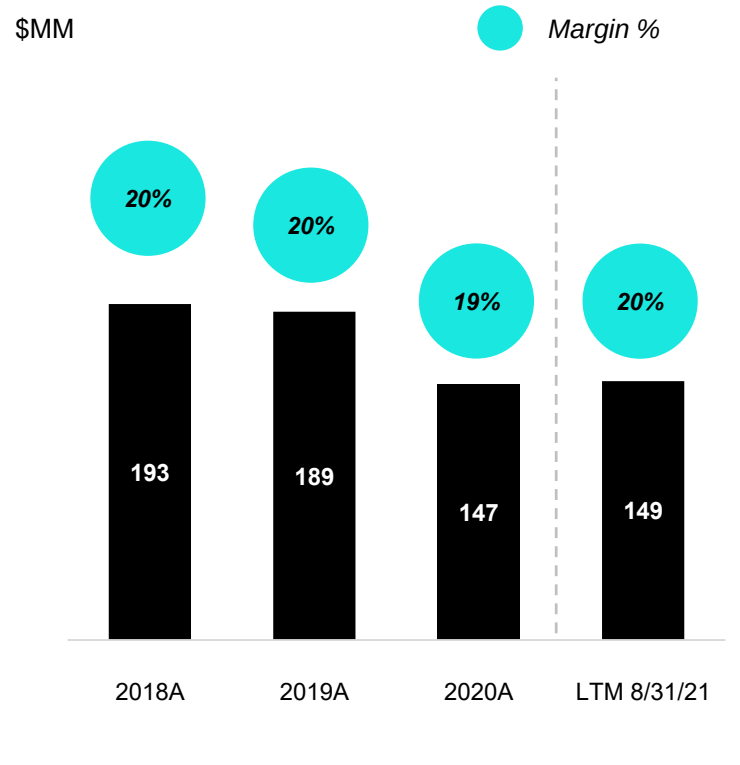
Revenue (1)(2)



PF Adj. EBITDA (1)(3)(4)



Free Cash Flow (5)



AIR MILES BrandLoyalty Corporate

- AIR MILES' performance impacted by travel redemptions
- BrandLoyalty's performance continues to be impacted by COVID, from delayed programs to supply chain challenges

Source: Company information

Notes:
1. Adjusted for sale of Precima in January 2020
2. In 2019, presentation of revenue switched to a net-basis due to the outsourcing of rewards inventory, 2018 AIR MILES Revenue is reduced by $40.5 million to reflect a net-basis for comparison purposes
3. Adj. EBITDA is unburdened for stock-based compensation and one-time expenses and burdened for estimated incremental expenses for Loyalty Ventures Corporate; LTM 8/31/21 includes add-backs related to severance, run-rate payroll savings and run-rate real estate savings as a result of BrandLoyalty's cost savings plan
4. 2018A PF Adj. EBITDA removes the gain on sale of an investment in the operator of the dotz coalition loyalty program in Brazil
5. Calculated as PF Adj. EBITDA less capex

Financial Policy

Maintaining Adequate Liquidity	• Sufficient liquidity to address global working capital needs and market volatility • Commitment to maintaining healthy balance sheet with minimum cash balance of $50 million intraquarter in Q4 2021 • Cash generation and $150 million Revolver to support long-term business liquidity needs
Free Cash Flow Priorities	• Loyalty Ventures will maintain a flexible approach to capital structure, with debt prepayment remaining a first priority • Prudent investment in the business – both organic and inorganic – will be a focus • The Company does not plan to pay a dividend or engage in share repurchases
Target Leverage	• Loyalty Ventures intends to set a public total leverage target of less than 3.5x • Deleveraging will remain a priority via Adj. EBITDA(1) growth and free cash flow generation
Redemption Settlement Assets	• AIR MILES is required to set aside funds in a trust to fund future redemptions ◦ Gives Sponsors the confidence to pay AIR MILES when miles are issued • Trust is fully funded; balance of USD $745 million at 6/30/21 • Anticipated rise in travel-related redemptions post-pandemic will not impact cash flow
M&A	• No immediate plans for M&A, though Loyalty Ventures would consider future growth opportunities to expand operations and footprint in North America • Any potential future transaction will be executed through the Company's core business strategy and will focus on maintaining balance sheet integrity

Notes:
1. Adj. EBITDA is unburdened for stock-based compensation and one-time expenses and burdened for estimated incremental expenses for Loyalty Ventures Corporate

Loyalty Ventures Inc.

SECTION 8

APPENDIX

Pro Forma EBITDA Reconciliation

($ in millions)	LTM		
	Jun-21	Jul-21	Aug-21
Adjusted EBITDA [1]	**$147.9**	**$159.3**	**$163.3**
Plus: Payroll & Real Estate Cost Savings	4.0	4.0	4.0
Pro Forma Adjusted EBITDA [2]	**$151.9**	**$163.3**	**$167.3**

- Payroll and Real Estate Cost Savings reflect the pro forma cost savings from actions being taken in September
- Trough in June 2021 - 12 months of COVID - has inflected as evidenced by improved performance

Notes:
1. Adj. EBITDA is unburdened for stock-based compensation and one-time expenses and burdened for estimated incremental expenses for Loyalty Ventures Corporate
2. Includes pro forma credit for full LTM period

Historical Financial Performance

($ in millions)	Fiscal Year Ended December 31,		
	2018	2019	2020
Redemption, Net	$676.3	$637.3	$473.1
Services	368.2	367.6	264.1
Other	23.9	28.2	27.7
Total Revenue	**$1,068.4**	**$1,033.1**	**$764.8**
Cost of Operations	824.2	847.6	587.6
General & Administrative	14.0	14.8	14.3
Depreciation & Other Amortization	32.6	32.2	29.0
Amortization of Purchased Intangibles	52.2	48.0	49.0
Operating Income	**$145.3**	**$90.6**	**$84.9**
Gain on Sale of a Business	--	--	(10.9)
Interest (Income) Expense	5.5	2.3	(0.8)
Earnings Before Taxes	**$139.8**	**$88.2**	**$96.6**
Adjusted EBITDA	**$233.9**	**$231.6**	**$173.4**

Year ended December 31, 2020 compared to the year ended December 31, 2019

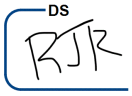
- Sale of Precima in January 2020 resulted in a $78.5 million decrease in revenue as compared to the prior year (1)
- Sale of Precima resulted in a decrease in cost of operations by $78.4 million

Year ended December 31, 2019 compared to the year ended December 31, 2018

- Revenue impacted due to the net presentation of $43.0 million of revenue from the outsourcing of additional rewards inventory during the year ended December 31, 2019. In 2019, the AIR MILES Reward Program outsourced the fulfillment of certain merchandise rewards, which resulted in revenue presented net of cost of redemptions, as compared to on a gross revenue basis in 2018 when the AIR MILES Reward Program controlled the good or service before it was transferred to the collector
- Cost of operations for the year ended December 31, 2019 was impacted by $50.8 million of restructuring and other charges. The increase in Cost of Operations was offset in part by the net presentation of $43.0 million in cost of redemptions within our coalition loyalty program as discussed above

Notes:
1. The Precima impact has been removed on other pages of this deck.

This is Exhibit “L” referred to in the Affidavit of Joseph L. Motes III affirmed by Joseph L. Motes III of the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on February 9, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

RJ REID

Loyalty Ventures Inc.

CONFIDENTIAL

Date: October 12, 2021

From: BofA Securities, Inc. ("BofA Securities")

To: Lenders to Loyalty Ventures Inc.

Re: Allocations to the $150 million Secured Cash Flow Revolving Credit Facility & $175 million Term Loan A

The syndication of Loyalty Ventures Inc.'s Secured Cash Flow Revolving Credit Facility ("Revolver") and Term Loan A has been successfully completed. Please see final allocations below:

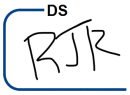
Institution	Revolver	Term Loan A	Total
Bank of America, N.A.	$5,000,000	$20,000,000	$25,000,000
Citizens Bank, N.A.	6,250,000	18,750,000	25,000,000
City National Bank	12,500,000	12,500,000	25,000,000
Deutsche Bank AG, Filiale Amsterdam	25,000,000	-	25,000,000
Fifth Third Bank, National Association	12,500,000	12,500,000	25,000,000
JPMorgan Chase Bank, N.A.	12,500,000	12,500,000	25,000,000
Mizuho Bank, Ltd.	12,500,000	12,500,000	25,000,000
Morgan Stanley Bank, N.A.	20,000,000	5,000,000	25,000,000
MUFG Bank, Ltd.	12,500,000	12,500,000	25,000,000
Regions Bank	6,250,000	18,750,000	25,000,000
Texas Capital Bank	-	25,000,000	25,000,000
Truist Bank	12,500,000	12,500,000	25,000,000
Wells Fargo Bank, National Association	12,500,000	12,500,000	25,000,000
Total	**$150,000,000**	**$175,000,000**	**$325,000,000**

On behalf of Loyalty Ventures Inc., we would like to thank you for your participation in this important transaction.

Regards,
BofA Securities

BofA SECURITIES

This is Exhibit “M” referred to in the Affidavit of Joseph L. Motes III affirmed by Joseph L. Motes III of the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on February 9, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

RJ REID

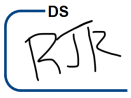
505

Loyalty Ventures Inc.

B+ / B1 (corporate)
BB- / B1 (TL-B)

#	Investor	Committed TL-B (USD)	Draft TL-B (USD)
1	T. Rowe Price Associates Inc	63.40	42.50
2	GSO / Blackstone Debt Funds Management LLC	64.00	40.00
3	Redwood Capital Management, LLC	50.00	40.00
4	BARINGS LLC	50.00	37.50
5	Carlyle - US	50.00	37.50
6	Post Advisory Group LLC	50.00	35.00
7	AllianceBernstein L.P	41.00	32.50
9	Angelo Gordon	35.00	20.00
10	Ares Management LLC	35.00	20.00
11	GSAM (Goldman Sachs Asset Mgmt)	25.00	20.00
12	Sound Point Capital Management LP	25.00	20.00
13	Artisan Partners	30.00	17.00
14	Elmwood Asset Management LLC	35.00	14.00
15	Napier Park Global Capital LP	35.00	14.00
16	Fidelity	30.00	13.50
17	Marathon Asset Management	20.00	12.50
18	HPS Investment Partners LLC	25.00	12.00
19	Gulfstream	25.00	10.00
20	CQS Investment Management	15.00	8.50
21	Columbia Management	12.50	7.50
22	Diameter Capital Partners LP	12.00	6.00
23	Columbia Management HY	10.82	5.00
24	Loomis Sayles	8.50	4.50
25	Assured Investment Management fka Blue Mountain	10.00	4.00
26	Citadel LLC	15.00	4.00
27	Abry Partners	12.00	3.00
28	Delaware Investments	5.00	3.00
29	HalseyPoint Asset Management	15.00	3.00
30	Pioneer Investment Management / Amundi Pioneer	6.00	3.00
31	Bank of America Corporation	3.00	2.00
32	Nassau Reinsurance Group	8.00	2.00
33	Trimaran Advisors LLC	6.00	2.00
34	H.I.G. Whitehorse Capital LLC	2.00	1.00
35	Orix	7.00	1.00
36	Saratoga Investment Corporation	3.00	1.00
37	Truist Financial Corporation	10.00	1.00
38	Hillmark Capital	2.00	0.50
	Total	**851.2**	**500.0**

This is Exhibit “N” referred to in the Affidavit of Joseph L. Motes III affirmed by Joseph L. Motes III of the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on February 9, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

RJ REID

S&P Global
Ratings

RatingsDirect®

Research Update:

Loyalty Ventures Inc. Rated 'B+', With A Stable Outlook; US$500 Million Debt Rated 'BB-' (Recovery Rating: '2')

September 28, 2021

Rating Action Overview

- Dallas-based consumer loyalty solutions provider, Loyalty Ventures Inc., is proposing to issue a US$175 million term loan A and a US$500 million term loan B. The company will use the proceeds of the term loan, along with cash on hand, to pay US$750 million in dividends to Loyalty Ventures' parent company, Alliance Data Systems Corp. (ADS). The company is also proposing to issue an up to US$125 million revolver, which is expected to be undrawn at close.
- Pro forma the transaction, based on last 12 months (LTM) to June 30, 2021, EBITDA we expect adjusted debt to EBITDA will be about 5.5x and should improve to the mid-4x area by year-end 2022.
- On Sept. 28, 2021, S&P Global Ratings assigned its 'B+' issuer credit rating to Loyalty Ventures. At the same time, S&P Global Ratings assigned its 'BB-' issue-level rating and '2' recovery rating to the company's senior secured term loan B. The '2' recovery rating reflects our expectation for substantial (70%-90%; rounded estimate: 70%) recovery in the event of default.
- The stable outlook reflects our expectation that Loyalty Ventures will improve its adjusted debt to EBITDA aided by recovery in EBITDA of the company's BrandLoyalty segment. Incorporated into the outlook is our view that the company can protect its cash flows through the reward points issuance and redemptions cycle and generate positive free cash flows even in an event of higher-than-normal point redemptions.

PRIMARY CREDIT ANALYST

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SECONDARY CONTACT

Aniki Saha-Yannopoulos, CFA, PhD
Toronto
+ 1 (416) 507 2579
aniki.saha-yannopoulos
@spglobal.com

Rating Action Rationale

We expect a recovery in operating performance should lead to improvement in the debt-to-EBITDA ratio in the mid 4x area over the next 12-18 months: On May 12, 2021, U.S.-based ADS announced the spin-off of its global tech-enabled loyalty solutions division loyalty points division known as LoyaltyOne. We expect the spin-off transaction will close by year-end 2021. The company operates through two business divisions: Canada-based AIR MILES and

Netherlands-based BrandLoyalty.

The operating performance for the company remains affected by both COVID-19 pandemic-related travel and other restrictions, and rising freight costs due to global supply chain challenges. Specifically, the company's revenues declined 6% and EBITDA fell by 25% for the first six months of 2021. The EBITDA decline was attributed to not only lower revenues but also higher marketing and payroll costs. We expect the company's operating performance will rebound in the second half of the year as air travel recovers and as retailers execute their campaign programs. Therefore, we expect Loyalty Ventures' EBITDA margins on an S&P Global Ratings-adjusted basis will improve to 16% from the current 15% as of LTM June 30, 2021, and the company's debt-to-EBITDA ratio will improve to the mid-4x area over the next 12-18 months from about the mid-5x area pro forma the transaction.

Key credit factors include the company's small scale of operations, the AIR MILES program's narrow geographic presence, high seasonality, and intense competition. Loyalty Ventures' AIR MILES program has a narrow geographic focus, with operations solely in Canada, while competing with proprietary loyalty programs of large financial institutions (such as Toronto-Dominion Bank and Royal Bank of Canada) and large and well-capitalized retailers (such as Loblaw Cos. Ltd., Canadian Tire Corp., and the Aeroplan Program). Barriers to entry to this industry are low and there is always the risk that AIR MILES' sponsors/coalition partners could roll out their own proprietary loyalty programs. In addition, AIR MILES has significant customer concentration via the Bank of Montreal, Metro Inc., and Sobeys Inc., which are among the company's top sponsors and account for more than 60% of reward points issuance.

The company's BrandLoyalty segment, which has geographic diversity and a larger revenue size and scale compared with some peers, is similar to AIR MILES in that it competes with other well-capitalized marketing services companies globally. In addition, about five retailers accounted for a third of BrandLoyalty's revenues in 2020. Although there is some customer stickiness and BrandLoyalty has long-standing relationships with its key customers, we believe that risks remain that retailers could scale back their campaign programs and marketing spend during periods of economic uncertainty, which could lead to a loss of key customers and, in turn, to volatility in BrandLoyalty's operating performance.

The AIR MILES program's strong brand recognition in Canada, diversity in usage of points, and long-standing customer relationships underpin the company's competitive strengths. We positively view Air Miles' strong brand recognition in Canada supported by about 10 million active collector accounts. The company's solid market presence reaches about two-thirds of Canadian households. AIR MILES also has long-standing relationships with its key sponsors. Against the backdrop of the pandemic and threat of variants, we forecast travel-related redemption activity will gradually recover to pre-pandemic levels over the next 12-18 months. Therefore, we believe that consumers could be incentivized to redeem their reward points for AIR MILES cash or other merchandise, or put aside points for future travel, which is supportive of EBITDA and margins. We expect a low, albeit slightly higher than 2020, redemption ratio (approximately 70%) through the remainder of 2021. Air Miles points can be redeemed for merchandise, experiences, cash, and other rewards. This diversity reduces the reliance on the airlines as a major source for points redemption. We expect the redemption ratio will increase sharply in 2022 to about 80% from a rebound in travel-related points redemptions. We also expect higher travel-related redemptions could result in higher cost of redemptions compared with 2021. That said, because of the diversity in source of points redemption, we expect the company will manage through the higher costs such that consolidated EBITDA margins are sustained in the 16% area in 2022.

We view the redemption settlement asset trust as a risk mitigant that provides stability to cash flows amid uncertainty about the level of redemption activity. The AIR MILES program is significantly exposed to the risk that, in a given year, points redemption activity could be meaningfully higher than expected. Similarly, the costs related to redemptions could increase, leading to volatility in the company's profitability and cash flows. To manage through the cycles of rewards issuance and redemptions, Loyalty Ventures has created a redemption settlement asset trust, an escrowed trust that is principally designated for settling the redemption of AIR MILES by collectors of AIR MILES programs. Currently, the trust sufficiently funds the points liability (calculated as redemption asset over points liability). The company contributes a specific sum based on the expected redemption level and at an estimated cost within this trust. As of June 30, 2021, the asset value of the trust is US$745 million. We note that significant risks of early recovery in travel toward the end of 2021 and 2022 could lead to higher-than-anticipated redemption of travel reward points. Should such a situation arise, we believe that the trust should limit the adverse effect on Loyalty Ventures' cash flows and liquidity position.

We expect the company will generate positive free operating cash flows and maintain adequate liquidity. S&P Global Ratings considers the flow of funds from the redemption settlement asset trust as an operating source or use of cash and therefore includes the net cash contributions within its operating cash flow calculation. At the same time, we are adding the change in deferred revenue as a source of funds. We therefore estimate that Loyalty Ventures should generate positive free operating cash flow in the US$70 million-US$75 million range through 2022. In addition, considering pro forma cash of US$118.9 million as of June 30, 2021, and availability on the company's cash flow revolver of up to US$125 million, we believe Loyalty Ventures has adequate liquidity for the next 12 months.

Outlook

The stable outlook reflects our expectation that Loyalty Ventures will improve its adjusted debt to EBITDA 2021 aided by recovery in EBITDA of the company's BrandLoyalty segment. Incorporated into the outlook is our view that the company can protect its cash flows through the reward points issuance and redemptions cycle and generate positive free cash flows even in an event of higher-than-normal point redemptions.

Downside scenario

We could lower the ratings on Loyalty Ventures if debt to EBITDA remains above 5x. We envision this situation could occur due to weaker operating performance, debt-funded acquisitions, or shareholder remuneration. We could also lower the ratings if free cash flow to debt weakened to below 5% on a sustained basis possibly due to higher-than-anticipated redemption activity, coupled with the loss of key coalition and redemption partners.

Upside scenario

We could raise the ratings on the company if Loyalty Ventures demonstrates consistent operating performance such that debt to EBITDA improves to the 3.5x-4.0x range in the next 12 months. Improving operating performance could reflect not only a growing AIR MILES program but also a geographically expanded BrandLoyalty segment and the acquisition of new retailer customers where the company sustains margins. An upgrade would also be predicated on Loyalty Ventures

demonstrating a prudent financial policy.

Company Description

Loyalty Ventures is a tech-enabled, data-driven consumer loyalty solutions provider. The company operates through two business divisions: the AIR MILES Rewards program, a Canada-based loyalty program; and Netherlands-based BrandLoyalty segment, which provides customized campaign-based loyalty solutions for grocers and other high-frequency retailers. The AIR MILES program enables collectors to earn AIR MILES reward miles as they shop at a broad range of sponsors including financial institutions, grocery stores, gas stations and other retailers that participate in the AIR MILES Reward Program. Collectors can redeem these reward miles for travel, entertainment, experiences, merchandise, or other rewards. Loyalty Ventures' BrandLoyalty segment provides customized loyalty programs to grocers in Europe, Asia, and South America.

Our Base-Case Scenario

Assumptions

- U.S and Canada GDP to grow in mid-single digit % area in 2021.
- Mid-single-digit revenue growth in 2021 and 2022 aided by recovery in both the AIR MILES and BrandLoyalty segments.
- EBITDA margins on an S&P Global Ratings-adjusted basis of 16.0%-16.5%, aided by a low redemption rate and recovery in the BrandLoyalty segment.
- About US$70 million-US$75 million contributions to the redemption settlement asset trust over the next 12 months.
- Capital expenditures (capex) of US$25 million-US$30 million.

Based on these assumptions we arrive at the following credit measures:

- A debt-to-EBITDA ratio in the high-4x area by end of 2021, improving to the mid-4x area in 2022
- Free cash flow to debt in the 10-11% area over the next 12-18 months.

Major S&P Global Ratings' accounting adjustments:

- In the income statement, revenues are adjusted to reflect gross revenues from both the AIR MILES and BrandLoyalty segments. It provides a comparable revenue breakdown for the AIR MILES and BrandLoyalty segments.
- S&P Global Ratings' adjusted EBITDA are calculated after deducting capitalized software costs and restructuring costs. EBITDA margins are calculated based on gross revenues.
- In the cash flow statement, net cash contributions into the redemption settlement asset trust are included in cash flow from operations since we view the flow of funds from the trust as an operating source or use of cash. At the same time, we are including the change in deferred revenue as a source of working capital.

Liquidity

We assess the company's liquidity as adequate. Pro forma the transaction, we expect sources of liquidity to exceed uses by over 3x. We believe Loyalty Ventures has a sufficient liquidity cushion even if EBITDA were to drop by 15%. We believe the company has sufficient covenant headroom, sound banking relationships, and sizable balance-sheet cash to support prudent risk management.

Principal liquidity sources include:

- Pro forma cash and cash equivalents of about US$118.9 million as of June 30, 2021
- Full availability of about US$125 million under the cash flow revolver
- Positive cash funds from operations of about US$60 million-US$70 million over the next 12 months (after contributions to the RSA trust)
- Working capital inflows of US$30 million-US$40 million

Principal liquidity uses include:

- Mandatory debt amortization of US$6 million-US$7 million over the next 12 months
- Modest capex of US$25 million-US$30 million

Issue Ratings - Recovery Analysis

Key analytical factors

- We assigned our 'BB-' issue-level rating and '2' recovery rating to the company's US$500 million term loan B. Loyalty Ventures is the borrower of the cash flow revolver and first-lien term loan A and first-lien term loan B.
- Our simulated default scenario incorporates the assumption that the company would default in 2025 due to a sharp decline in sales from a combination of lost customers, heightened competition, and a prolonged weak economy.
- We assume the company would reorganize or be sold as a going concern as opposed to being liquidated, primarily based on its viable business model and decent market-share positions in the North American and European markets.
- We value Loyalty Ventures on a going-concern basis using a 5.5x multiple on our emergence EBITDA, which corresponds to the company's estimated fixed charges in our simulated default year.
- We are applying 45% operational adjustment to align the EBITDA at emergence with that of peers.

Simulated default assumptions

- Simulated default year: 2025
- Emergence EBITDA: US$110 million

- Multiple: 5.5x

Simplified waterfall

- Gross recovery value: US$605 million
- Net recovery value for waterfall after administrative expenses (5%): US$574 million
- Value available for senior secured debt: US$574 million
- Estimated senior secured claim: US$780 million
- --Estimated recovery range: 70%-90% (rounded estimate: 70%)

All debt amounts include six months of prepetition interest.

Ratings Score Snapshot

Issuer Credit Rating: B+/Stable/--

Business risk:

- Country risk: Low
- Industry risk: Intermediate
- Competitive position: Weak

Financial risk: Aggressive

- Cash flow/Leverage: Aggressive

Anchor: b+

Modifiers

- Diversification/Portfolio effect: Neutral
- Capital structure: Neutral
- Financial policy: Neutral
- Liquidity: Adequate
- Management and governance: Fair
- Comparable rating analysis: Neutral

Stand-alone credit profile: b+

Related Criteria

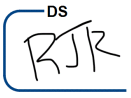
- General Criteria: Group Rating Methodology, July 1, 2019
- Criteria | Corporates | General: Corporate Methodology: Ratios And Adjustments, April 1, 2019
- Criteria | Corporates | General: Recovery Rating Criteria For Speculative-Grade Corporate Issuers, Dec. 7, 2016
- Criteria | Corporates | General: Methodology And Assumptions: Liquidity Descriptors For Global Corporate Issuers, Dec. 16, 2014
- General Criteria: Country Risk Assessment Methodology And Assumptions, Nov. 19, 2013
- Criteria | Corporates | General: Corporate Methodology, Nov. 19, 2013
- General Criteria: Methodology: Industry Risk, Nov. 19, 2013
- General Criteria: Methodology: Management And Governance Credit Factors For Corporate Entities, Nov. 13, 2012
- General Criteria: Principles Of Credit Ratings, Feb. 16, 2011

Ratings List

New Rating	
Loyalty Ventures Inc.	
Issuer Credit Rating	B+/Stable/--
New Rating	
Loyalty Ventures Inc.	
Senior Secured	
US$500 mil term B bank ln	BB-
Recovery Rating	2(70%)

Certain terms used in this report, particularly certain adjectives used to express our view on rating relevant factors, have specific meanings ascribed to them in our criteria, and should therefore be read in conjunction with such criteria. Please see Ratings Criteria at www.standardandpoors.com for further information. Complete ratings information is available to subscribers of RatingsDirect at www.capitaliq.com. All ratings affected by this rating action can be found on S&P Global Ratings' public website at www.standardandpoors.com. Use the Ratings search box located in the left column.

This is Exhibit “O” referred to in the Affidavit of Joseph L. Motes III affirmed by Joseph L. Motes III of the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on February 9, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

RJ REID

MOODY'S
INVESTORS SERVICE

CREDIT OPINION
29 September 2021

New Issue

Rate this Research

RATINGS

Loyalty Ventures Inc.

Domicile	Dallas, Texas, United States
Long Term Rating	B1
Type	LT Corporate Family Ratings
Outlook	Stable

Please see the ratings section at the end of this report for more information. The ratings and outlook shown reflect information as of the publication date.

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CLIENT SERVICES

Americas	1-212-553-1653
Asia Pacific	852-3551-3077
Japan	81-3-5408-4100
EMEA	44-20-7772-5454

Loyalty Ventures Inc.

Update after assignment of first time ratings

Summary

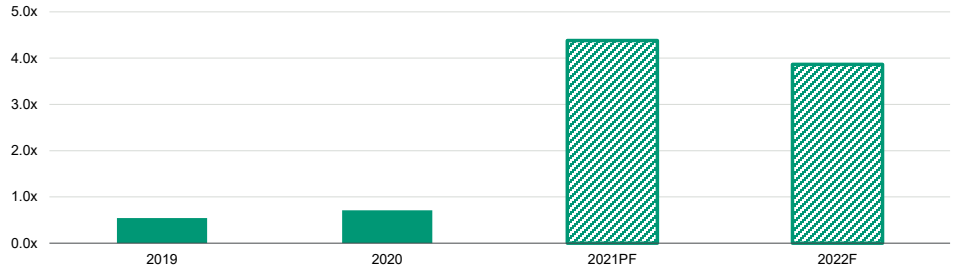
Loyalty Ventures Inc.'s (B1 CFR) credit profile benefits from its: 1) good competitive profile, driven by its coalition loyalty rewards business (AIR MILES) that is a well-recognized and established brand in Canada, complemented by its short-term loyalty campaign business (BrandLoyalty) that has customers in over 50 countries globally; 2) recovery in the BrandLoyalty segment which should support revenue and EBITDA growth over the next 12-18 months; 3) low leverage (adjusted debt/EBITDA around 4.4x initially) and our expectation that the company will use free cash flow to reduce debt; and 4) very good liquidity.

The company is challenged by: 1) concentration of EBITDA in the AIR MILES segment (around 80% in 2020, trending lower as the BrandLoyalty segment recovers); 2) customer concentration within AIR MILES with top 5 sponsors representing around 90% of revenue; 3) weakness in the BrandLoyalty segment as a result of supply chain challenges including increased shipping costs; and 4) small scale and lack of track record as a stand-alone entity.

Loyalty Ventures will use the net proceeds from its proposed $175 million senior secured term loan A and proposed $500 million senior secured term loan B, combined with cash from its balance sheet, to fund a $750 million dividend to the company's former parent, Alliance Data Systems. As part of the transaction, Loyalty Ventures will be spun out into a publicly traded entity. The transaction is expected to close in the fourth quarter of 2021.

Exhibit 1

Leverage will decline toward 3.5x by 2023 from around 4.4x at transaction close



Source: Moody's Financial Metrics, Moody's Projections

Credit strengths

» Good competitive profile and global footprint

» Improving global retail environment supports revenue and EBITDA growth

» Declining leverage post transaction

» Very good liquidity

Credit challenges

» AIR MILES program currently generates the majority of EBITDA

» Customer concentration in AIR MILES increases impact of potential loss of sponsors

» Supply chain volatility could delay recovery in BrandLoyalty segment

» Small scale and lack track record as a stand-alone entity

Rating outlook

The stable outlook reflects our view that Loyalty Ventures will maintain good credit metrics and generate good free cash flow over the next 12-18 months

Factors that could lead to an upgrade

» Increased scale driven by an improving industry environment

» Adjusted Debt/EBITDA sustained below 3.5x (around 3.9x expected in 2022)

» Retained cash flow/net debt sustained above 25% (23% expected in 2022)

Factors that could lead to a downgrade

» Declining in scale, driven by either a challenging industry environment or through the loss of key customers

» Adjusted Debt/EBITDA sustained above 5x (around 3.9x expected in 2022)

» Retained cash flow/net debt sustained below 15% (23% expected in 2022)

Key indicators

Exhibit 2

Loyalty Ventures Inc.

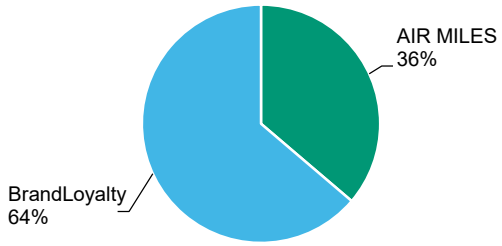
US Millions	Dec-19	Dec-20	Dec-21	Dec-22
Revenue	1,033.1	764.8	780.0	811.0
EBITA Margin %	19.0%	18.4%	18.7%	19.5%
Debt / EBITDA	0.5x	0.7x	4.4x	3.9x
EBITA / Interest Expense	24.0x	24.0x	97.1x	5.5x
RCF / Net Debt	3986.1%	-102.9%	-113.7%	22.5%

All figures and ratios are calculated using Moody's estimates and standard adjustments. Moody's Forecasts (f) or Projections (proj.) are Moody's opinion and do not represent the views of the issuer. Periods are Financial Year-End unless indicated. LTM = Last Twelve Months.
Source: Moody's Financial Metrics™., Moody's Forecasts

Profile

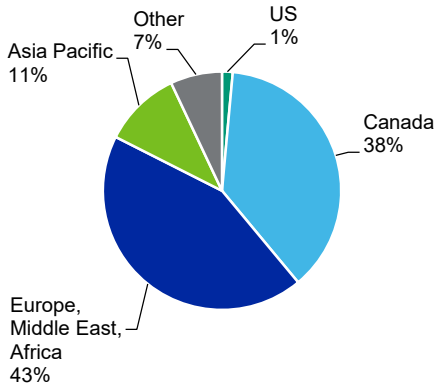
Loyalty Ventures is a Dallas, Texas-based provider of loyalty and rewards programs to retailers across several segments such as grocery, fuel and financial services. The company operates through two segments; its AIR MILES coalition-based rewards program in the Canadian marketplace, and its BrandLoyalty segment that focuses on providing short term loyalty programs to retailers in over 50 countries globally but focused on Europe. In 2020 the company generated $765 million of revenue, around 64% of which came from its BrandLoyalty segment and 36% from AIR MILES.

Exhibit 3
Revenue split by business line for fiscal year 2020



Source: Company Filings

Exhibit 4
Revenue split by geography for fiscal year 2020



Source: Company Filings

Detailed credit considerations

Declining leverage, driven by modest EBITDA growth and debt reduction through free cash flow

We expect the company's Debt/EBITDA (including Moody's standard adjustments such as capitalized operating leases) to be around 4.4x at the end of 2021, declining to around 3.9x by the end of 2022. The declining leverage is driven by both EBITDA growth as well as using free cash flow to reduce debt. The improving global retail environment should support top-line revenue growth between 2021 and 2023, and we expect EBITDA will also grow by an average of around 5% over the same period.

Management maintains that it will have a public leverage target of around 3.5x debt-to-EBITDA (calculated on a management basis) upon spinning out as a publicly traded entity, which supports our expectation that the company will look to use free cash flow to de-lever. Loyalty Ventures should generate good levels of annual free cash flow, including around $90 million in 2022, and we expect it will use some of its free cash flow to reduce debt over and above mandatory term loan amortization. In our calculation of free cash flow we include changes in the company's restricted settlement assets, which it is contractually required to contribute to due to agreements with its AIR MILES customers. The company's term loan stipulates cash flow sweeps if leverage is above 3x (calculated on a bank EBITDA basis), which further supports our expectation that leverage will decline over the medium term.

While the company's stated priority is to use free cash flow to reduce debt, we also expect the company will be acquisitive post-spin. Given the lack of operating track record, this creates a risk that free cash flow could be used to finance bolt-on acquisitions instead of being used to reduce debt. The company currently has no plans to distribute cash to shareholders until it has at least reached its debt targets, and any move to do so would signal a shift to more aggressive financial policies, a credit negative.

Large base of AIR MILES collectors and sponsor exclusivity contributes to Loyalty Venture's good competitive position

Loyalty Ventures' AIR MILES coalition rewards program has been active in Canada for over 25 years and has a very large collector base in Canada. The program allows collectors to collect and redeem AIR MILES across a large base of sponsors (currently over 300 physical and online retailers) representing various household spending verticals such as financial services, grocery, fuel, travel and home improvement. Management asserts that there are over 10 million active collector accounts in Canada representing two thirds of the country's households. The company's large collector base acts as a barrier against competition from new coalition-based entrants, as it would be challenging to amass a comparable number of collectors without incurring significant costs. This large base of collectors

also gives the program a vast pool of consumer information, collected over a long period of time, which it can access to support both marketing and loyalty campaigns.

AIR MILES typically guarantees a level of exclusivity to the sponsors in each spending vertical, enabling sponsors to capture a more exclusive share of an AIR MILES collector's wallet. While this strategy limits the ability to take on new sponsors, it also strengthens the relationship with current sponsors. AIR MILES gives sponsors access to data generated at their stores and takes on the cost of administrating the loyalty process, which, combined with exclusivity, creates a stickiness with many of its sponsors. AIR MILES' relationships with a number of its larger sponsors (BMO, Metro and Sobeys to name a few) span more than 15 years, highlighting this stickiness.

The company's nascent e-commerce presence could also provide a launchpad for new sponsors and collector growth. The company has invested significantly into its digital and online presence over the past several years, investing in its digital infrastructure and in its e-commerce presence through airmileshops.ca. While we view these investments as a positive, the company will need to continue investing heavily in its digital offerings to meet the growing expectations from consumers who are increasingly seeking to have the same experience on their smartphones and computers as they would otherwise have at a brick and mortar location.

High customer concentration that could be further compounded by loss of sponsors in the AIR MILES program

We believe the top 5 sponsors in the AIR MILES program represent almost 90% of its revenue, and this concentration is a key risk, as the AIR MILES segment in turn represented nearly 80% of Loyalty Vetnures' EBITDA in 2020 (although this will trend down as the BrandLoyalty segment recovers from lockdown impacts). Some notable sponsors have left the program over the past few years, such as the Liquor Control Board of Ontario (LCBO: government owned near-monopoly liquor/wine retailer in Ontario), Rexall (national drugstore chain) and Lowe's (home improvement). While some of these departures may have been mutual and not significant to the company's bottom line, if the company were to lose a large sponsor in a key vertical such as financial services, grocery or fuel, AIR MILES would need to partner with a replacement sponsor in that vertical, which would be disruptive.

While we do not believe the program faces significant risk of losing sponsors to other coalition-based programs, we believe there is some risk that sponsors could leave to pursue a proprietary in-house loyalty program that gives that brand more control over both the data and loyalty customers. Contracts with sponsors typically have 3-5 year tenors, which we believe gives the company time to work with a key sponsor before any potential departure from the program.

Beyond the risk to the Loyalty Ventures' revenue, losing notable sponsors in the AIR MILES program could also reduce the brand's value to collectors over time. If the program were to lose key sponsors in segments that are important to consumers it would limit the areas where consumers could collect points, reducing the perceived value of the program to rewards collectors. Management states AIR MILES has a robust pipeline of potential new sponsors, and recent campaigns with well-known Canadian brands such as Tim Hortons highlight the company's ability to bring on new sponsors that are well known in its core Canadian market and contribute to the program's value to Canadian consumers.

Improving economic conditions and strong retail demand will support growth in the BrandLoyalty segment, however supply chain volatility remains a risk

Loyalty Ventures' BrandLoyalty segment experienced a significant decline in business during 2020, with revenue falling by around 25% compared to 2019. By comparison, the decline in the AIR MILES business was less than 10% in 2020. The decline in the BrandLoyalty segment was driven by pandemic related lockdowns across the globe, with reduced demand from grocers and retailers leading issues such as short-term loyalty campaigns being deferred into futures time periods. While the segment is showing signs of recovery in 2021, supply chain shortages and increasing shipping costs have offset some of the recovery. Many of the contracts signed with customers for short term loyalty programs in 2021 were signed before the increase in shipping costs, making it difficult to pass on the costs to customers. Supply chain shortages have also made difficult to acquire some of the products used in short-term loyalty programs. Supply chain pressures should start to ease toward the end of 2021, and contracts signed more recently can take into account the increased costs of shipping, however if supply chain issues persist it could dampen growth in the segment in 2022 and beyond.

Despite the challenges, BrandLoyalty will be the driver of growth over the medium term. The stabilizing consumer confidence and strong retail sales in Europe and other areas where BrandLoyalty's business is focused should support a gradual improvement in the segment. Management contends that in 2021 the segment is outperforming 2020 figures, and has a robust pipeline of campaigns

already contracted for 2022. Moody's current outlook is positive for both US and European retailers, highlighting a retail environment that should support BrandLoyalty's growth over the next 12-18 months. The company contends that there is growing demand for short-term loyalty programs in new geographies and in non-grocery segments which could support incremental growth. While we believe expanding into new geographies within grocery will contribute to growth over the medium term, there is more execution risk associated with expanding into new verticals and we do not believe this will be a material contributor to growth in the forecast period.

Around 80% of the segment's short-term loyalty campaigns are "collect & redeem" based, where BrandLoyalty takes on the risk of physical rewards (such as houseware goods and Disney-branded toys) being returned if campaign goals are not met. The remaining 20% of the segment's revenue are generated through instant loyalty programs, which does not carry the risk of return.

Small scale and lack of track record as a stand-alone entity

Loyalty Ventures' revenue in 2020 was around $765 million, considerably less than the median of around $1.5 billion for B1 rated companies under Moody's global business and consumers services methodology. Small scale typically represents reduced resources to address unexpected adversity compared to larger companies. Given the small scale, the impact of losing a key sponsor in the AIR MILES segment or volatility in either of the AIR MILES or BrandLoyalty segments could be material. This is best evidenced by the dramatic impact that global coronavirus pandemic had on Loyalty Ventures in 2020, leading to a top-line revenue decline of around 20%.

Loyalty Ventures does have an experienced management team, with many of its leadership having been with either AIR MILES or BrandLoyalty for several years before its spinout from its parent. Still, the company has never operated as a standalone entity and there is some execution risk in merging two entities with different geographic and operating profiles into a single company. Additionally, the company will need to navigate issues such as IT and shared services as it separates from its former parent.

ESG considerations

Governance considerations include conservative fiscal policies, highlighted by Loyalty Ventures' low level of financial leverage post-transaction. Loyalty Ventures will need to develop its operating and financial management track record as a standalone entity. The company's plan to become a publicly traded entity with publicly stated debt targets should support its ability to maintain a relatively conservative financial policy.

Social considerations include the potential for shifts in consumer travel and consumption habits as the Coronavirus pandemic subsides. Considering the strong link between tourism and travel and the company's AIR MILES brand, any negative shifts in consumer leisure travel could potentially impact its operating profile. Additionally, the pandemic has led to an increase in online purchasing by consumers. While Loyalty Ventures has focused on selling reward programs to brick and mortar retailers, the company has been investing in its digital and online presence, which should help it capture increasing levels of e-commerce.

Liquidity analysis

Loyalty Ventures has very good liquidity (SGL-1), with sources of cash of around $310 million over the next four quarters compared to uses of around $50 million in the form of mandatory term loan amortization. Sources are comprised of cash on hand of around $80 million (balance sheet cash of around $130 million by year end 2021 less around $50 million we believe the company needs to run the company), strong availability under the company's $150 million revolving credit facility (due 2026) and free cash flow (excluding the $750 million dividend payment to the company's former parent Alliance Data Systems) of about $80 million over the next four quarters. The company's preliminary term loan documentation stipulates a Total Leverage Ratio of 5.0x, and we expect the company to remain in compliance of this covenant. Alternate sources of liquidity are limited.

Structural considerations

Loyalty Ventures' senior secured credit facilities are rated B1, the same level as the company's corporate family rating, as they represent virtually all of the debt in the company's debt capital structure.

Rating methodology and scorecard factors

Moody's global business and consumer services industry methodology provides a Ba3 score indicated outcome over the next 12-18 months, one notch above the assigned CFR of B1. The one notch difference between the scorecard rating and the assigned rating reflects the company's small size, EBITDA concentration and relative lack of standalone operating history.

Exhibit 5

Scorecard Factors
Loyalty Ventures Inc.

Business and Consumer Service Industry Scorecard [1][2]	Current FY 12/31/2020		Moody's 12-18 Month Forward View [3]	
Factor 1: Scale (20%)	**Measure**	**Score**	**Measure**	**Score**
a) Revenue (USD Billion)	$0.8	B	$0.8	B
Factor 2: Business Profile (20%)				
a) Demand Characteristics		Ba		Ba
b) Competitive Profile		Ba		Ba
Factor 3: Profitability (10%)				
a) EBITA Margin	18.4%	Ba	19.5%	Ba
Factor 4: Leverage and Coverage (40%)				
a) Debt / EBITDA	0.7x	Aa	3.9x	Ba
b) EBITA / Interest	24.0x	Aa	5.5x	Ba
c) RCF / Net Debt	-102.9%	Aaa	22.5%	Ba
Factor 5: Financial Policy (10%)				
a) Financial Policy		B		B
Rating:				
a) Scorecard-Indicated Outcome		Baa2		Ba3
b) Actual Rating Assigned				B1

[1] All ratios are based on 'Adjusted' financial data and incorporate Moody's Global Standard Adjustments for Non-Financial Corporations.
[2] As of 12/31/2020;
[3] This represents Moody's forward view; not the view of the issuer; and unless noted in the text, does not incorporate significant acquisitions and divestitures
Source: Moody's Financial Metrics™

Ratings

Exhibit 6

Category	Moody's Rating
LOYALTY VENTURES INC.	
Outlook	Stable
Corporate Family Rating	B1
Sr Sec Bank Credit Facility	B1/LGD3
Speculative Grade Liquidity	SGL-1

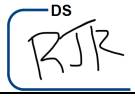
Source: Moody's Investors Service

REPORT NUMBER 1302760

CLIENT SERVICES

Americas	1-212-553-1653
Asia Pacific	852-3551-3077
Japan	81-3-5408-4100
EMEA	44-20-7772-5454

This is Exhibit “P” referred to in the Affidavit of Joseph L. Motes III affirmed by Joseph L. Motes III of the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on February 9, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

RJ REID

RESOLUTIONS OF
THE BOARD OF DIRECTORS
OF ALLIANCE DATA SYSTEMS CORPORATION

October 13, 2021

Spin-Off Transaction

WHEREAS, the Board of Directors (the "**Board of Directors**") of Alliance Data Systems Corporation, a Delaware corporation (the "**Company**"), has previously approved on a preliminary basis that the Company and its Authorized Officers (as defined below) take all actions to pursue the potential spin-off of the Company's LoyaltyOne segment (the "**LoyaltyOne Business**") from the other businesses of the Company through the distribution (the "**Distribution**") in a tax-free spin-off to the Company's stockholders of 81% of the outstanding capital stock of an entity comprising the LoyaltyOne Business (such transaction, the "**Spin-Off**");

WHEREAS, the Company formed Loyalty Ventures Inc., a Delaware corporation ("**Loyalty Ventures**"), on June 21, 2021, in connection with the Spin-Off to comprise such LoyaltyOne Business;

WHEREAS, immediately prior to the closing of the transactions contemplated by the Spin-Off, including the Distribution (the "**Effective Time**"), the Company will own all of the issued and outstanding shares of common stock, par value $0.01 per share (the "**Loyalty Ventures Common Stock**"), of Loyalty Ventures;

WHEREAS, in connection with the Spin-Off, the Board of Directors has determined that it is advisable and in the best interests of the Company and its stockholders to effect the Distribution by the Company to the holders of issued and outstanding shares of common stock, par value $0.01, of the Company (the "**ADS Common Stock**") of 81% of the Loyalty Ventures Common Stock on the basis of one share of Loyalty Ventures Common Stock for every 2.5 issued and outstanding shares of ADS Common Stock; and

WHEREAS, in furtherance of the Spin-Off, (i) the Company has or will have contributed the assets related to the LoyaltyOne Business to Loyalty Ventures and its subsidiaries and (ii) (a) Loyalty Ventures will have assumed the liabilities related to the LoyaltyOne Business and (b) the Company and Loyalty Ventures will have consummated the Restructuring Plan for the LoyaltyOne Business contemplated by the Separation and Distribution Agreement (as defined therein), including that prior to the Effective Time, (x) Loyalty Ventures will have entered into debt financing arrangements and will have paid to the Company a net amount (after lender fees and original issue discounts) of approximately $650 million (the "**Financing Net Proceeds**") from borrowings under such debt financing (the "**Financing Arrangements**") and (y) the LoyaltyOne Business, through one or more of its operating entities (the "**LoyaltyOne Subs**"), will have paid a cash dividend or dividends to the Company in an aggregate amount of $100 million (the "**Cash Payment**");

WHEREAS, the Distribution will be preceded by, among other things, the Restructuring Plan, pursuant to which, among other things, (a) Loyalty Ventures will enter into the Financing Arrangements, (b) all of the stock of the Loyalty Ventures First-Tier Subsidiaries (as defined in the Separation and Distribution Agreement) will be contributed by Alliance Data International, LLC, a subsidiary of the Company, to Loyalty Ventures in exchange for Loyalty Ventures Common Stock and the Financing Net Proceeds (the "**Contribution**"), and (c) the LoyaltyOne Subs will have paid a cash dividend or dividends to the Company in an amount equal to the Cash Payment, such that the Company will receive, prior to the Distribution, an aggregate amount of $750 million from the Financing Net Proceeds and the Cash Payment in addition to the Loyalty Ventures Common Stock;

WHEREAS, pursuant to the Company's Fifth Amended and Restated Bylaws and subject to restrictions, if any, set forth in the Company's Third Amended and Restated Certificate of Incorporation, dividends upon the outstanding shares of capital stock of the Company may be declared by the Board of Directors;

WHEREAS, following completion and after giving effect to the Financing Arrangements, the Restructuring Plan, the Contribution, the payment of the Financing Net Proceeds and the Cash Payment, the net value of the Distribution is approximately $179,179,184;

WHEREAS, based on the financial statements of the Company as of September 30, 2021, the Company has a surplus of $2,245,132,135; and the Board of Directors has reviewed information presented by the Company's management as to the value and amount of the Corporation's assets and liabilities and other facts pertinent to the existence and amount of the Company's surplus, from which information the Board of Directors has determined that there is sufficient surplus, as determined in accordance with the General Corporation Law of the State of Delaware (the "**DGCL**"), to permit declaration and making of the Distribution in compliance with the DGCL;

WHEREAS, the Separation and Distribution Agreement, together with the other agreements implementing the Contribution, Distribution and related transactions, is intended to constitute a "plan of reorganization" within the meaning of Section 1.368-2(g) of the Treasury Regulations; and

WHEREAS, the Company has received a private letter ruling from the Internal Revenue Service, and it is a condition to consummating the Distribution that the Company receive an opinion of counsel, in each case to the effect that, based on certain representations made by the Company and Loyalty Ventures and subject to certain qualifications, (i) the Contribution and the Distribution, taken together, will qualify as a reorganization within the meaning of Section 368(a)(1)(D) of the Internal Revenue Code of 1986, as amended (the "**Code**"), and each of the Company and Loyalty Ventures will be a "party to reorganization" within the meaning of Section 368(b) of the Code and (ii)

the Distribution will qualify as a tax-free transaction under section 355(a) and 361(c) of the Code.

NOW, THEREFORE, IT IS RESOLVED, that, subject to (i) the execution and delivery of a separation and distribution agreement between the Company and Loyalty Ventures (as it may be amended from time to time, and together with the exhibits and schedules thereto, the "**Separation and Distribution Agreement**"), (ii) the satisfaction (or waiver by any of the Authorized Officers, if deemed by such Authorized Officer to be necessary, appropriate or desirable) of the conditions to the Distribution set forth in the Separation and Distribution Agreement and (iii) no determination hereafter by the Board of Directors that it is inadvisable (under applicable law or otherwise) to proceed with the Distribution, the Distribution is hereby declared and shall be made on November 5, 2021 to the holders of record of the issued and outstanding shares of ADS Common Stock as of the close of business on October 27, 2021 (the "**Record Date**") by way of a dividend of one share of Loyalty Ventures Common Stock for every 2.5 shares of ADS Common Stock held by such stockholders on the Record Date; provided that the Company shall not distribute fractional shares of Loyalty Ventures Common Stock but shall instead arrange for such fractional shares to be sold and the proceeds of such sale to be distributed to the stockholders that would have been entitled thereto, all as set forth in the Separation and Distribution Agreement;

FURTHER RESOLVED, that Computershare Trust Company, N.A. ("**Computershare**") be, and hereby is, appointed as distribution agent (in such capacity, the "**Distribution Agent**") in connection with the Distribution and authorized to take all actions necessary in its capacity as the Distribution Agent to implement the Distribution, and that the Authorized Officers, acting singly or jointly, be authorized on behalf of the Company to negotiate, execute and deliver any agreements or documents as any such Authorized Officer determines to be necessary or appropriate with the Distribution Agent and/or any affiliate of Computershare, containing such terms and conditions as the Authorized Officer or Authorized Officers so acting may approve, the execution or delivery of any such agreement to be conclusive evidence that the same has been approved by the Board of Directors;

FURTHER RESOLVED, that the Spin-Off and the Restructuring Plan be, and hereby are, authorized and approved in all respects, and each Authorized Officer hereby is authorized on behalf of the Company to implement the Spin-Off and the Restructuring Plan, including executing and delivering any and all documents, agreements and instruments and taking any and all steps deemed by any such Authorized Officer to be necessary or desirable to carry out the purpose and intent of the Restructuring Plan, and all actions heretofore taken by any of them in furtherance thereof are hereby ratified and confirmed in all respects;

FURTHER RESOLVED, that the Authorized Officers of the Company be, and each of them hereby is, authorized, empowered, and directed to prepare, execute, and file, or cause to be prepared, executed, and filed, all reports, schedules, statements, documents, and information required to be filed with the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, and the rules

and regulations promulgated thereunder in connection with the Distribution, including without limitation, reports relating to certain current events on Form 8-K; and

FURTHER RESOLVED, that the Authorized Officers of the Company be, and each of them hereby is, authorized, empowered, and directed, in the name and on behalf of the Company, to take, or cause to be taken, all action required by the New York Stock Exchange (the "**NYSE**") in connection with the Distribution, including, without limitation, the preparation, execution, and filing of all necessary notifications, applications, documents, forms, and agreements with, and as required by, the NYSE and the payment by the Company of filing, listing, or application fees.

Separation Agreements

Separation and Distribution Agreement

WHEREAS, the Board of Directors has determined that it is advisable and in the best interests of the Company and its stockholders to, prior to the Effective Time, enter into the Separation and Distribution Agreement, between the Company and Loyalty Ventures, substantially in the form provided to, and summarized for, the Board of Directors, and to consummate the transactions contemplated by the Separation and Distribution Agreement and the Ancillary Agreements (as defined in the Separation and Distribution Agreement) and perform the Company's obligations thereunder.

NOW, THEREFORE, IT IS RESOLVED, that the transactions contemplated in the Separation and Distribution Agreement and the Ancillary Agreements are authorized and approved; and

FURTHER RESOLVED, that the form of the Separation and Distribution Agreement provided to, and summarized for, the Board of Directors is approved, and each of the Authorized Officers be, and hereby is, authorized on behalf of the Company to, prior to the Effective Time, execute and deliver the Separation and Distribution Agreement substantially in the form approved, with such changes as the Authorized Officer executing the same may approve, such approval to be conclusively evidenced by the execution and delivery thereof, and to take all further actions and to execute all further certificates, filings, applications or other documents, including each Ancillary Agreement, as are required with respect to the transactions contemplated by the Separation and Distribution Agreement or the Ancillary Agreements.

Transition Services Agreement

WHEREAS, the Board of Directors has determined that it is advisable and in the best interests of the Company and its stockholders to, as of or prior to the Effective Time, enter into a Transition Services Agreement (as amended, restated, amended and restated, modified and supplemented from time to time, and together with the exhibits and schedules thereto, the "**TSA**"), between the Company and Loyalty Ventures, substantially in the form provided to, and summarized for, the Board of Directors, and to perform the Company's obligations thereunder.

NOW, THEREFORE, IT IS RESOLVED, that the form of the TSA provided to, and summarized for, the Board of Directors is approved, and each of the Authorized Officers be, and hereby is, authorized on behalf of the Company to, as of or prior to the Effective Time, execute and deliver the TSA substantially in the form approved, with such changes as the Authorized Officer executing the same may approve, such approval to be conclusively evidenced by the execution and delivery thereof, and to take all further actions and to execute all further certificates, filings, applications or other documents as are required with respect to the transactions contemplated by the TSA.

Tax Matters Agreement

WHEREAS, the Board of Directors has determined that it is advisable and in the best interests of the Company and its stockholders to, as of or prior to the Effective Time, enter into a Tax Matters Agreement (as amended, restated, amended and restated, modified and supplemented from time to time, and together with the exhibits and schedules thereto, the "**TMA**"), between the Company and Loyalty Ventures, substantially in the form provided to, and summarized for, the Board of Directors, and to perform the Company's obligations thereunder.

NOW, THEREFORE, IT IS RESOLVED, that the form of the TMA provided to, and summarized for, the Board of Directors is approved, and each of the Authorized Officers be, and hereby is, authorized on behalf of the Company to, as of or prior to the Effective Time, execute and deliver the TMA substantially in the form approved, with such changes as the Authorized Officer executing the same may approve, such approval to be conclusively evidenced by the execution and delivery thereof, and to take all further actions and to execute all further certificates, filings, applications or other documents as are required with respect to the transactions contemplated by the TMA.

Employee Matters Agreement

WHEREAS, the Board of Directors has determined that it is advisable and in the best interests of the Company and its stockholders to, as of or prior to the Effective Time, enter into an Employee Matters Agreement (as amended, restated, amended and restated, modified and supplemented from time to time, and together with the exhibits and schedules thereto, the "**EMA**"), between the Company and Loyalty Ventures, substantially in the form provided to, and summarized for, the Board of Directors, and to perform the Company's obligations thereunder.

NOW, THEREFORE, IT IS RESOLVED, that the form of the EMA provided to, and summarized for, the Board of Directors is approved, and each of the Authorized Officers be, and hereby is, authorized on behalf of the Company to, as of or prior to the Effective Time, execute and deliver the EMA substantially in the form approved, with such changes as the Authorized Officer executing the same may approve, such approval to be conclusively evidenced by the execution and delivery thereof, and to take all further actions and to execute all further certificates, filings, applications or other documents as are required with respect to the transactions contemplated by the EMA.

Registration Rights Agreement

WHEREAS, the Board of Directors has determined that it is advisable and in the best interests of the Company and its stockholders to, as of or prior to the Effective Time, enter into a Registration Rights Agreement (as amended, restated, amended and restated, modified and supplemented from time to time, and together with the exhibits and schedules thereto, the "**RRA**"), between the Company and Loyalty Ventures, substantially in the form provided to, and summarized for, the Board of Directors, and to perform the Company's obligations thereunder.

NOW, THEREFORE, IT IS RESOLVED, that the form of the RRA provided to, and summarized for, the Board of Directors is approved, and each of the Authorized Officers be, and hereby is, authorized on behalf of the Company to, as of or prior to the Effective Time, execute and deliver the RRA substantially in the form approved, with such changes as the Authorized Officer executing the same may approve, such approval to be conclusively evidenced by the execution and delivery thereof, and to take all further actions and to execute all further certificates, filings, applications or other documents as are required with respect to the transactions contemplated by the RRA.

Equity Awards

Adjustment of Outstanding Equity Awards

WHEREAS, in furtherance of the Spin-Off, the Board of Directors has approved the Employee Matters Agreement;

WHEREAS, awards of ADS RSUs and ADS PSUs (each as defined in the Employee Matters Agreement) (collectively, the "**ADS Awards**") are outstanding under either (i) the Company's 2020 Omnibus Incentive Plan (the "**2020 Incentive Plan**") or (ii) the Company's 2015 Omnibus Incentive Plan (the "**2015 Incentive Plan**" and, together with the 2020 Incentive Plan, collectively, the "**ADS Incentive Plans**");

WHEREAS, pursuant to Section 3(c) of the 2015 Incentive Plan and Section 4(d) of the 2020 Incentive Plan, the Compensation Committee of the Board of Directors (the "**Committee**") is required to make such adjustments to outstanding ADS Awards under the applicable ADS Incentive Plan as the Committee shall deem appropriate to prevent dilution or enlargement of rights (including in connection with a stock dividend or separation);

WHEREAS, each of the Board of Directors and the Committee has determined that, in connection with the Spin-Off, it is appropriate to adjust the outstanding ADS Awards in accordance with the terms of the Employee Matters Agreement and the terms set forth herein;

WHEREAS, in connection with the Spin-Off and in accordance with the ADS Incentive Plans, Article 8 of the Employee Matters Agreement provides for the adjustment of ADS Awards that are outstanding as of immediately prior to the Record Date or the Distribution Date, as applicable, and held by an ADS Participant or Loyalty

Ventures Participant (as such terms are defined in the Employee Matters Agreement) (the "**Equity Award Adjustment Provisions**") as follows (which such adjustments will be effective as of the Distribution Date):

- *ADS Participants:* Each ADS RSU and ADS PSU that is held by an ADS Participant will be adjusted to reflect the Distribution and become an Adjusted ADS RSU and Adjusted ADS PSU (as such terms are defined in the Employee Matters Agreement), respectively, with respect to a number of shares of ADS Common Stock subject to such Adjusted ADS RSU and Adjusted ADS PSU in a manner intended to preserve the value of such ADS RSU and ADS PSU, respectively, by taking into account the relative values of the ADS Pre-Distribution Stock Value and the ADS Post-Distribution Stock Value (as defined in the Employee Matters Agreement) (the "**ADS Participant Award Adjustments**"); and

- *Loyalty Ventures Participants:*

    - ADS RSUs (granted more than one-year prior): Three business days prior to the Record Date (as defined in the Employee Matters Agreement), each ADS RSU that was granted more than one year prior to such date and is held by a Loyalty Ventures Participant shall immediately vest and be settled in shares of ADS Common Stock.

    - ADS RSUs (granted less than one-year prior): As of the Distribution Date, each ADS RSU (except as set forth below) that was granted less than one year prior to the Distribution Date and held by a Loyalty Ventures Participant shall be forfeited and, as soon as reasonably practicable following the Distribution Date be replaced with (A) a new award with a grant date fair value equal to 75% of the value of the ADS RSU and (B) a cash payment by ADS equal to 25% of the aggregate value of such ADS RSU.

    - ADS PSUs. As of the Distribution Date, each ADS PSU that is held by a Loyalty Ventures Participant shall be forfeited and, as soon as practicable following the Distribution Date be replaced with (A) a new award with a grant date fair value equal to 75% of the value of the ADS PSU based on the performance-based vesting conditions with respect to each such ADS PSU being deemed to have been achieved at target performance level and (B) a cash payment by ADS equal to 25% of the aggregate value of such ADS PSU based on the performance-based vesting conditions with respect to each such ADS PSU being deemed to have been achieved at target performance level.

    - Special LTIP RSUs. As of the Distribution Date, each ADS RSU that was granted less than one year prior to such date and is held by a Loyalty Ventures Participant located in Belgium, Brazil, Japan, South Korea, Poland, Spain and the United Kingdom shall be forfeited and replaced

with (A) a long-term Loyalty Ventures cash incentive award equal to 75% of the value of such award and (B) a cash payment by ADS equal to 25% of the aggregate value of such award.

- Special Achievement RSUs. As of the Distribution Date, each ADS RSU identified as a Special Achievement RSU (as defined in the Employee Matters Agreement) shall be forfeited in exchange for the right to receive an amount in cash paid by ADS equal to the value of such Special Achievement RSU.

in each case, subject to the terms and conditions of Article 8 of the Employee Matters Agreement (collectively, the "**Loyalty Ventures Participant Award Adjustments**"); and

WHEREAS, in accordance with the requirements of the Employee Matters Agreement, for purposes of the Equity Award Adjustment Provisions, each of the Board of Directors and the Committee has determined that it is advisable and in the best interests of the Company and its stockholders to approve and provide that (i) the "**ADS Pre-Distribution Stock Value**" shall mean the volume weighted average trading price per share of ADS Common Stock, trading "regular way" with "due bills" during the five trading days immediately prior to the Distribution Date and (ii) the "**ADS Post-Distribution Stock Value**" shall mean the volume weighted average trading price per share of ADS Common Stock, trading "regular way", during the five trading days immediately following the Distribution Date (clauses (i) and (ii), collectively, the "**Equity Award Adjustment Share Price Values**");

WHEREAS, approval of the ADS Participant Award Adjustments, Loyalty Ventures Participant Employee Award Adjustments and Equity Award Adjustment Share Price Values by each of the Board of Directors and the Committee pursuant hereto shall constitute the valid approval of the Committee for purposes of, and as contemplated by, the ADS Incentive Plans and the Employee Matters Agreement.

NOW, THEREFORE, IT IS RESOLVED, that, in accordance with Section 3(c) of the 2015 Incentive Plan and Section 4(d) of the 2020 Incentive Plan and Article 8 of the Employee Matters Agreement (including the Equity Award Adjustment Provisions set forth therein), each of the Board of Directors and the Committee hereby authorizes and approves the ADS Participant Award Adjustments, Loyalty Ventures Participant Award Adjustments and Equity Award Adjustment Share Price Values in all respects.

Section 16 Approval – Equity Award Adjustments

WHEREAS, pursuant to Section 16 of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), acquisitions and dispositions with respect to shares of Common Stock by the Company's directors and "officers" (as defined pursuant to Rule 16a-1(f) under the Exchange Act) (each, a "**Section 16 Insider**") are subject to the "short-swing" profit disgorgement rules of Section 16(b) of the Exchange Act, unless an applicable exemption applies;

WHEREAS, pursuant to Rule 16b-3(d) and Rule 16b-3(e) under the Exchange Act, acquisitions from the Company and dispositions to the Company, respectively, with respect to shares of Common Stock (including with respect to equity incentive awards) by the Section 16 Insiders that are approved in advance by the Board of Directors (or a committee thereof comprised solely of two or more "non-employee" directors) in accordance with the requirements of Rule 16b-3(d) and Rule 16b-3(e) under the Exchange Act, respectively, are exempt from the "short-swing" profit disgorgement rules under Section 16(b) of the Exchange Act; and

WHEREAS, each of the Board of Directors and the Committee has determined that it is advisable and in the best interests of the Company and its stockholders that any acquisitions or dispositions (or deemed acquisitions or dispositions) pursuant to the ADS Participant Award Adjustments or the Loyalty Ventures Participant Award Adjustments, as applicable, by each of the Section 16 Insiders listed on Exhibit A attached hereto, with respect to all of their applicable equity awards and applicable securities, including the number of ADS RSUs and ADS PSUs (including the shares of Common Stock subject thereto) set forth opposite his or her name on Exhibit A (which such numbers are subject to increase or decrease to reflect any acquisitions, dispositions or forfeitures of ADS Awards, as applicable, that occur following the date hereof and prior to the Distribution Date), in each case, shall have the benefit of the exemption from Section 16(b) of the Exchange Act pursuant to Rule 16b-3(d) and Rule 16b-3(e), respectively, under the Exchange Act (the "**Section 16 Award Adjustment Exemption**").

NOW, THEREFORE, IT IS RESOLVED, that each of the Board of Directors and the Committee hereby authorizes and approves the Section 16 Award Adjustment Exemption in all respects.

Expenses

RESOLVED, that, without limiting the generality of the General resolutions below, the Authorized Officers are, and each of them hereby is, authorized and directed, in the name and on behalf of the Company, to pay the expenses incurred by or on behalf of the Company in connection with the Spin-Off.

General

RESOLVED, that the "***Authorized Officers***" referenced in these resolutions shall be the Chief Executive Officer, President, Chief Financial Officer, Secretary, Assistant Secretary, any Executive Vice President, any Senior Vice President or any Vice President of the Company;

RESOLVED FURTHER, that the Authorized Officers are, and each of them individually hereby is, authorized and empowered, in the name and on behalf of the Company, to approve, execute and deliver from time to time, as appropriate, the documents referred to herein with such further changes, revisions or modifications thereto as the officers executing the same shall, as evidenced by their execution thereof, deem appropriate, and any other agreements, documents, certificates and instruments

contemplated thereby or hereby, including all exhibits thereto, to which the Company is a necessary party, such necessity to be conclusively evidenced by the execution and delivery thereof;

RESOLVED FURTHER, that the Authorized Officers be, and each of them individually hereby is, authorized and empowered, in the name and on behalf of the Company, to approve, execute and deliver any amendments to the aforementioned documents that may be necessary or desirable to effectuate the basic transactions contemplated thereby and any other agreements, documents, certificates and instruments contemplated thereby or hereby, including all exhibits thereto, such approval to be conclusively established by the execution and delivery thereof;

RESOLVED FURTHER, that the Authorized Officers are, and each of them individually hereby is, authorized and empowered, in the name and on behalf of the Company to make all payments, incur all fees and expenses in connection with any transaction contemplated by these resolutions as they, or any of them, shall determine to be appropriate, or engage such persons as such Authorized Officer, in his or her sole discretion, may determine to be necessary or appropriate to carry out fully the intent and purposes of the foregoing resolutions and each of the transactions contemplated thereby, such payment or engagement to be conclusive evidence of their determination;

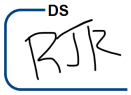
RESOLVED FURTHER, that in addition to the specific authorizations conferred upon the officers of the Company, and subject to the authority of the Board of Directors, each of the Authorized Officers is authorized and empowered to do or cause to be done all further acts and things (including the negotiation, approval, execution and delivery of all such further agreements, instruments, certificates and other documents) as they may deem necessary, desirable or appropriate in order to carry into effect the purposes and intent of the foregoing resolutions and the Spin-Off, with the doing of the same or causing the same to be done by any such Authorized Officer establishing conclusively such Authorized Officer's authority therefor, and, if specific forms of resolutions are necessary, desirable or appropriate to accomplish the foregoing transactions, then the same shall be deemed to have been and hereby are adopted, and each of the Secretary and Assistant Secretary is authorized and directed to certify the adoption of all such resolutions as though such resolutions are to be inserted in the records of the Company immediately following execution hereof;

RESOLVED FURTHER, that the acts of the Authorized Officers, and each of them prior to the date hereof in connection with the transactions contemplated by the foregoing resolutions, are hereby ratified, approved, adopted and confirmed; and

RESOLVED FURTHER, that the foregoing powers and authorizations shall continue in full force and effect until revoked in writing by the Board of Directors.

* * * * *

This is Exhibit “Q” referred to in the Affidavit of Joseph L. Motes III affirmed by Joseph L. Motes III of the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on February 9, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

RJ REID

DIRECTOR RESOLUTION

LOYALTYONE, CO. (the "Company")

October 20, 2021

Pursuant to the *Companies Act* (Nova Scotia), the sole director of the Company, by signing the foot hereof, adopts the following resolutions and by so doing renders the same as valid and effectual as if they had been passed at a meeting of directors duly called and constituted.

Approval of Dividend

WHEREAS the Company desires to declare and pay a dividend on its issued common shares to the shareholders of record on the date hereof;

WHEREAS the Company, being an unlimited company authorized to do so by its articles of association, may pay any dividend permitted by law, including any dividend payable from profits or retained earnings; and

WHEREAS the director has determined that the proposed dividend will not negatively affect the operations of the Company or the ability of the Company to pay its debts as they come due and is otherwise lawful.

NOW THEREFORE BE IT RESOLVED that a cash dividend on the issued and outstanding common shares of the Company in the amount of 88,256,842.11 CAD be and the same is hereby declared payable on the date hereof and such amount, less any amount required by law to be withheld under the Income Tax Act (Canada) or other applicable legislation, shall be paid, forthwith, to LVI Lux Financing S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated under the laws of Luxembourg, with registered office at 11-13, boulevard de la Foire, L-1528 Luxembourg, registered with the Luxembourg Trade and Companies Register under number B 181.593, with 4,412,842.11 CAD withheld under the *Income Tax Act* (Canada) or other applicable legislation, to the shareholders of record on this date with such amount converted to 68,000,000.00 USD prior to delivery to the shareholder; and

BE IT FURTHER RESOLVED that an amount equal to such portion of the foregoing dividend as may be required by law be withheld by the Company on account of its obligations under the *Income Tax Act* (Canada) and remitted in cash to the Canada Revenue Agency on or before such date as is required by law; and

BE IT FURTHER RESOLVED that the officers and directors of the Company be, and each of them acting alone hereby is, authorized, in the name and on behalf of the Company, to take any and all action (including, without limitation, the payment of fees and expenses), and to execute (by manual or facsimile signature) and deliver such other resolutions in writing, instruments, letters, agreements, documents, elections, certificates and other writings (and any amendments or supplements thereto), under the Company's corporate seal or otherwise, as such officer or director may deem necessary or desirable in order to carry into effect the purposes and intent of the foregoing resolution, and the provisions of such instruments, letters, agreements, documents, elections, certificates or other writings.

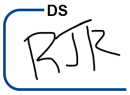
This resolution may be by facsimile, telecopy or other reproduction, and such execution shall be considered valid, binding and effective for all purposes.

The undersigned being the sole director of the Company, hereby adopts the foregoing resolutions.

SIGNED:

Joseph L. Motes III

This is Exhibit “R” referred to in the Affidavit of Joseph L. Motes III affirmed by Joseph L. Motes III of the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on February 9, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

RJ REID

SEPARATION AND DISTRIBUTION AGREEMENT

by and between

ALLIANCE DATA SYSTEMS CORPORATION

and

LOYALTY VENTURES INC.

Dated as of November 3, 2021

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RELEASE; INDEMNIFICATION

ARTICLE 6
MISCELLANEOUS

EXHIBITS

ANNEXES

SEPARATION AND DISTRIBUTION AGREEMENT

SEPARATION AND DISTRIBUTION AGREEMENT dated as of November 3, 2021 (as the same may be amended from time to time in accordance with its terms and together with the schedules and exhibits hereto, this "**Agreement**") between Alliance Data Systems Corporation, a Delaware corporation ("**ADS**"), and Loyalty Ventures Inc., a Delaware corporation ("**Loyalty Ventures**").

W I T N E S S E T H:

WHEREAS, the Board of Directors of ADS has determined that it is in the best interests of ADS and its stockholders to separate the LoyaltyOne Business and the Loyalty Ventures Group formed by the Contribution from the ADS Business;

WHEREAS, Loyalty Ventures is a wholly owned Subsidiary of ADS that has been incorporated for the sole purpose of, and has not engaged in activities except in preparation for, the Distribution and the transactions contemplated by this Agreement;

WHEREAS, in furtherance of the foregoing, the Board of Directors of ADS has determined that it is in the best interests of ADS and its stockholders to distribute to the holders of the issued and outstanding shares of common stock, par value $0.01 per share, of ADS (the "**ADS Common Stock**") as of the Record Date, by means of a *pro rata* dividend, 81% of the issued and outstanding shares of common stock, par value $0.01 per share, of Loyalty Ventures (the "**Loyalty Ventures Common Stock**" and 19% of the Loyalty Ventures Common Stock retained by ADS, the "**Retained Loyalty Ventures Common Stock**, on the basis of one share of Loyalty Ventures Common Stock for every two and one-half (2.5) then issued and outstanding shares of ADS Common Stock (the "**Distribution**");

WHEREAS, ADS and Loyalty Ventures have prepared, and Loyalty Ventures has filed with the Commission, the Form 10, which includes the Information Statement, and which sets forth appropriate disclosure concerning Loyalty Ventures and the Distribution, and the Form 10 has become effective under the Exchange Act;

WHEREAS, the Distribution will be preceded by, among other things, the Restructuring, pursuant to which, among other things, (a) Loyalty Ventures will enter into the Loyalty Ventures Financing Arrangements and (b) all of the stock of the Loyalty Ventures First-Tier Subsidiaries will be contributed by Alliance Data International, LLC ("**ADILC**"), a Subsidiary of ADS, to Loyalty Ventures in exchange for Loyalty Ventures Common Stock and certain proceeds of the Loyalty Ventures Financing Arrangements (such proceeds, the "**Cash Proceeds**," and such contribution, (the "**Contribution**");

WHEREAS, (i) ADS may transfer all or a portion of the Retained Loyalty Ventures Common Stock to one or more of ADS' creditors in exchange for ADS' indebtedness (the "**Equity-for-Debt Exchange**") and (ii) to the extent contemplated by the PLR Request, will transfer the Cash Proceeds to one or more ADS creditors (the "**Boot Purge**"), in each case, in connection with the Contribution and Distribution;

WHEREAS, for United States federal and state income tax purposes, it is intended that (i) the Contribution and the Distribution, taken together, qualify as a "reorganization" within the meaning of Section 368(a)(1)(D) of the Internal Revenue Code of 1986, as amended (the "**Code**"), (ii) the Distribution qualify as a tax-free transaction under Sections 355(a) and 361(c) of the Code (in each case, qualifying for such treatment under the corresponding provisions of state law), (iii) the Equity-for-Debt Exchange qualify as a transfer of "qualified property" to ADS' creditors in connection with the reorganization described in clause (i) for purposes of Section 361(c) of the Code, and (iv) the Boot Purge qualify as money distributed to ADS' creditors in connection with the reorganization described in clause (i) for purposes of Section 361(b) of the Code, and it is a condition to the Distribution that ADS will have obtained the PLR and the Tax Opinion as contemplated by Section 3.01(a)(viii);

WHEREAS, this Agreement, together with the Ancillary Agreements and other documents implementing the Contribution, Distribution, Equity-for-Debt Exchange and Boot Purge, is intended to be, and is hereby adopted as, a "plan of reorganization" within the meaning of Treas. Reg. Section 1.368-2(g); and

WHEREAS, the parties hereto have determined to set forth the principal actions required to effect the Distribution and to set forth certain agreements that will govern the relationship between those parties following the Distribution.

ACCORDINGLY, in consideration of the mutual covenants contained in this Agreement, the parties hereby agree as follows:

ARTICLE 1
DEFINITIONS

Section 1.01. *Definitions.* (a) As used in this Agreement, the following terms have the following meanings:

"**Action**" means any demand, claim, suit, action, arbitration, inquiry, investigation or other proceeding by or before any Governmental Authority or any arbitration or mediation tribunal.

"**ADS Assets**" means all assets, of whatever sort, nature or description, of ADS or any of its Subsidiaries (including any member of the Loyalty Ventures Group) other than the Loyalty Ventures Assets, including, for the avoidance of

doubt, the assets set forth on Schedule 1.01(a), *provided* that, notwithstanding the foregoing, the ADS Assets shall not include any Tax assets, which shall be governed by the Tax Matters Agreement.

"**ADS Business**" means all of the businesses conducted by ADS and its Subsidiaries from time to time, whether before, on or after the Distribution, other than the LoyaltyOne Business and any Loyalty Ventures Former Business. For the avoidance of doubt, the Loyalty Ventures Assets (and all assets and properties owned, directly or indirectly, by entities forming all or part of such assets, to the extent primarily used or primarily held for use in the LoyaltyOne Business) will not be considered part of the ADS Business.

"**ADS Former Business**" means the Former Businesses previously owned, in whole or in part, or previously operated, in whole or in part, by ADS or any of its Subsidiaries and, as determined by ADS in its sole discretion, primarily related to the ADS Business or that would have comprised part of the ADS Business had they not been terminated, divested or discontinued prior to the Distribution Time, including the Former Business set forth on Schedule 1.01(b), but excluding, for the avoidance of doubt, the Loyalty Ventures Former Businesses.

"**ADS Group**" means ADS and its Subsidiaries (other than any member of the Loyalty Ventures Group) and, where applicable, the ADS Former Businesses, including all predecessors and successors to such Persons (excluding, for the avoidance of doubt, all Loyalty Ventures Former Businesses).

"**ADS Liabilities**" means (without duplication) all of the following (as determined by ADS in its sole discretion):

(a) all Liabilities solely to the extent relating to, arising out of or in connection with or resulting from the ADS Business or the business and operation of the ADS Assets, as currently or formerly operated (including as conducted or operated by any predecessor of any member of the ADS Group, including those Liabilities set forth as "ADS Liabilities" on Schedule 1.01(c);

(b) all Liabilities of the ADS Group and/or the Loyalty Ventures Group to the extent relating to, arising out of or in connection with or resulting from any ADS Former Business or any disposition thereof; and

(c) all Liabilities that are expressly contemplated by this Agreement or any other Ancillary Agreement as Liabilities to be retained or assumed by ADS or any other member of the ADS Group, and all agreements, obligations and other Liabilities of ADS or any member of the ADS Group under this Agreement or any of the other Ancillary Agreements;

provided that, notwithstanding the foregoing, the ADS Liabilities shall not include (i) any Liabilities for Taxes, which shall be governed by the Tax Matters

Agreement or (ii) any Liabilities for the employment, employee benefits and employee compensation matters expressly covered by the Employee Matters Agreement, all of which shall be governed by the Employee Matters Agreement.

"**ADS Names and Marks**" means any and all Trademarks of ADS or any of its Affiliates (other than any Trademark included in the Loyalty Ventures Assets), including, for the avoidance of doubt, any that use, contain or include "ADS" or "Alliance Data", in each case either alone or in combination with other words, phrases or logos, and any and all Trademarks derived therefrom or confusingly similar thereto.

"**ADS Participants**" has the meaning set forth in the Employee Matters Agreement.

"**Affiliate**" means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with, such other Person. For the purposes of this definition, "**control**" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities or other interests, by Contract or otherwise, and the terms "**controlling**" and "**controlled**" have meanings correlative to the foregoing. Notwithstanding any provision of this Agreement to the contrary (except where the relevant provision states explicitly to the contrary), no member of the ADS Group, on the one hand, and no member of the Loyalty Ventures Group, on the other hand, shall be deemed to be an Affiliate of the other.

"**Ancillary Agreement**" means each of the Tax Matters Agreement, the Transition Services Agreement, the Employee Matters Agreement, the Restructuring Agreements and any other agreements, instruments, or certificates related thereto or to the transactions contemplated by this Agreement (in each case, together with the schedules, exhibits, annexes and other attachments thereto).

"**Applicable Law**" means, with respect to any Person, any federal, state, county, municipal, local, multinational or foreign statute, treaty, law, common law, ordinance, rule, regulation, order, writ, injunction, judicial decision, decree, permit or other legally binding requirement of any Governmental Authority applicable to such Person or any of its respective properties, assets, officers, directors, employees, consultants or agents (in connection with such officer's, director's, employee's, consultant's or agent's activities on behalf of such Person).

"**Business**" means, with respect to the ADS Group, the ADS Business and, with respect to the Loyalty Ventures Group, the LoyaltyOne Business.

"**Business Day**" means any day, other than Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by Applicable Law to close.

"**Cash and Cash Equivalents**" means cash or cash equivalents, certificates of deposit, banker's acceptances and other investment securities of any form with an original maturity of three months or less.

"**Commercial Data**" means any and all data and information relating to an identified or identifiable Person (whether the information is accurate or not), alone or in combination with other information, which Person is or was an actual or prospective customer of, or consumer of products or services offered by, the LoyaltyOne Business and/or ADS Business, as applicable.

"**Commission**" means the United States Securities and Exchange Commission.

"**Confidential Information**" means, with respect to a Group, (i) any proprietary information that is competitively sensitive, material or otherwise of value to the members of such Group and not generally known to the public, including business plan or product planning information, strategies, financial information, information regarding operations, consumer and/or customer relationships, consumer and/or customer profiles, sales estimates, internal performance results relating to the past, present or future business activities of the members of such Group and the consumers, customers, clients and suppliers of the members of such Group, and information relating to filings, plans, correspondence or relationships with regulators, (ii) any proprietary scientific or technical information, design, invention, process, procedure, formula, or improvement that is commercially valuable and secret in the sense that its confidentiality affords any member of such Group a competitive advantage over its competitors and (iii) all confidential or proprietary concepts, documentation, reports, data, specifications, computer software, source code, object code, flow charts, databases, inventions, information, and trade secrets, in the case of each of clauses (i), (ii) and (iii) of this definition, that are related primarily to such Group's Business; *provided* that to the extent both the ADS Business and the LoyaltyOne Business use or rely upon any of the information described in any of the foregoing clauses (i), (ii) and/or (iii), subject to Section 4.07, such information shall be deemed the Confidential Information of both the ADS Group and the Loyalty Ventures Group.

"**Contract**" means any written or oral commitment, contract, subcontract, agreement, lease, sublease, license, sublicense, understanding, sales order, purchase order, instrument, indenture, note or any other legally binding commitment or undertaking.

"**Distribution Agent**" means Computershare Trust Company, N.A.

"**Distribution Date**" means November 5, 2021.

"**Distribution Documents**" means this Agreement and the Ancillary Agreements.

"**Distribution Time**" means the time at which the Distribution is effective on the Distribution Date, which shall be deemed to be 11:59 p.m., Eastern Daylight Time, on the Distribution Date.

"**Employee Matters Agreement**" means the Employee Matters Agreement dated as of the date hereof between ADS and Loyalty Ventures substantially in the form of Exhibit A, as such agreement may be amended from time to time in accordance with its terms.

"**Equity Compensation Registration Statement**" means the Registration Statement on Form S-8 or such other form or forms as may be appropriate, as amended and supplemented, including all documents incorporated by reference therein, to effect the registration under the Securities Act of Loyalty Ventures Common Stock subject to certain equity awards granted to current and former officers, employees, directors and consultants of the ADS Group to be assumed or replaced by Loyalty Ventures pursuant to the Employee Matters Agreement.

"**Escheat Payment**" means any payment required to be made to a Governmental Authority pursuant to an abandoned property, escheat or similar law.

"**Exchange Act**" means the Securities Exchange Act of 1934.

"**Form 10**" means the registration statement on Form 10 filed by Loyalty Ventures with the Commission to effect the registration of Loyalty Ventures Common Stock pursuant to the Exchange Act in connection with the Distribution, as such registration statement may be amended or supplemented from time to time.

"**Former Business**" means any corporation, partnership, entity, division, business unit, business or set of business operations that has been sold, conveyed, assigned, transferred or otherwise disposed of or divested (other than solely in connection with the Restructuring), in whole or in part, or the operations, activities or production of which has been discontinued, abandoned, liquidated, completed or otherwise terminated, in whole or in part, in each case, by either Group prior to the Distribution Time.

"**Governmental Authority**" means any multinational, foreign, federal, state, local or other governmental, statutory or administrative authority, regulatory body or commission or any court, tribunal or judicial or arbitral authority which has any jurisdiction or control over either party (or any of their Affiliates).

"**Group**" means, as the context requires, the Loyalty Ventures Group, the ADS Group or either or both of them.

"**Indemnitees**" means, as the context requires, the ADS Indemnitees or the Loyalty Ventures Indemnitees.

"**Information Statement**" means the Information Statement to be sent to each holder of ADS Common Stock in connection with the Distribution.

"**Intellectual Property**" means any and all intellectual property throughout the world, including any and all U.S. and foreign (i) patents, invention disclosures, and all related continuations, continuations-in-part, divisionals, provisionals, renewals, reissues, re-examinations, additions, extensions (including all supplementary protection certificates), and all applications and registrations therefor (collectively, "**Patent Rights**"), (ii) trademarks, service marks, names, corporate names, trade names, domain names, social media identifiers, logos, slogans, trade dress, design rights, and other similar business identifiers or designations of source or origin and all applications and registrations therefor, together with the goodwill symbolized by any of the foregoing (collectively, "**Trademarks**"), (iii) copyrights, works of authorship and copyrightable subject matter and all applications and registrations therefor, (iv) trade secrets, know-how, confidential data and information, technical information, including practices, techniques, methods, processes, inventions, developments, specifications, formulations, structures, analytical and quality control information and procedures, studies and procedures and regulatory information, (v) computer software (including source code, object code, firmware, operating systems and specifications), (vi) databases and data collections and (vii) all rights to sue or recover and retain damages and costs and attorneys' fees for the past, present or future infringement, misappropriation or other violation of any of the foregoing.

"**Intended Tax Treatment**" has the meaning set forth in the Tax Matters Agreement.

"**IRS**" means the Internal Revenue Service.

"**IT Assets**" means computers, software, firmware, middleware, servers, workstations, routers, hubs, switches, data communications lines, and all other information technology assets or other equipment storing or processing information, including all associated documentation related to any of the foregoing.

"**LoyaltyOne Business**" means the businesses and operations of the ADS LoyaltyOne segment, in each case as more fully described in the Form 10 and the Information Statement.

"**Loyalty Ventures Assets**" means, except as expressly otherwise contemplated in this Agreement or any Ancillary Agreement, the following assets of ADS and its Subsidiaries (as determined by ADS in its sole discretion):

(a) all interests of whatever nature in the real property listed on Schedule 1.01(d), together with all buildings, fixtures and improvements erected thereon (the "**Loyalty Ventures Facilities**");

(b) all interests in personal property, fixtures, machinery, furniture, office equipment, automobiles, motor vehicles and other transportation equipment, special and general tools, test devices, prototypes and models, and other tangible personal property (other than any Intellectual Property) located at the Loyalty Ventures Facilities or primarily used or primarily held for use by the Loyalty Ventures Group;

(c) all inventories of materials, supplies, goods in transit, customer returns, and work-in-process and finished goods and products, in each case of whatever kind, nature or description, in each case solely to the extent primarily related to or primarily used or primarily held for use by the Loyalty Ventures Group;

(d) all interests in any capital stock or other equity securities or interests of or in any member of the Loyalty Ventures Group;

(e) all deposits, letters of credit, and performance and surety bonds, in each case solely to the extent primarily related to or primarily used or primarily held for use by the Loyalty Ventures Group;

(f) all prepaid expenses, trade accounts, and other accounts and notes receivable, in each case solely to the extent primarily related to or primarily used or primarily held for use by the Loyalty Ventures Group;

(g) the Patent Rights and all other Intellectual Property (other than Patent Rights) owned by the Loyalty Ventures Group and primarily used in connection with the LoyaltyOne Business (other than any Trademarks that use, contain or include "ADS" or "Alliance Data", either alone or in combination with other words, phrases or logos), including, for the avoidance of doubt, such other Intellectual Property listed on Schedule 1.01(e);

(h) all IT Assets solely to the extent exclusively related to or exclusively used or exclusively held for use by the Loyalty Ventures Group (other than the IT Assets set forth on Schedule 1.01(f));

(i) all Contracts (including Contracts related to Intellectual Property and IT Assets) and any rights thereunder, in each case solely to the extent primarily related to or primarily used or primarily held for use by the Loyalty Ventures Group, including, for the avoidance of doubt, the Contracts set forth on Schedule 1.01(g);

(j) all claims, causes of action and similar rights, whether accrued or contingent, in each case solely to the extent primarily related to the LoyaltyOne Business or the Loyalty Ventures Group;

(k) all employee Contracts with any Loyalty Ventures Participants, including the right thereunder to restrict any Loyalty Ventures Participant from competing in certain respects;

(l) all Permits primarily related to or primarily used or primarily held for use by the Loyalty Ventures Group in connection with the LoyaltyOne Business;

(m) Cash and Cash Equivalents solely to the extent (i) located at the Loyalty Ventures Facilities or (ii) primarily related to or primarily used or primarily held for use by the Loyalty Ventures Group in connection with the LoyaltyOne Business;

(n) subject to the foregoing clause (m), all bank accounts, lock boxes and other deposit arrangements, and all brokerage accounts, in each case solely to the extent (i) located at the Loyalty Ventures Facilities or (ii) primarily related to or primarily used or primarily held for use by the Loyalty Ventures Group or in connection with the LoyaltyOne Business, including, for the avoidance of doubt the Redemption Settlement Assets;

(o) all accounting and other legal and business books, records, minute books, corporate documents, ledgers and files and all personnel records, in each case, whether printed, electronic, contained on storage media or written, or in any other form, in each case solely to the extent primarily related to or primarily used or primarily held for use by the Loyalty Ventures Group or in connection with the LoyaltyOne Business;

(p) (x) all Confidential Information, except for any confidential supervisory information (including confidential supervisory information as identified in 12 C.F.R. § 309.5(g)(8)) of a U.S. federal or state Governmental Authority or any information the disclosure of which by ADS is prohibited by Applicable Law, (y) all cost information, sales and pricing data, supplier records, supplier lists, vendor data, customer data, correspondence and lists, and (z) all product data and literature, brochures, marketing and sales literature, advertising catalogues, photographs, display materials, media materials, packaging materials, artwork, designs, formulations and specifications, quality records and reports (other than any Intellectual Property in any of the foregoing and excluding any Commercial Data), in each case solely to the extent primarily related to or primarily used or primarily held for use by the Loyalty Ventures Group or in connection with the LoyaltyOne Business;

(q) all Commercial Data to the extent exclusively related to or exclusively used or exclusively held for use by the Loyalty Ventures Group or in connection with the LoyaltyOne Business;

(r) all goodwill associated with the LoyaltyOne Business, the Loyalty Ventures Group or the Loyalty Ventures Assets; and

(s) any other assets, of whatever sort, nature or description, that are exclusively related to or exclusively used or exclusively held for use by the Loyalty Ventures Group or in connection with the LoyaltyOne Business and any assets correctly reflected on the books and records of any member of the Loyalty Ventures Group, including, but not limited to, the assets set forth on Schedule 1.01(h);

p*rovided* that, notwithstanding the foregoing, the Loyalty Ventures Assets shall not include any Tax assets, which shall be governed by the Tax Matters Agreement.

"**Loyalty Ventures Financing Arrangements**" means that certain senior secured credit agreement by and among Loyalty Ventures, as borrower, certain subsidiaries of Loyalty Ventures, as additional borrowers, and certain other subsidiaries of Loyalty Ventures, as guarantors, Bank of America, N.A., as administrative agent and collateral agent, and the lenders party thereto, providing for $825 million in aggregate principal amount of senior credit facilities, consisting of a $175 million term loan A facility, a $500 million term loan B facility and a revolving credit facility in the maximum amount of $150 million.

"**Loyalty Ventures First-Tier Subsidiaries**" means each of ADI Crown Helix Limited and LVI Lux Holdings S.àr.l.

"**Loyalty Ventures Former Business**" means each Former Business previously owned, in whole or in part, or previously operated, in whole or in part, by ADS or any of its Subsidiaries and, as determined by ADS and in its sole discretion, primarily related to the LoyaltyOne Business or that would have comprised part of the Loyalty Ventures Group or the LoyaltyOne Business had such Former Business not been terminated, divested or discontinued prior to the Distribution Time, including the Former Businesses set forth on Schedule 1.01(b), but excluding, for the avoidance of doubt, all ADS Former Businesses.

"**Loyalty Ventures Group**" means Loyalty Ventures and its Subsidiaries as set forth on Schedule 1.01(i), including all predecessors and successors to such Persons.

"**Loyalty Ventures Liabilities**" means (without duplication) all of the following (as determined by ADS in its sole discretion):

(a) any and all Liabilities to the extent relating to, arising out of or in connection with or resulting from the LoyaltyOne Business, the business and operation of the Loyalty Ventures Assets, as currently or formerly operated (including as conducted or operated by any predecessor of any member of the ADS Group or the Loyalty Ventures Group), including the following Liabilities:

(i) all Liabilities relating to, arising out of or in connection with or resulting from the Loyalty Ventures Financing Arrangements;

(ii) all Liabilities set forth as "Loyalty Ventures Liabilities" on Schedule 1.01(c);

(b) all Liabilities of the ADS Group and/or the Loyalty Ventures Group to the extent relating to, arising out of or in connection with or resulting from any Loyalty Ventures Former Business or any disposition thereof; and

(c) all Liabilities that are expressly contemplated by this Agreement or any other Ancillary Agreement as Liabilities to be retained or assumed by Loyalty Ventures or any other member of the Loyalty Ventures Group, and all agreements, obligations and other Liabilities of Loyalty Ventures or any member of the Loyalty Ventures Group under this Agreement or any of the other Ancillary Agreements;

provided that, notwithstanding the foregoing, the Loyalty Ventures Liabilities shall not include (i) any Liabilities for Taxes, which shall be governed by the Tax Matters Agreement or (ii) any Liabilities for the employment, employee benefits and employee compensation matters expressly covered by the Employee Matters Agreement, all of which shall be governed by the Employee Matters Agreement.

"**Loyalty Ventures Participants**" has the meaning set forth in the Employee Matters Agreement.

"**Liabilities**" means any and all Claims, debts, liabilities, damages and/or obligations (including, but not limited to, any Escheat Payment) of any kind, character or description, whether absolute or contingent, matured or not matured, liquidated or unliquidated, accrued or unaccrued, known or unknown, whenever arising, including all costs and expenses (including attorneys' fees and expenses and associated investigation costs) relating thereto, and including those Claims, debts, liabilities, damages and/or obligations arising under this Agreement, any Applicable Law, any Action or threatened Action, any order or consent decree of any Governmental Authority or any award of any arbitrator of any kind, and those arising under any agreement, commitment or undertaking, including in connection with the enforcement of rights hereunder or thereunder.

"**Nasdaq**" means The Nasdaq Stock Market LLC.

"**Permit**" means any license, permit, approval, consent, certification, franchise, registration or authorization which has been issued by or obtained from any Governmental Authority.

"**Person**" means an individual, corporation, partnership, limited liability company, association, trust or other entity or organization, including a Governmental Authority.

"**PLR**" means the private letter ruling and any supplements thereto issued by the IRS to ADS prior to and in connection with the Contribution, Distribution Equity-for-Debt Exchange, Boot Purge and any related transactions.

"**PLR Request**" has the meaning set forth in the Tax Matters Agreement

"**Record Date**" means the close of business on October 27, 2021, the date determined by the Board of Directors of ADS as the record date for the Distribution.

"**Redemption Settlement Assets**" means restricted cash, cash equivalents and securities available-for-sale that are designated for settling redemptions by collectors of the AIR MILES reward program in Canada under certain contractual relationships with sponsors of the AIR MILES reward program. The cash and investments related to the redemption fund for the AIR MILES Reward Program are subject to a security interest which is held in trust for the benefit of funding redemptions by collectors. These assets are restricted to funding rewards for the collectors by certain of ADS' sponsor contracts.

"**Restructuring**" means the reorganization of certain businesses, assets and liabilities of the ADS Group and the Loyalty Ventures Group to be completed before the Distribution Time in accordance with the Restructuring Plan, including the Contribution.

"**Restructuring Plan**" means that certain plan of restructuring among Loyalty Ventures and ADS, attached hereto as Annex A.

"**Retained Loyalty Ventures Common Stock**" has the meaning set forth in the recitals hereto.

"**Securities Act**" means the Securities Act of 1933.

"**Subsidiary**" means, with respect to any Person, any other entity of which securities or other ownership interests having ordinary voting power to elect a majority of the board of directors or other persons performing similar functions are at the time directly or indirectly owned by such Person.

"**Tax**" or "**Taxes**" has the meaning set forth in the Tax Matters Agreement.

"**Tax Matters Agreement**" means the Tax Matters Agreement dated as of the date hereof between ADS and Loyalty Ventures substantially in the form of Exhibit B, as such agreement may be amended from time to time in accordance with its terms.

"**Tax Opinion**" has the meaning set forth in the Tax Matters Agreement.

"**Tax Refund**" has the meaning set forth in the Tax Matters Agreement.

"**Third Party**" means any Person that is not a member or an Affiliate of the Loyalty Ventures Group or the ADS Group.

"**Transition Services Agreement**" means the Transition Services Agreement dated as of the date hereof between ADS and Loyalty Ventures substantially in the form of Exhibit C, as such agreement may be amended from time to time in accordance with its terms.

(b) Each of the following terms is defined in the Section set forth opposite such term:

Term	Section
ADILC	Recitals
ADS	Preamble
ADS Assumed Actions	4.02(b)
ADS Claims-Made Policies	4.10(b)
ADS Common Stock	Recitals
ADS Designee	2.03(a)
ADS Group Privileged Materials	4.07(e)
ADS Indemnitees	5.02(a)
ADS Insurance Policies	4.10(a)
ADS Loss Discovered-Policies	4.10(b)
ADS Occurrence-Based Policy	4.10(b)
ADS Shared Policies	4.10(b)
Agreement	Preamble
Amended and Restated Bylaws	2.02(b)(i)
Amended and Restated Certificate of Incorporation	2.02(b)(i)
Boot Purge	Recitals
Cash Proceeds	Recitals
Claim	5.04(a)
Code	Recitals
Contribution	Recitals
Disposing Party	4.05
Distribution	Recitals
Equity-for-Debt Exchange	Recitals
Guarantee	2.09
Indemnified Party	5.04(a)
Indemnifying Party	5.04(a)
Intercompany Accounts	2.06
Loyalty Ventures	Preamble
Loyalty Ventures Assumed Actions	4.02(a)
Loyalty Ventures Common Stock	Recitals
Loyalty Ventures Designee	2.03(a)
Loyalty Ventures Facilities	1.01(a)

Term	Section
Loyalty Ventures Indemnitees	5.03(a)
Patent Rights	1.01(a)
Pre-Distribution Time Communications	4.07(e)
Prior Company Counsel	4.07(d)
Privileged Information	4.07(a)
Privileges	4.07(a)
Post-Distribution Insurance Arrangements	4.10(a)
Receiving Party	4.05
Released Parties	5.01(a)(ii)
Representatives	4.06
Restructuring Agreements	2.04
Third Party Claim	5.04(b)
Trademarks	1.01(a)

Section 1.02. *Interpretation.* (a) In this Agreement, unless the context clearly indicates otherwise:

(i) words used in the singular include the plural and words used in the plural include the singular;

(ii) references to any Person include such Person's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement;

(iii) except as otherwise clearly indicated, reference to any gender includes the other gender;

(iv) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation";

(v) reference to any Article, Section, Exhibit or Schedule means such Article or Section of, or such Exhibit or Schedule to, this Agreement, as the case may be, and references in any Section or definition to any clause means such clause of such Section or definition;

(vi) the words "herein," "hereunder," "hereof," "hereto" and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Section or other provision hereof;

(vii) reference to any agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and by this Agreement;

(viii) reference to any law (including statutes and ordinances) means such law (including all rules and regulations promulgated

thereunder) as amended, modified, codified or reenacted, in whole or in part, and in effect at the time of determining compliance or applicability;

(ix) relative to the determination of any period of time, "from" means "from and including," "to" means "to and including" and "through" means "through and including";

(x) the titles to Articles and headings of Sections contained in this Agreement have been inserted for convenience of reference only and shall not be deemed to be a part of or to affect the meaning or interpretation of this Agreement;

(xi) unless otherwise specified in this Agreement, all references to dollar amounts herein shall be in respect of lawful currency of the United States; and

(xii) any capitalized term used in an Exhibit or Schedule but not otherwise defined therein shall have the meaning set forth in this Agreement.

ARTICLE 2
PRIOR TO THE DISTRIBUTION

On or prior to the Distribution Date:

Section 2.01. *Information Statement; Listing.* ADS shall mail (or shall have mailed) the Information Statement, or a notice of Internet availability thereof, to the holders of ADS Common Stock as of the Record Date. ADS and Loyalty Ventures shall take (or shall have taken) all such actions as may be necessary or appropriate under the securities or blue sky laws of states or other political subdivisions of the United States and shall use commercially reasonable efforts to comply with all applicable foreign securities laws in connection with the transactions contemplated by this Agreement and the Ancillary Agreements. ADS and Loyalty Ventures shall prepare, file and pursue (or shall have prepared, filed and pursued) an application to permit listing of the Loyalty Ventures Common Stock on Nasdaq.

Section 2.02. *Restructuring and Other Actions prior to the Distribution Time*.

(a) Restructuring. The Restructuring shall have been consummated on or prior to the Distribution Time, including (i) the entry by Loyalty Ventures into the Loyalty Ventures Financing Arrangements and (ii) the Contribution, including the transfer by Loyalty Ventures of the Cash Proceeds from the Loyalty Ventures Financing Arrangements to ADILC in partial consideration for the stock of Loyalty Ventures First-Tier Subsidiaries.

(b) Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws. (i) ADS and Loyalty Ventures shall each take (or shall have taken) all necessary action that may be required to provide for the adoption by Loyalty Ventures of an amended and restated certificate of incorporation of Loyalty Ventures substantially in the form of Exhibit D (the "**Amended and Restated Certificate of Incorporation**"), and amended and restated bylaws of Loyalty Ventures, substantially in the form of Exhibit E (the "**Amended and Restated Bylaws**"), and (ii) Loyalty Ventures shall file (or shall have filed) the Amended and Restated Certificate of Incorporation of Loyalty Ventures with the Secretary of State of the State of Delaware.

(c) The Distribution Agent. ADS shall enter (or shall have entered) into a distribution agent agreement with the Distribution Agent or otherwise provide instructions to the Distribution Agent regarding the Distribution.

(d) Satisfying Conditions to the Distribution. ADS and Loyalty Ventures shall cooperate (or shall have cooperated) to cause the conditions to the Distribution set forth in Section 3.01 to be satisfied (or waived by ADS) and to effect the Distribution at the Distribution Time upon such satisfaction (or waiver by ADS).

Section 2.03. *Transfers of Certain Other Assets and Liabilities*. Unless otherwise provided in this Agreement or in any Ancillary Agreement and to the extent not previously effected in accordance with Section 2.02(a), effective as of the Distribution Time:

(a) ADS hereby agrees, and hereby causes the relevant member of the ADS Group, to assign, contribute, convey, transfer and deliver (or shall have assigned, contributed, conveyed, transferred and delivered) to Loyalty Ventures or any member of the Loyalty Ventures Group as of the Distribution Time designated by Loyalty Ventures (a "**Loyalty Ventures Designee**") all of the right, title and interest of ADS or such member of the ADS Group in and to all of the Loyalty Ventures Assets, if any, held by any member of the ADS Group, and ADS and Loyalty Ventures hereby agree, and hereby cause the relevant member of the Loyalty Ventures Group, to assign, contribute, convey, transfer and deliver to ADS or any member of the ADS Group as of the Distribution Time designated by ADS (a "**ADS Designee**") all of the right, title and interest of Loyalty Ventures or such member of the Loyalty Ventures Group in and to all of the ADS Assets, if any, held by any member of the Loyalty Ventures Group; and

(b) ADS hereby agrees, and hereby causes the relevant member of the ADS Group, to assign, transfer and deliver (or shall have assigned, transferred and delivered) to Loyalty Ventures, and Loyalty Ventures, on behalf of itself or such Loyalty Ventures Designee, hereby accepts, assumes and agrees to perform, discharge and fulfill, all of the Loyalty Ventures Liabilities, if any, to the extent such Loyalty Ventures Liabilities would otherwise remain obligations of any member of the ADS Group, and ADS and Loyalty Ventures hereby agree, and

hereby cause the relevant member of the Loyalty Ventures Group, to assign, transfer and deliver (or shall have assigned, transferred and delivered) to ADS, and ADS, on behalf of itself or such ADS Designee, hereby accepts, assumes and agrees to perform, discharge and fulfill, all of the ADS Liabilities, if any, to the extent such ADS Liabilities would otherwise remain obligations of any member of the Loyalty Ventures Group.

(c) To the extent any assignment, contribution, conveyance, transfer, delivery or assumption of any asset or Liability of either Group as of the Distribution Time is not effected in accordance with this Section 2.03 as of the Distribution Time for any reason (including as a result of the failure of the parties to identify it as being required to be transferred pursuant to this Section 2.03, but subject to Section 2.04), the relevant party shall use all commercially reasonable efforts to effect such transfer as promptly thereafter as practicable.

Section 2.04. *Restructuring Agreements*. The transfers of the various entities and the contribution, assignment, transfer, conveyance and delivery of the assets and the acceptance and assumption of the Liabilities contemplated by Section 2.02, Section 2.03 and the Restructuring Plan will be effected, in certain cases, pursuant to one or more asset transfer agreements, share transfer agreements, business transfer agreements, certificates of merger and other agreements and instruments (the "**Restructuring Agreements**"); *provided that*, in each case, it is intended that the Restructuring Agreements shall serve purely to effect (x) the legal transfer of the Loyalty Ventures Assets or ADS Assets to the Loyalty Ventures Group or the ADS Group, as applicable, in accordance with the Restructuring Plan or as contemplated pursuant to Section 2.02 and Section 2.03 and (y) the acceptance and assumption of the Loyalty Ventures Liabilities or the ADS Liabilities by a member of the Loyalty Ventures Group or the ADS Group, as applicable, in each case, in accordance with the Restructuring Plan or as contemplated pursuant to Section 2.02 and Section 2.03. Notwithstanding anything in any Restructuring Agreement to the contrary, neither ADS nor any member of the ADS Group, on the one hand, nor Loyalty Ventures nor any member of the Loyalty Ventures Group, on the other hand, shall commence, bring or otherwise initiate any Action under any Restructuring Agreement.

Section 2.05. *Agreement Relating to Consents Necessary to Transfer Assets and Liabilities.* Notwithstanding any provision of this Agreement to the contrary, this Agreement shall not constitute an agreement to transfer or assign any asset (including any Contract) or any claim or right or any benefit arising thereunder or resulting therefrom, or to assume any Liability, if such transfer, assignment, or assumption without the consent of a Third Party or a Governmental Authority, would result in a breach, or constitute a default (or an event which, with the giving of notice or lapse of time, or both, would become a default), under any Contract or would otherwise adversely affect the rights of a member of the ADS Group or the Loyalty Ventures Group thereunder. ADS and Loyalty Ventures will use their respective commercially reasonable efforts to obtain the consent of any Third Party (including any Governmental Authority), if

any, required in connection with the transfer, assignment or assumption pursuant to Section 2.03 of any such asset or any such claim or right or benefit arising thereunder or to the assumption of any Liability; *provided* that in no event shall any member of a Group have any Liability whatsoever to any member of the other Group for any failure to obtain any such consent. If and when such consent is obtained, such transfer, assignment and/or assumption shall be effected in accordance with the terms of this Agreement and/or the applicable Ancillary Agreement. During the period in which any transfer, assignment or assumption is delayed pursuant to this Section 2.05 as a result of the absence of a required consent, the party (or relevant member in its Group) retaining such asset, claim or right shall thereafter hold (or shall cause such member in its Group to hold) such asset, claim or right for the use and benefit of the party (or relevant member in its Group) entitled thereto (at the expense of the Person entitled thereto) and the party intended to assume an such Liability shall, or shall cause the applicable member of its Group to, pay, hold harmless or reimburse the party (or the relevant member of its Group) retaining such Liability for all amounts paid, incurred in connection with or arising out of the retention of such Liability. In addition, the party retaining such asset, claim or right, or such Liability (or relevant member of its Group) shall (or shall cause such member in its Group to) treat, insofar as reasonably possible and to the extent permitted by Applicable Law, such asset, claim or right, or such Liability, in the ordinary course of business in accordance with past practice and take such other actions as may be reasonably requested by the party to which such asset, claim or right, or such Liability, is to be transferred or assumed in order to place such party, insofar as reasonably possible, in the same position as if such asset, claim or right, or such Liability, had been transferred or assumed on or prior to the Distribution Time as contemplated hereby and so that all the benefits and burdens relating to such asset, claim or right, or such Liability, including possession, use, risk of loss, potential for gain, and dominion, control and command over such asset, claim or right, or such Liability, are to inure from and after the Distribution Time to the relevant member of the ADS Group or the Loyalty Ventures Group, as the case may be, entitled to the receipt of such asset, claim or right, or required to assume such Liability.

Section 2.06. *Intercompany Accounts.* The parties shall settle or extinguish on or prior to the Distribution Date, all intercompany receivables, payables and other balances, in each case, that arise prior to the Distribution Time between members of the ADS Group, on the one hand, and members of the Loyalty Ventures Group, on the other hand ("**Intercompany Accounts**"), by way of a contribution to capital or distributions from equity and/or one or more cash payments (whether or not on a net basis) in satisfaction of such amounts, in each case without any further Liability of any member of the ADS Group to any member of the Loyalty Ventures Group thereunder, or any further Liability of any member of the Loyalty Ventures Group to any member of the ADS Group thereunder.

Section 2.07. *Intercompany Agreements.* (a) Except as set forth in Section 2.07(b), all Contracts between members of the ADS Group, on the one

hand, and members of the Loyalty Ventures Group, on the other hand, in effect immediately prior to the Distribution are hereby agreed by ADS (on behalf of itself and each member of the ADS Group) and by Loyalty Ventures (on behalf of itself and each member of the Loyalty Ventures Group) to be terminated, cancelled and of no further force and effect from and after the Distribution Time (including any provision thereof that purports to survive termination) without any further Liability to any party thereto.

(b) The provisions of Section 2.07(a) shall not apply to any of the following Contracts: (i) this Agreement and the Ancillary Agreements (and each other Contract expressly contemplated by this Agreement or any Ancillary Agreement (A) to be entered into by any of the parties hereto or any of the members of their respective Groups or (B) to survive the Distribution Date); (ii) any Contract to which any Person, other than solely the parties hereto and the members of their respective Groups, is a party; (iii) any Intercompany Accounts to the extent such Intercompany Accounts were not satisfied and/or settled in accordance with the first sentence of Section 2.06 (it being understood that such Intercompany Accounts shall be satisfied or settled in accordance with the second sentence of Section 2.06); and (iv) the Contracts set forth on Schedule 2.07(b).

Section 2.08. *Bank Accounts; Cash Balances.*

(a) ADS and Loyalty Ventures shall, and shall cause the members of their respective Group to, use commercially reasonable efforts such that, on or prior to the Distribution Time, the ADS Group and the Loyalty Ventures Group maintain separate bank accounts and separate cash management processes. Without limiting the generality of the foregoing, ADS and Loyalty Ventures shall use commercially reasonable efforts to, and shall cause the members of their respective Groups to use commercially reasonable efforts to, effective prior to the Distribution Time, (x) remove and replace the signatories of any bank or brokerage account owned by Loyalty Ventures or any other member of the Loyalty Ventures Group as of the Distribution Time with individuals designated by Loyalty Ventures and (y) if requested by ADS, remove and replace the signatories of any bank or brokerage account owned by ADS or any other member of the ADS Group as of the Distribution Time with individuals designated by ADS.

(b) With respect to any outstanding payments initiated by ADS, Loyalty Ventures, or any of their respective Subsidiaries prior to the Distribution Time, such outstanding payments shall be honored following the Distribution by the Person or Group owning the account from which the payment was initiated.

(c) As between ADS and Loyalty Ventures (and the members of their respective Groups) all payments received after the Distribution Date by either party (or member of its Group) that relate to a business, asset or Liability of the other party (or member of its Group), shall be held by such party for the use and benefit and at the expense of the party entitled thereto. Each party shall maintain

an accounting of any such payments, and the parties shall have a monthly reconciliation, whereby all such payments received by each party are calculated and the net amount owed to ADS or Loyalty Ventures, as applicable, shall be paid over with a mutual right of set-off. If at any time the net amount owed to either party exceeds $500,000, an interim payment of such net amount owed shall be made to the party entitled thereto within five (5) Business Days of such amount exceeding $500,000. Notwithstanding the foregoing, neither ADS nor Loyalty Ventures shall act as collection agent for the other party, nor shall either party act as surety or endorser with respect to non-sufficient funds, checks or funds to be returned in a bankruptcy or fraudulent conveyance action. Further notwithstanding the foregoing, treatment of Tax assets shall be governed by the Tax Matters Agreement and shall not be considered in this reconciliation process.

Section 2.09. *Replacement of Guarantees*. ADS and Loyalty Ventures shall each use commercially reasonable efforts to, and shall cause the members of their respective Groups to use commercially reasonable efforts to, effective as of the Distribution Time, terminate or cause a member of the Loyalty Ventures Group to be substituted in all respects for a member of the ADS Group with respect to, and for the members of the ADS Group, as applicable, to be otherwise removed or released from, all obligations of any member of the Loyalty Ventures Group under any guarantee, surety bond, letter of credit, letter of comfort or similar credit or performance support arrangement (each, a "**Guarantee**"), given or obtained by any member of the ADS Group for the benefit of any member of the Loyalty Ventures Group or the LoyaltyOne Business. If ADS and Loyalty Ventures have been unable to effect any such substitution, removal, release and termination with respect to any such Guarantee as of the Distribution Time, then, following the Distribution Time (a) the parties shall cooperate to effect such substitution, removal, release and termination as soon as reasonably practicable after the Distribution Time, (b) Loyalty Ventures and the members of the Loyalty Ventures Group shall, from and after the Distribution Time, indemnify against, hold harmless and promptly reimburse the members of the ADS Group for any payments made by members of the ADS Group and for any and all Liabilities of the members of the ADS Group arising out of, or in performing, in whole or in part, any obligation under any such Guarantee, and (c) without the prior written consent of ADS, no member of the Loyalty Ventures Group may renew, extend the term of, increase any obligations under, or transfer to a third Person, any Liability for which any member of the ADS Group is or might be liable pursuant to an applicable Guarantee unless such Guarantee, and all applicable obligations of the members of the ADS Group with respect thereto, are thereupon terminated pursuant to documentation reasonably acceptable to ADS.

Section 2.10. *Further Assurances and Consents.* In addition to the actions specifically provided for elsewhere in this Agreement, each of the parties hereto shall use its commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things, reasonably necessary, proper or advisable under Applicable Law or applicable agreements or otherwise to consummate and make effective any transfers of assets, assignments and

assumptions of Liabilities and any other transactions contemplated hereby, including using its commercially reasonable efforts to obtain any consents and approvals and to make any filings and applications necessary or desirable in order to consummate the transactions contemplated by this Agreement; *provided* that in no event shall any member of a Group have any Liability whatsoever to any member of the other Group for any failure to obtain any such consent or approval.

ARTICLE 3
DISTRIBUTION

Section 3.01. *Conditions Precedent to Distribution.* (a) In no event shall the Distribution occur unless each of the following conditions shall have been satisfied (or waived by ADS in its sole discretion):

(i) the Restructuring shall have been completed, including the consummation of the Loyalty Ventures Financing Arrangements and the Contribution, including the transfer by Loyalty Ventures of the Cash Proceeds of the Loyalty Ventures Financing Arrangements to ADILC in partial consideration for the stock of Loyalty Ventures First-Tier Subsidiaries;

(ii) the Board of Directors of ADS shall have approved the Distribution and shall not have abandoned the Distribution or terminated this Agreement at any time prior to the Distribution;

(iii) the Form 10 shall have been filed with the Commission and declared effective by the Commission, no stop order suspending the effectiveness of the Form 10 shall be in effect, no proceedings for such purpose shall be pending before or threatened by the Commission, and the Information Statement, or a notice of Internet availability thereof, shall have been mailed to holders of the ADS Common Stock as of the Record Date;

(iv) all actions and filings necessary or appropriate under applicable federal, state or foreign securities or "blue sky" laws and the rules and regulations thereunder shall have been taken and, where applicable, become effective or been accepted;

(v) the Loyalty Ventures Common Stock to be delivered in the Distribution shall have been approved for listing on Nasdaq, subject to official notice of issuance;

(vi) the Board of Directors of Loyalty Ventures, as named in the Information Statement, shall have been duly appointed, and the Amended and Restated Certificate of Incorporation and the Amended and

Restated Bylaws, each in substantially the form filed as an exhibit to the Form 10, shall be in effect;

(vii) each of the Ancillary Agreements shall have been duly executed and delivered by the parties thereto;

(viii) ADS shall have received the PLR and the Tax Opinion (neither of which shall have been revoked or modified in any material respect), both of which are reasonably satisfactory to ADS ;

(ix) no Applicable Law shall have been adopted, promulgated or issued, and be in effect, that prohibits the consummation of the Distribution or any of the other transactions contemplated hereby;

(x) any material governmental approvals and consents and any material permits, registrations and consents from Third Parties, in each case, necessary to effect the Distribution and to permit the operation of the Loyalty Ventures Group and the LoyaltyOne Business after the Distribution Date substantially as it is conducted at the date hereof shall have been obtained; and

(xi) no event or development shall have occurred or exist that, in the judgment of the Board of Directors of ADS, in its sole discretion, makes it inadvisable to effect the Distribution or the other transactions contemplated hereby.

(b) Each of the conditions set forth in Section 3.01(a) is for the sole benefit of ADS and shall not give rise to or create any duty on the part of ADS or its Board of Directors to waive or not to waive any such condition or to effect the Distribution, or in any way limit ADS' rights of termination as set forth in Section 6.12 or alter the consequences of any termination from those specified in Section 6.12. Any determination made by ADS on or prior to the Distribution concerning the satisfaction or waiver of any or all of the conditions set forth in this Section 3.01 shall be conclusive and binding on the parties and all other affected Persons.

Section 3.02. *The Distribution*. (a) ADS shall, in its sole discretion, determine the Distribution Date and all terms of the Distribution, including the timing of the consummation of all or part of the Distribution. ADS may, at any time and from time to time until the consummation of the Distribution, modify or change the terms of the Distribution including by accelerating or delaying the timing of the consummation of all or part of the Distribution. For the avoidance of doubt, nothing in this Agreement shall in any way limit ADS' right to terminate this Agreement or the Distribution as set forth in Section 6.12 or alter the consequences of any such termination from those specified in Section 6.12.

(b) Subject to the terms and conditions set forth in this Agreement, (i) on or prior to the Distribution Date, ADS shall take such steps as are reasonably necessary or appropriate to permit the Distribution by the Distribution Agent of

validly issued, fully paid and non-assessable shares of Loyalty Ventures Common Stock, registered in book-entry form through the registration system, (ii) the Distribution shall be effective at the Distribution Time, and (iii) subject to Section 3.03, ADS shall instruct the Distribution Agent to distribute, on or as soon as practicable after the Distribution Date, to each holder of record of ADS Common Stock as of the Record Date, by means of a *pro rata* dividend, one share of Loyalty Ventures Common Stock for every two and one-half (2.5) shares of ADS Common Stock so held. Following the Distribution Date, Loyalty Ventures agrees to provide all book-entry transfer authorizations for shares of Loyalty Ventures Common Stock that ADS or the Distribution Agent shall require (after giving effect to Sections 3.03 and 3.04) in order to effect the Distribution.

(c) To the extent contemplated in the PLR Request: (i) Following the Distribution Date but within thirty (30) days following the Distribution Date, ADS shall complete the Boot Purge by using the Cash Proceeds to repay or repurchase certain of its debt from third-party lenders; (ii) ADS shall complete the Equity-for-Debt Exchange, if any, within one year of the Distribution; (iii) ADS shall dispose of any Retained Loyalty Ventures Common Stock that is not transferred in the Equity-for-Debt Exchange not later than five (5) years after the Distribution; and (iv) ADS shall use cash proceeds it receives in Step 5 of the Restructuring Plan to repay or repurchase certain of its debt from third-party lenders.

(d) With respect to each payment (if any) received by ADS that constitutes a Deemed Distribution under the Tax Matters Agreement, including any such payment of a Tax Refund, ADS shall, to the extent contemplated in the PLR Request, within thirty (30) days following the receipt thereof, use the funds received in such payment to (1) repurchase ADS common stock, (2) make pro rata special cash distributions to its shareholders, and/or (3) repay or repurchase debt from third-party lenders.

Section 3.03. *Fractional Shares*. No fractional shares of Loyalty Ventures Common Stock will be distributed in the Distribution. The Distribution Agent will be directed to determine (based on the aggregate number of shares held by each holder) the number of whole shares and the fractional share of Loyalty Ventures Common Stock allocable to each holder of ADS Common Stock as of the Record Date. Upon the determination by the Distribution Agent of such numbers of whole shares and fractional shares, as soon as practicable on or after the Distribution Date, the Distribution Agent, acting on behalf of the holders thereof, shall aggregate the fractional shares into whole shares and shall sell the whole shares obtained thereby for cash on the open market (with the Distribution Agent, in its sole discretion, determining when, how and through which broker-dealer(s) and at which price(s) to make such sales) and shall thereafter promptly distribute to each such holder entitled thereto (*pro rata* based on the fractional share such holder would have been entitled to receive in the Distribution) the resulting aggregate cash proceeds, after making appropriate deductions of the amounts required to be withheld for United States federal income tax purposes, if any, and after deducting an amount equal to all brokerage

fees and commissions, transfer taxes and other costs attributed to the sale of shares pursuant to this Section 3.02(c). Neither ADS nor Loyalty Ventures will be required to guarantee any minimum sale price for the fractional shares. Recipients of cash in lieu of fractional shares will not be entitled to any interest on the amounts of payments made in lieu of fractional shares.

Section 3.04. *NO REPRESENTATIONS OR WARRANTIES.* EXCEPT AS EXPRESSLY SET FORTH HEREIN OR IN ANY OTHER DISTRIBUTION DOCUMENT, NO MEMBER OF EITHER GROUP MAKES ANY REPRESENTATION OR WARRANTY OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, TO ANY MEMBER OF THE OTHER GROUP OR ANY OTHER PERSON WITH RESPECT TO ANY OF THE TRANSACTIONS OR MATTERS CONTEMPLATED HEREBY (INCLUDING WITH RESPECT TO THE BUSINESS, ASSETS, LIABILITIES, CONDITION OR PROSPECTS (FINANCIAL OR OTHERWISE) OF, OR ANY OTHER MATTER INVOLVING, EITHER BUSINESS, OR THE SUFFICIENCY OF ANY ASSETS TRANSFERRED OR LICENSED TO THE APPLICABLE GROUP, OR THE TITLE TO ANY SUCH ASSETS, OR THAT ANY REQUIREMENTS OF APPLICABLE LAW ARE COMPLIED WITH RESPECT TO THE RESTRUCTURING OR THE DISTRIBUTION). EXCEPT AS EXPRESSLY SET FORTH HEREIN OR IN ANY OTHER DISTRIBUTION DOCUMENT, EACH MEMBER OF EACH GROUP SHALL TAKE ALL OF THE BUSINESS, ASSETS AND LIABILITIES TRANSFERRED OR LICENSED TO OR ASSUMED BY IT PURSUANT TO THIS AGREEMENT OR ANY DISTRIBUTION DOCUMENT ON AN "AS IS, WHERE IS" BASIS, AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A SPECIFIC PURPOSE OR OTHERWISE ARE HEREBY EXPRESSLY DISCLAIMED.

ARTICLE 4
COVENANTS

Section 4.01. *Books and Records; Access to Information*. (a) To the extent not previously transferred in accordance with Section 2.02(a) or Section 2.03, from and after the Distribution Date, ADS shall, and shall cause the members of the ADS Group to, deliver to Loyalty Ventures or any Loyalty Ventures Designee any books and records that are Loyalty Ventures Assets (or copies of relevant portions thereof if such books and records contain information not related to the Loyalty Ventures Group or the LoyaltyOne Business) found to be in the possession of ADS or any member of the ADS Group in accordance with the applicable terms of the Transition Services Agreement and the applicable schedules thereto; *provided* that without limiting any express delivery requirements under this Section 4.01(a) and the terms of the Transition Services Agreement, neither ADS nor any member of the ADS Group shall be required to conduct any general search or investigation of its files for such books and records other than with respect to Commercial Data. Notwithstanding anything in this

Agreement to the contrary, ADS shall not transfer or otherwise disclose or deliver to Loyalty Ventures any confidential supervisory information (including confidential supervisory information as identified in 12 C.F.R. § 309.5(g)(8)) of a U.S. federal or state Governmental Authority or any information the disclosure of which by ADS is prohibited by Applicable Law.

(b) Without limiting the express delivery requirements of Section 4.01(a) or any Ancillary Agreement, for a period of seven years after completion of the Transition Services Agreement, each Group shall afford promptly the other Group and its agents and, to the extent required by Applicable Law, authorized representatives of any Governmental Authority of competent jurisdiction, reasonable access (which shall include, to the extent reasonably requested, the right to make copies) during normal business hours to its books of account, financial and other records (including accountant's work papers, to the extent any required consents have been obtained), information (excluding any Commercial Data), employees and auditors to the extent necessary or useful for such other Group in connection with any audit, investigation, dispute or litigation, complying with their obligations under this Agreement or any Ancillary Agreement, any regulatory proceeding, any regulatory filings, complying with reporting disclosure requirements or any other requirements imposed by any Governmental Authority or any other reasonable business purpose of the Group requesting such access; *provided* that (i) any such access shall not unreasonably interfere with the conduct of the business of the Group providing such access and (ii) if any party reasonably determines that affording any such access to the other party would be commercially detrimental in any material respect or violate any Applicable Law or agreement to which such party or member of its Group is a party, or waive any Privilege applicable to such party or any member of its Group, the parties shall use commercially reasonable efforts to permit the compliance with such request in a manner that avoids any such harm or consequence.

(c) Without limiting the express delivery requirements of Section 4.01(a) or any Ancillary Agreement, to the extent not prohibited by Applicable Law, through the term of the Transition Services Agreement (and for a reasonable period of time afterwards as required for each party to prepare consolidated financial statements or complete a financial statement audit for the fiscal year during which ADS provides services to Loyalty Ventures under the Transition Services Agreement), each party shall use its commercially reasonable efforts to cooperate with the other party's information requests (other than with respect to any Commercial Data) to enable (i) the other party to meet its timetable for dissemination of its earnings releases, financial statements and management's assessment of the effectiveness of its disclosure controls and procedures and its internal control over financial reporting in accordance with Items 307 and 308, respectively, of Regulation S-K promulgated under the Exchange Act; and (ii) the other party's auditors timely to complete their review of the quarterly financial statements and audit of the annual financial statements, including, to the extent applicable to such party, its auditor's audit of its internal control over financial reporting and management's assessment thereof in accordance with Section 404

of the Sarbanes-Oxley Act of 2002, the SEC's and Public Company Accounting Oversight Board's rules and auditing standards thereunder and any other Applicable Laws.

(d) The Parties' treatment of historical employee emails is set forth on Schedule 4.01(d).

Section 4.02. *Litigation Matters.* (a) Effective as of the Distribution Time, the applicable member of the Loyalty Ventures Group shall assume and thereafter be responsible for all Liabilities of either Group that may result from the Loyalty Ventures Assumed Actions and, subject to Section 5.04(c), all Liabilities and fees and costs relating to the defense of the Loyalty Ventures Assumed Actions, including attorneys', accountants', consultants' and other professionals' fees and expenses that have been incurred prior to the Distribution Time and are unpaid as of the Distribution Time, or, that are incurred on or after the Distribution Time. "**Loyalty Ventures Assumed Actions**" means (x) those Actions primarily related to the Loyalty Ventures Group or the LoyaltyOne Business, including those in which any member of the ADS Group or any Affiliate of a member of the ADS Group is a defendant or a party against whom the claim or investigation is directed that are primarily related to the Loyalty Ventures Group or the LoyaltyOne Business, (y) those Actions set forth on Schedule 4.02(a) and (x) all Actions that Loyalty Ventures has elected to control the defense of as the Indemnifying Party pursuant to Section 5.04(b). If any member of the ADS Group has any rights or claims against a Third Party insurer or other Third Party in connection with or relating to any Loyalty Ventures Assumed Action, such member shall, subject to Section 2.05, transfer and assign to the applicable member of the Loyalty Ventures Group all such rights or claims and cooperate with the Loyalty Ventures Group in connection with the enforcement and collection thereof. For the avoidance of doubt, effective as of the Distribution Time, Loyalty Ventures shall be entitled to all recovery, rights, claims, credits, causes of action, payments, awards and rights of set-off, in each case, with respect to the Loyalty Ventures Assumed Actions. ADS hereby agrees to transfer or pay, and to cause any applicable member of the ADS Group to transfer or pay, to Loyalty Ventures, to the extent held by the ADS Group, any such recovery, rights, claims, credits, causes of action, payments, awards and rights of set-off as promptly as possible.

(b) Effective as of the Distribution Time, the applicable member of the ADS Group shall assume and thereafter be responsible for all Liabilities of either Group that may result from the ADS Assumed Actions and, subject to Section 5.04(c), all fees and costs relating to the defense of the ADS Assumed Actions, including attorneys', accountants', consultants' and other professionals' fees and expenses that have been incurred prior to the Distribution Time and are unpaid as of or after the Distribution Time, or, that are incurred on or after the Distribution Time. "**ADS Assumed Actions**" means (x) those Actions primarily related to the ADS Business, including those in which any member of Loyalty Ventures Group or any Affiliate of a member of the Loyalty Ventures Group is a defendant or a

party against whom the claim or investigation is directed that are primarily related to the ADS Business, (y) those Actions set forth on Schedule 4.02(b) and (z) all Actions that ADS has elected to control the defense of as the Indemnifying Party pursuant to Section 5.04(b). If any member of the Loyalty Ventures Group has any rights or claims against a Third Party insurer or other Third Party in connection with or relating to any ADS Assumed Action, such member shall, subject to Section 2.05, transfer and assign to the applicable member of the ADS Group all such rights or claims and cooperate with the ADS Group in connection with the enforcement and collection thereof. For the avoidance of doubt, effective as of the Distribution Time, ADS shall be entitled to all recovery, rights, claims, credits, causes of action, payments, awards and rights of set-off, in each case, with respect to the ADS Assumed Actions. Loyalty Ventures hereby agrees to transfer or pay, and to cause any applicable member of the Loyalty Ventures Group to transfer or pay, to ADS, to the extent held by the Loyalty Ventures Group, any such recovery, rights, claims, credits, causes of action, payments, awards and rights of set-off as promptly as possible.

(c) Each party agrees that, at all times from and after the Distribution Time, if an Action relating primarily to its Business is commenced by a Third Party naming a member of each Group as defendants thereto, such action shall be deemed to be a Loyalty Ventures Assumed Action (in the case of an Action primarily related to the Loyalty Ventures Group or the LoyaltyOne Business) or an ADS Assumed Action (in the case of an Action primarily related to the ADS Business) and the party as to which the Action primarily relates shall use its commercially reasonable efforts to cause the other party or member of its Group to be removed from such Action.

(d) The parties agree that, at all times from and after the Distribution Time, if any Action is commenced by a Third Party naming a member of each Group as a defendant thereto and the parties are not able to reasonably determine whether such Action primarily relates to the Loyalty Ventures Group or the LoyaltyOne Business or the ADS Business, then the parties shall cooperate in good faith to determine which party and the members of its Group shall control and be responsible for such Action in accordance with the terms of this Section 4.02, and the parties will consult to the extent necessary or advisable with respect to such Action.

(e) Each Group shall use commercially reasonable efforts to make available to the other Group and its attorneys, accountants, consultants and other designated representatives, upon written request, its directors, officers, employees and representatives as witnesses, and shall otherwise cooperate with the other Group, to the extent reasonably requested in connection with any Action arising out of either Group's Business prior to the Distribution Time in which the requesting Group may from time to time be involved.

(f) Notwithstanding the foregoing, this Section 4.02 shall not require the party to whom any request pursuant to Section 4.02(e) has been made to make

available Persons or information if such party determines that doing so would, in the reasonable good faith judgment of such party, reasonably be expected to result in any violation of any Applicable Law or agreement or adversely affect its ability to successfully assert a claim of Privilege under Applicable Law; *provided*, that the parties shall use commercially reasonable efforts to cooperate in seeking to find a way to permit compliance with such obligations to the extent and in a manner that avoids such consequence.

Section 4.03. *Reimbursement*. Each Group providing information or witnesses to the other Group or otherwise incurring any out-of-pocket expense in connection with transferring books and records or otherwise cooperating under Section 4.01 or Section 4.02 shall be entitled to receive from the recipient thereof, upon the presentation of invoices therefor, payment for all reasonable and documented out-of-pocket costs and expenses (including outside attorney's fees but excluding reimbursement for general overhead, salary and employee benefits) actually incurred in providing such access, information, witnesses or cooperation.

Section 4.04. *Ownership of Information*. All information owned by one party (or a member of its Group) that is provided to the other party (or a member of its Group) under Section 4.01 or Section 4.02 shall be deemed to remain the property of the providing party. Unless specifically set forth herein or in any Ancillary Agreement, nothing contained in this Agreement shall be construed to grant or confer rights of license or otherwise in any such information.

Section 4.05. *Retention of Records*. Except as otherwise required by Applicable Law or agreed to in writing, each party shall, and shall cause the members of its Group to, retain any and all information in its possession or control relating to the other Group's Business in accordance with the document retention practices of ADS as in effect as of the date hereof. Neither party shall destroy, or permit the destruction, or otherwise dispose, or permit the disposal, of any such information, subject to such retention practice, unless, prior to such destruction or disposal, the party proposing (or whose Group member is proposing) such destruction or disposal (the "**Disposing Party**") provides not less than 30 days' prior written notice to the other party (the "**Receiving Party**"), specifying the information proposed to be destroyed or disposed of and the scheduled date for such destruction or disposal. If the Receiving Party shall request in writing prior to the scheduled date for such destruction or disposal that any of the information proposed to be destroyed or disposed of be delivered to the Receiving Party, the Disposing Party shall promptly arrange for the delivery of such of the information as was requested at the expense of the Receiving Party; *provided* that, if the Disposing Party reasonably determines that any such provision of information would violate any Applicable Law or agreement to which such party or member of its Group is a party, or waive any Privilege applicable to such party or any member of its Group, the parties shall use commercially reasonable efforts to permit the prompt compliance with such request in a manner that avoids any such harm or consequence. Any records or documents that were subject to a litigation hold prior to the Distribution Date

must be retained by the applicable party until such party or member of its Group is notified by the other party that the litigation hold is no longer in effect.

Section 4.06. *Confidentiality*. Each party acknowledges that it or a member of its Group may have in its possession, and, in connection with this Agreement and the Ancillary Agreements, may receive, Confidential Information of the other party or any member of its Group (including information in the possession of such other party relating to its clients or customers). Each party shall hold and shall cause its directors, officers, employees, agents, consultants and advisors ("**Representatives**") and the members of its Group and their Representatives to hold in strict confidence and not to use, except as permitted by this Agreement, or any Ancillary Agreement all such Confidential Information concerning the other Group unless (a) such party or any of the members of its Group or its or their Representatives is compelled to disclose such Confidential Information by judicial or administrative process or by other requirements of Applicable Law or (b) such Confidential Information can be shown to have been (i) in the public domain through no fault of such party or any of the members of its Group or its or their Representatives, (ii) lawfully acquired after the Distribution Date on a non-confidential basis from other sources not known by such party to be under any legal obligation to keep such information confidential or (iii) developed or used in its business by such party or any of the members of its Group or its or their Representatives without the use of any Confidential Information of the other Group. Notwithstanding the foregoing, such party or member of its Group or its or their Representatives may disclose such Confidential Information to the members of its Group and its or their Representatives so long as such Persons are informed by such party of the confidential nature of such Confidential Information and are directed by such party to treat such information confidentially. The obligation of each party and the members of its Group and its and their Representatives to hold any such Confidential Information in confidence shall be satisfied if they exercise the same level of care with respect to such Confidential Information as they would with respect to their own proprietary information. If such party or any of a member of its Group or any of its or their Representatives becomes legally compelled to disclose any documents or information subject to this Section 4.06, such party will promptly notify the other party and, upon request, use commercially reasonable efforts to cooperate with the other party's efforts to seek a protective order or other remedy. If no such protective order or other remedy is obtained or if the other party waives in writing such party's compliance with this Section 4.06, such party or the member of its Group or its or their Representatives may furnish only that portion of the information which it concludes, after consultation with counsel, is legally required to be disclosed and will exercise its commercially reasonable efforts to obtain reliable assurance that confidential treatment will be accorded such information. Each party agrees to be responsible for any breach of this Section 4.06 by it, the members of its Group and its and their Representatives.

Section 4.07. *Privileged Information.* (a) The parties acknowledge that members of the ADS Group, on the one hand, and members of the Loyalty

Ventures Group, on the other hand, may possess documents or other information regarding the other Group that is or may be subject to the attorney-client privilege, the work product doctrine or common interest privilege (collectively, "**Privileges**"; and such documents and other information collectively, the "**Privileged Information**"). Each party agrees to use commercially reasonable efforts to protect and maintain, and to cause their respective Affiliates to protect and maintain, any applicable claim to Privilege in order to prevent any of the other Group's Privileged Information from being disclosed or used in a manner inconsistent with such Privilege without the other party's consent. Without limiting the generality of the foregoing, a party and its Affiliates shall not, without the other party's prior written consent, (i) waive any Privilege with respect to any of the other party's or any member of its Group's Privileged Information, (ii) fail to defend any Privilege with respect to any such Privileged Information, or (iii) fail to take any other actions reasonably necessary to preserve any Privilege with respect to any such Privileged Information.

(b) Upon receipt by a party or any member of such party's Group of any subpoena, discovery or other request that calls for the production or disclosure of Privileged Information of the other party or a member of its Group, such party shall promptly notify the other party of the existence of the request and shall provide the other party a reasonable opportunity to review the information and to assert any rights it or a member of its Group may have under this Section 4.07 or otherwise to prevent the production or disclosure of such Privileged Information. Each party agrees that neither it nor any member of its Group will produce or disclose any information that may be covered by a Privilege of the other party or a member of its Group under this Section 4.07 unless (i) the other party has provided its written consent to such production or disclosure (which consent shall not be unreasonably withheld) or (ii) a court of competent jurisdiction has entered an order finding that the information is not entitled to protection under any applicable Privilege or otherwise requires disclosure of such information.

(c) In the event that any member of the ADS Group and any member of the Loyalty Ventures Group cooperate in the mutual defense of any Third Party Claim, such cooperation shall not constitute a waiver or qualification of such party's right to assert and defend any applicable claim to Privilege.

(d) Each of the ADS Group and the Loyalty Ventures Group covenants and agrees that, following the Distribution Time, Davis Polk & Wardwell LLP or any other internal or external legal counsel currently representing the Loyalty Ventures Group (each a "**Prior Company Counsel**") may serve as counsel to the ADS Group and its Affiliates in connection with any matters arising under or related to this Agreement or the transactions contemplated by this Agreement or any Ancillary Agreement, including with respect to any litigation, Claim or obligation arising out of or related to this Agreement or any Ancillary Agreement or the transactions contemplated by this Agreement or any Ancillary Agreement, notwithstanding any representation by the Prior Company Counsel prior to the Distribution Time. The ADS Group and

the Loyalty Ventures Group hereby irrevocably (i) waive any Claim they have or may have that a Prior Company Counsel has a conflict of interest or is otherwise prohibited from engaging in such representation and (ii) covenant and agree that, in the event that a dispute arises after the Distribution Time between the Loyalty Ventures Group (or any of its Affiliates) and the ADS Group (or any of its Affiliates), Prior Company Counsel may represent any member of the ADS Group and any Affiliates thereof in such dispute even though the interests of such Person(s) may be directly adverse to the Loyalty Ventures Group and even though Prior Company Counsel may have represented the Loyalty Ventures Group in a matter substantially related to such dispute.

(e) All communications between members of the ADS Group, on the one hand, and Prior Company Counsel, on the other hand, related to the transactions contemplated by this Agreement or any Ancillary Agreement shall be deemed to be attorney-client confidences that belong solely to such members of the ADS Group or the Prior Company Counsel (the "**Pre-Distribution Time Communications**"). Accordingly, the Loyalty Ventures Group shall not have access to any such Pre-Distribution Time Communications or to the files of Prior Company Counsel relating to such engagement related to the transactions contemplated hereby from and after the Distribution Time, and all books, records and other materials of the Loyalty Ventures Group in any medium (including electronic copies) containing or reflecting any of the Pre-Distribution Time Communications or the work product of legal counsel with respect thereto, including any related summaries, drafts or analyses, and all rights with respect to any of the foregoing, are hereby assigned and transferred to the ADS Group effective as of the Distribution Time (collectively, the "**ADS Group Privileged Materials**"). The ADS Group may cause all of the ADS Group Privileged Materials to be distributed to the ADS Group immediately prior to the Distribution Time with no copies thereof retained by the Loyalty Ventures Group or its respective representatives, and all such distributed ADS Group Privileged Materials shall be excluded from the transactions contemplated by this Agreement and each Ancillary Agreement. From and after the Distribution Time, in the event that any member of the Loyalty Ventures Group shall possess any ADS Group Privileged Materials, such member of the Loyalty Ventures Group shall promptly cause such ADS Group Privileged Materials to be distributed to the ADS Group in accordance with this Section 4.07(e) or destroyed, at the election of Loyalty Ventures. In addition, from and after the Distribution Time, (i) the Loyalty Ventures Group and its representatives shall maintain the confidentiality of the ADS Group Privileged Materials and (ii) none of the members of the Loyalty Ventures Group or their respective representatives shall access or in any way, directly or indirectly, use or rely upon any ADS Group Privileged Materials (whether or not distributed to the ADS Group prior to the Distribution Time in accordance with this Section 4.07(e)). To the extent that any ADS Group Privileged Materials are not delivered to the ADS Group, the Loyalty Ventures Group agrees not to assert a waiver of any applicable Privilege or protection with respect to such materials. Without limiting the generality of the foregoing, from and after the Distribution Time, (a) the ADS Group shall be the sole holders of the

Privileges with respect to the ADS Group Privileged Materials, and no member of the Loyalty Ventures Group shall be a holder thereof, (b) to the extent that files of Prior Company Counsel in respect of ADS Group Privileged Materials constitute property of the client, only the ADS Group shall hold such property rights, (c) Prior Company Counsel shall have no duty whatsoever to reveal or disclose any ADS Group Privileged Materials to the Loyalty Ventures Group by reason of any attorney-client relationship between Prior Company Counsel and the Loyalty Ventures Group and (d) after the Distribution Date, all communications between members of the Loyalty Ventures Group, on the one hand, and any attorneys retained by any member of the Loyalty Ventures Group, on the other hand, shall be deemed to be attorney-client confidences that belong solely to such members of the Loyalty Ventures Group or such attorneys. Each of the Loyalty Ventures Group and the ADS Group hereby acknowledges and confirms that it has had the opportunity to review and obtain adequate information regarding the significance and risks of the waivers and other terms and conditions of this Section 4.07(e), including the opportunity to discuss with counsel such matters and reasonable alternatives to such terms. This Section 4.07(e) is for the benefit of the ADS Group and Prior Company Counsel, and the ADS Group and Prior Company Counsel are intended third party beneficiaries of this Section 4.07(e). This Section 4.07(e) shall be irrevocable, and no term of this Section 4.07(e) may be amended, waived or modified, without the prior written consent of the ADS Group and Prior Company Counsel. The covenants and obligations set forth in this Section 4.07(e) shall survive for ten (10) years following the Distribution Time.

Section 4.08. *Limitation of Liability Regarding Books and Records*. Except as otherwise provided in this Agreement, no party shall have any liability to any other party in the event that any information, books or records exchanged or provided pursuant to this Agreement is found to be inaccurate or the requested information, books or records is not provided, in the absence of willful misconduct by the party requested to provide such information, books or records. No party shall have any liability to any other party if any information, books or records is destroyed after commercially reasonable efforts by such party to comply with the provisions of Section 4.05.

Section 4.09. *Other Agreements Providing for Exchange of Information*. The rights and obligations granted under this Article 4 are subject to any specific limitations, qualifications or additional provisions on the sharing, exchange, retention, rights to use, or confidential treatment of information set forth in any Ancillary Agreement. Notwithstanding anything in this Agreement to the contrary, (i) the Tax Matters Agreement shall govern the retention of Tax related records and the exchange of Tax related information and (ii) the Employee Matters Agreement shall govern the retention of employment and benefits related records.

Section 4.10. *Conduct of Incidents Subject to ADS Insurance*. (a) Loyalty Ventures, for itself and the members of its Group, acknowledges that coverage for

the Loyalty Ventures Group or the LoyaltyOne Business under the insurance policies of ADS and the members of the ADS Group (other than insurance policies, insurance contracts and claim administration contracts established in contemplation of the Distribution to cover only the Loyalty Ventures Group after the Distribution Time (the "**Post-Distribution Insurance Arrangements**")) (the "**ADS Insurance Policies**") will cease as of the Distribution Time, and that, except as set forth in this Section 4.10, neither ADS nor any member of its Group will purchase any "tail" policy or other additional or substitute coverage for the benefit of Loyalty Ventures or the members of the Loyalty Ventures Group relating to the LoyaltyOne Business applicable in any period after the Distribution Time.

(b) Notwithstanding the foregoing, ADS, for itself and the members of its Group, agrees that ADS or a member of its Group shall, with respect to (x) any act, circumstance, occurrence or incident arising prior to the Distribution Time that relates to the Loyalty Ventures Group or the LoyaltyOne Business that is potentially covered by an occurrence-based insurance policy of ADS or any member of its Group (each, a "**ADS Occurrence-Based Policy**") in effect prior to the Distribution Time, (y) any act, circumstance, occurrence or incident arising or occurring prior to the Distribution Time that relates to the Loyalty Ventures Group or the LoyaltyOne Business that is potentially covered by an insurance policy of ADS or any member of its Group written on a "claims made" basis ("**ADS Claims-Made Policies**") in effect prior to the Distribution Time, or (z) any act, circumstance, occurrence or incident arising or occurring prior to the Distribution Time that relates to the Loyalty Ventures Group or the LoyaltyOne Business that is potentially covered by an insurance policy of ADS or any member of its Group written on a "loss discovered" basis ("**ADS Loss Discovered-Policies**" and together with the ADS Occurrence-Based Policies and the ADS Claims-Made Policies, the "**ADS Shared Policies**") (i) not relinquish any of its rights, or take any actions (other than the making of claims under the ADS Shared Policies including for the benefit of the ADS Group) that could reasonably be expected to reduce or otherwise limit the available coverage for any claim or incident arising prior to the Distribution Time that relates to the Loyalty Ventures Group or the LoyaltyOne Business, under any of the ADS Shared Policies, (ii) upon request of Loyalty Ventures or any member of its Group, report such claim or incident to the appropriate insurer as promptly as practicable and in accordance with the terms and conditions of the applicable ADS Shared Policy and to use commercially reasonable efforts to administer such claims, (iii) include Loyalty Ventures and the applicable member of its Group on material correspondence and possible litigation proceedings relating to such claim or incident and (iv) instruct that such proceeds are paid directly to the injured party in settlement of any claims, rather than to ADS or the members of its Group, or, if such proceeds are received by ADS or any member of its Group, pay such proceeds over to Loyalty Ventures or the applicable member of its Group; *provided* that Loyalty Ventures and the applicable members of its Group shall notify ADS promptly of any potential claim, shall cooperate in the investigation and pursuit of any claim, shall have the right to effectively associate in the pursuit

of any claim, including the ability to withhold its consent to any proposed claim settlement (such consent not to be unreasonably conditioned, withheld or delayed) and shall bear all out-of-pocket expenses incurred by ADS or the members of its Group in connection with the foregoing; *provided further* that ADS and the members of its Group shall be obligated to use only commercially reasonable efforts to pursue any claims that are potentially covered by available ADS Shared Policies and shall not, for the avoidance of doubt, have any obligation to commence any litigation with respect to any matter potentially covered by any ADS Shared Policy unless the costs of such litigation are borne by Loyalty Ventures. Loyalty Ventures shall bear responsibility for any deductible or retention payments required to be made under the ADS Shared Policies in respect of any such claims.

(c) If, after the Distribution Time, Loyalty Ventures or any of the members of its Group reasonably requires any information regarding claims data for renewal purposes or other information pertaining to a claim or to any occurrence or alleged wrongful acts which occurred prior to the Distribution Time (regardless of when such occurrences or alleged wrongful acts may be reported) that could reasonably be expected to give rise to a claim (including any pre-Distribution claims under any ADS Shared Policy) in order to give notice to or make filings with insurance carriers or claims adjustors or administrators or to adjust, administer or otherwise manage a claim, then, subject to the provisions in Section 4.10, ADS shall cause such information to be supplied to Loyalty Ventures or the applicable member of its Group, to the extent such information is in its possession and control or can be reasonably obtained by ADS (or the members of its Group), as applicable, reasonably promptly upon a written request therefor. In furtherance of the foregoing, if any Third Party requires the consent of ADS or any of the members of its Group to the disclosure of claims data or information maintained by an insurance company or other Third Party in respect of any claim (including any pre-Distribution claims under any ADS Shared Policy), such consent shall not be unreasonably withheld, conditioned or delayed.

Section 4.11. *Trademark Phase Out.*

(a) As soon as reasonably practicable, but in any event within one hundred eighty (180) days, following the Distribution Time, Loyalty Ventures shall, and shall cause its Subsidiaries to, cease any and all use of the ADS Names and Marks and remove, conceal, cover, redact and/or replace the ADS Names and Marks from any and all Loyalty Ventures Assets and any other assets and materials under their possession or control bearing such ADS Names and Marks.

(b) As soon as reasonably practicable, but in any event within one hundred eighty (180) days, following the Distribution Time, ADS shall, and shall cause its Subsidiaries to, cease any and all use of the Loyalty Ventures Names and Marks and remove, conceal, cover, redact and/or replace the Loyalty Ventures Names and Marks from any and all ADS Assets and any other assets and

materials under their possession or control bearing such Loyalty Ventures Names and Marks.

Section 4.12. *Governance Matters.* The parties hereto shall take all necessary action within their power to cause Roger Ballou to be appointed as Chairman of the Board of Directors of Loyalty Ventures effective as of the Distribution Time (the "**Overlapping Board Member**"). The Overlapping Board Member's term will expire after three years, with no opportunity for reelection.

ARTICLE 5
RELEASE; INDEMNIFICATION

Section 5.01. *Release of Pre-Distribution Claims.*

(a) Except (i) as provided in Section 5.01(b) and (ii) as otherwise expressly provided in this Agreement or any Ancillary Agreement, each party does hereby, on behalf of itself and each member of its Group, and each of their successors and assigns, release and forever discharge the other party and the other members of such party's Group, and their respective successors and assigns, and all Persons who at any time prior to the Distribution Time have been directors, officers, employees or attorneys serving as independent contractors of such other party or any member of its Group (in each case, in their respective capacities as such), and their respective heirs, executors, administrators, successors and assigns (collectively, the "**Released Parties**"), from any and all demands, Claims, Actions and Liabilities whatsoever, whether at law or in equity, whether arising under any Contract, by operation of law or otherwise (and including for the avoidance of doubt, those arising as a result of the negligence, strict liability or any other liability under any theory of law or equity of, or any violation of law by, any Released Party), existing or arising from any acts or events occurring or failing to occur or alleged to have occurred or to have failed to occur or any conditions existing or alleged to have existed on or before the Distribution Date. In furtherance of the foregoing, each party shall cause each of the members of its respective Group to, effective as of the Distribution Time, release and forever discharge each of the Released Parties of the other Group as and to the same extent as the release and discharge provided by such party pursuant to the foregoing provisions of this Section 5.01(a).

(b) Nothing contained in Section 5.01(a) shall impair any right of any Person identified in Section 5.01(a) to enforce this Agreement or any Ancillary Agreement. Nothing contained in Section 5.01(a) shall release or discharge any Person from:

(i) any Liability assumed, transferred, assigned, retained or allocated to that Person in accordance with, or any other Liability of that Person under, this Agreement or any of the Ancillary Agreements;

(ii) any Liability that is expressly specified in this Agreement (including Section 2.06 and Section 2.07) or any Ancillary Agreement to continue after the Distribution Time, but subject to any limitation set forth in this Agreement (including Section 2.06 and Section 2.07) or any Ancillary Agreement relating specifically to such Liability;

(iii) any Liability that the parties may have with respect to claims for indemnification, recovery or contribution brought pursuant to this Agreement or any Ancillary Agreement, which Liability shall be governed by the provisions of this Article 5, or, if applicable, the appropriate provisions of the Ancillary Agreements; or

(iv) any Liability the release of which would result in the release of any Person, other than a member of the ADS Group or any related Released Party; *provided*, *however*, that the parties hereto agree not to bring or allow their respective Subsidiaries to bring suit against the other party or any related Released Party with respect to any such Liability.

In addition, nothing contained in Section 5.01(a) shall release any party or any member of its Group from honoring its existing obligations to indemnify, or advance expenses to, any Person who was a director, officer or employee of such party or any member of its Group, at or prior to the Distribution Time, to the extent such Person was entitled to such indemnification or advancement of expenses pursuant to then-existing obligations; *provided*, *however*, that to the extent applicable, Section 5.02 hereof shall determine whether any party shall be required to indemnify the other or a member of its Group in respect of such Liability.

(c) No party hereto shall make, nor permit any member of its Group to make, any Claim or demand, or commence any Action asserting any Claim or demand, including any Claim of contribution or indemnification, against the other party, or any related Released Party, with respect to any Liability released pursuant to Section 5.01(a).

(d) It is the intent of each of the parties by virtue of the provisions of this Section 5.01 to provide for a full and complete release and discharge of all Liabilities existing or arising from all acts and events occurring or failing to occur or alleged to have occurred or to have failed to occur and all conditions existing or alleged to have existed on or before the Distribution Date between members of the ADS Group, on the one hand, and members of the Loyalty Ventures Group, on the other hand, (including any Contract existing or alleged to exist between the parties on or before the Distribution Date), except as expressly set forth in Section 5.01(b) or as expressly provided in this Agreement or any Ancillary Agreement. At any time, at the reasonable request of either ADS or Loyalty Ventures, the other party hereto shall execute and deliver (and cause its respective Subsidiaries to execute and deliver) releases reflecting the provisions hereof.

Section 5.02. *Loyalty Ventures Indemnification of the ADS Group.* (a) Effective as of and after the Distribution Time, Loyalty Ventures shall indemnify, defend and hold harmless each member of the ADS Group, each Affiliate thereof and each of their respective past, present and future directors, officers, employees and agents and the respective heirs, executors, administrators, successors and assigns of any of the foregoing (the "**ADS Indemnitees**") from and against any and all Liabilities incurred or suffered by any of the ADS Indemnitees arising out of or in connection with (i) any of the Loyalty Ventures Liabilities, or the failure of any member of the Loyalty Ventures Group to pay, perform or otherwise discharge any of the Loyalty Ventures Liabilities, (ii) any breach by Loyalty Ventures or any member of the Loyalty Ventures Group of this Agreement or any Ancillary Agreement, (iii) the ownership or operation of the LoyaltyOne Business or the Loyalty Ventures Assets, whether prior to, on or after the Distribution Date, (iv) any payments made by ADS or any member of the ADS Group in respect of any Guarantee given or obtained by any member of the ADS Group for the benefit of any member of the Loyalty Ventures Group or the LoyaltyOne Business, or any Liability of any member of the ADS Group in respect thereof, and (v) any use of any ADS Names and Marks by Loyalty Ventures.

(b) Except to the extent set forth in Section 5.03(b), effective as of and after the Distribution Time, Loyalty Ventures shall indemnify, defend and hold harmless each of the ADS Indemnitees and each Person, if any, who controls any ADS Indemnitee within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act from and against any and all Liabilities caused by any untrue statement or alleged untrue statement of a material fact contained in the Form 10 or any amendment thereof, the Information Statement (as amended or supplemented if Loyalty Ventures shall have furnished any amendments or supplements thereto), the Equity Compensation Registration Statement or any offering or marketing materials prepared in connection with the Loyalty Ventures Financing Arrangements or caused by any omission or alleged omission to state therein a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

Section 5.03. *ADS Indemnification of the Loyalty Ventures Group.* (a) Effective as of and after the Distribution Time, ADS shall indemnify, defend and hold harmless each member of the Loyalty Ventures Group, each Affiliate thereof and each of their respective past, present and future directors, officers, employees and agents and the respective heirs, executors, administrators, successors and assigns of any of the foregoing (the "**Loyalty Ventures Indemnitees**") from and against any and all Liabilities incurred or suffered by any of the Loyalty Ventures Indemnitees and arising out of or in connection with (i) any of the ADS Liabilities, or the failure of any member of the ADS Group to pay, perform or otherwise discharge any of the ADS Liabilities, (ii) the ownership or operation of the ADS Business or the ADS Assets, whether prior to, on or after the Distribution Date, (iii) any breach by ADS or any member of the ADS Group of this Agreement or any Ancillary Agreement, and (iv) any use of any Loyalty Ventures Names and Marks by ADS.

(b) Effective as of and after the Distribution Time, ADS shall indemnify, defend and hold harmless each of the Loyalty Ventures Indemnitees and each Person, if any, who controls any Loyalty Ventures Indemnitee within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act from and against any and all Liabilities caused by any untrue statement or alleged untrue statement of a material fact contained in the Form 10 or any amendment thereof, the Information Statement (as amended or supplemented if Loyalty Ventures shall have furnished any amendments or supplements thereto), the Equity Compensation Registration Statement or any offering or marketing materials prepared in connection with the Loyalty Ventures Financing Arrangements or caused by any omission or alleged omission to state therein a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, in each case to the extent, but only to the extent, that such Liabilities are caused by any such untrue statement or omission or alleged untrue statement or omission based on information furnished by ADS solely in respect of the ADS Group and which information is set forth on Schedule 5.03(b).

Section 5.04. *Procedures.* (a) The party seeking indemnification under Section 5.02 or Section 5.03 (the "**Indemnified Party**") agrees to give prompt notice to the party against whom indemnity is sought (the "**Indemnifying Party**") of the assertion of any claim, or the commencement of any suit, action or proceeding (each, a "**Claim**") in respect of which indemnity may be sought hereunder and will provide the Indemnifying Party such information with respect thereto that the Indemnifying Party may reasonably request. The failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party of its obligations hereunder, except to the extent such failure shall have prejudiced the Indemnifying Party.

(b) The Indemnifying Party shall be entitled to participate in the defense of any Claim asserted by any Third Party ("**Third Party Claim**") and, subject to the limitations set forth in this Section 5.04, if it so notifies the Indemnified Party no later than 30 days after receipt of the notice described in Section 5.04(a), shall be entitled to control and appoint lead counsel for such defense, in each case at its expense. If the Indemnifying Party does not so notify the Indemnified Party, the Indemnified Party shall have the right to defend or contest such Third Party Claim through counsel chosen by the Indemnified Party that is reasonably acceptable to the Indemnifying Party, subject to the provisions of this Section 5.04. The Indemnified Party shall provide the Indemnifying Party and such counsel with such information regarding such Third Party Claim as either of them may reasonably request (which request may be general or specific).

(c) If the Indemnifying Party shall assume the control of the defense of any Third Party Claim in accordance with the provisions of Section 5.04(b), (i) the Indemnifying Party shall obtain the prior written consent of the Indemnified Party (which shall not be unreasonably withheld) before entering into any settlement of such Third Party Claim, if the settlement does not release the

Indemnified Party from all Liabilities and obligations with respect to such Third Party Claim or the settlement imposes injunctive or other equitable relief against the Indemnified Party or any of its related Indemnitees or is otherwise materially prejudicial to any such Person, and (ii) the Indemnified Party shall be entitled to participate in (but not control) the defense of such Third Party Claim and, at its own expense, to employ separate counsel of its choice for such purpose; *provided* that in the event of a conflict of interest between the Indemnifying Party and the applicable Indemnified Party, the reasonable and documented fees and expenses of such separate counsel shall be at the Indemnifying Party's expense. Notwithstanding anything else contained herein, if any claim or matter that may be indemnifiable hereunder involves or relates to any bank or financial regulatory matter affecting ADS, then ADS will have the right to control the defense of such claim or matter (which shall be at Loyalty Ventures' cost if ADS is the Indemnified Party hereunder with respect to such claim or matter).

(d) Each party shall (consistent with Section 4.02) cooperate, and cause their respective Affiliates to cooperate, in the defense or prosecution of any Third Party Claim and shall furnish or cause to be furnished such records, information and testimony, and attend such conferences, discovery proceedings, hearings, trials or appeals, as may be reasonably requested in connection therewith.

(e) Each Indemnified Party shall use commercially reasonable efforts to collect any amounts available under insurance coverage (consistent with Section 4.10), or from any other Person alleged to be responsible, for any Liabilities payable under Section 5.02 or Section 5.03 and the reasonable expenses incurred in connection therewith will be treated as Liabilities subject to indemnification hereunder.

(f) If any Third Party Claim shall be brought against a member of each Group, then such Action shall be deemed to be a Loyalty Ventures Assumed Action or an ADS Assumed Action in accordance with Sections 4.02(a) or 4.02(b), to the extent applicable, and Loyalty Ventures, in the case of any Loyalty Ventures Assumed Action, or ADS, in the case of any ADS Assumed Action, shall be deemed to be the Indemnifying Party for the purposes of this Article 5. In the event of any Action in which the Indemnifying Party is not also named defendant, at the request of either the Indemnified Party or the Indemnifying Party, the parties will use commercially reasonable efforts to substitute the Indemnifying Party or its applicable Affiliate for the named defendant in the Action.

Section 5.05. *Calculation of Indemnification Amount.* Any indemnification amount pursuant to Section 5.02 or Section 5.03 shall be paid (i) net of any amounts actually recovered by the Indemnified Party under applicable Third Party insurance policies or from any other Third Party alleged to be responsible therefor, and (ii) taking into account any Tax benefit realized by the Indemnified Party and any Tax cost incurred by the Indemnified Party arising from the incurrence or payment of the relevant Liabilities. ADS and Loyalty

Ventures agree that, for United States federal income tax purposes, any payment made pursuant to this Article 5 will be treated as provided under Section 12(b) of the Tax Matters Agreement. If the Indemnified Party receives any amounts under applicable Third Party insurance policies, or from any other Third Party alleged to be responsible for any Liabilities, subsequent to an indemnification payment by the Indemnifying Party in respect thereof, then such Indemnified Party shall promptly reimburse the Indemnifying Party for any payment made by such Indemnifying Party in respect thereof up to the amount received by the Indemnified Party from such Third Party insurance policy or Third Party, as applicable.

Section 5.06. *Contribution*. If for any reason the indemnification provided for in Section 5.02 or Section 5.03 is unavailable to any Indemnified Party, or insufficient to hold it harmless, then the Indemnifying Party shall contribute to the amount paid or payable by such Indemnified Party as a result of such Liabilities in such proportion as is appropriate to reflect the relative fault of the ADS Group, on the one hand, and the Loyalty Ventures Group, on the other hand, in connection with the conduct, statement or omission that resulted in such Liabilities. In case of any Liabilities arising out of or related to information contained in the Form 10 or any amendment thereof, the Information Statement (as amended or supplemented if Loyalty Ventures shall have furnished any amendments or supplements thereto), the Equity Compensation Registration Statement or any offering or marketing materials prepared in connection with the Loyalty Ventures Financing Arrangements, the relative fault of the ADS Group, on the one hand, and the Loyalty Ventures Group, on the other hand, shall be determined by reference to, among other things, whether the untrue statement or alleged untrue statement of a material fact or the omission or alleged omission of a material fact relates to information supplied by Loyalty Ventures or any member of its Group, on the one hand, or ADS or any member of its Group (but solely to the extent such information is set forth on Schedule 5.03(b)), on the other hand.

Section 5.07. *Non-Exclusivity of Remedies*. Subject to Section 5.01, the remedies provided for in this Article 5 are not exclusive and shall not limit any rights or remedies which may otherwise be available to any Indemnified Party at law or in equity; *provided* that the procedures set forth in Sections 5.04 and 5.05 shall be the exclusive procedures governing any indemnity action brought under this Agreement.

Section 5.08. *Survival of Indemnities.* The rights and obligations of any Indemnified Party or Indemnifying Party under this Article 5 shall survive the sale or other transfer of any party or any of its assets, business or liabilities.

Section 5.09. *Ancillary Agreements*. If an indemnification claim is covered by the indemnification provisions of an Ancillary Agreement, the claim shall be made under the Ancillary Agreement to the extent applicable and the provisions thereof shall govern such claim. In no event shall any party be entitled

to double recovery from the indemnification provisions of this Agreement and any Ancillary Agreement.

ARTICLE 6
MISCELLANEOUS

Section 6.01. *Notices.* Any notice, instruction, direction or demand under the terms of this Agreement required to be in writing shall be duly given upon delivery, if delivered by hand, facsimile transmission, mail, or e-mail transmission to the following addresses:

If to ADS to:

Alliance Data Systems Corporation
7500 Dallas Parkway, Suite 700
Plano, Texas 75024
Attn: General Counsel
Email: generalcounsel@alliancedata.com

with a copy to:

Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, New York 10017
Attn: Louis Goldberg
Email: louis.goldberg@davispolk.com

If to Loyalty Ventures to:

Loyalty Ventures Inc.
7500 Dallas Parkway, Suite 700
Plano, Texas 75024
Attn: General Counsel
Email: generalcounsel@loyalty.com

with a copy to:

Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, New York 10017
Attn: Louis Goldberg
Email: louis.goldberg@davispolk.com

or such other address or email address as such party may hereafter specify for the purpose by notice to the other party hereto. All such notices, requests and other

communications shall be deemed received on the date of receipt by the recipient thereof if received prior to 5:00 p.m. in the place of receipt and such day is a Business Day in the place of receipt. Otherwise, any such notice, request or communication shall be deemed not to have been received until the next succeeding Business Day in the place of receipt.

Section 6.02. *Plan of Reorganization.* This Agreement, together with the Ancillary Agreements and other documents implementing the Contribution, Distribution, Equity-for-Debt Exchange and Boot Purge, is intended to be, and is hereby adopted as, a "plan of reorganization" within the meaning of Treas. Reg. Section 1.368-2(g).

Section 6.03. *Amendments; No Waivers*. (a) Any provision of this Agreement may be amended or waived if, and only if, such amendment or waiver is in writing and is signed, in the case of an amendment, by ADS and Loyalty Ventures, or in the case of a waiver, by the party against whom the waiver is to be effective.

(b) No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by Applicable Law.

Section 6.04. *Expenses.* ADS and Loyalty Ventures shall each bear the costs and expenses incurred or paid in connection with the Restructuring, the Distribution and any other related transaction, as applicable, set forth below their respective names on Schedule 6.03. All other third-party fees, costs and expenses paid or incurred in connection with the foregoing (except as specifically allocated pursuant to the terms of this Agreement or any Ancillary Agreement) will be paid by the party incurring such fees or expenses, whether or not the Distribution occurs, or as otherwise agreed by the parties in writing.

Section 6.05. *Successors and Assigns*. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns; *provided* that neither party may assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the consent of the other party hereto. If any party or any of its successors or permitted assigns (i) shall consolidate with or merge into any other Person and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (ii) shall transfer all or substantially all of its properties and assets to any Person, then, and in each such case, proper provisions shall be made so that the successors and assigns of such party shall assume all of the obligations of such party under the Distribution Documents.

Section 6.06. *Governing Law*. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to the conflicts of law rules of such state.

Section 6.07. *Counterparts; Effectiveness; Third-Party Beneficiaries*. This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. The words "execution," "signed," "signature," and words of like import in this Agreement or in any other certificate, agreement or document related to this Agreement shall include images of manually executed signatures transmitted by facsimile or other electronic format (including "pdf", "tif" or "jpg") and other electronic signatures (including DocuSign and AdobeSign). The use of electronic signatures and electronic records (including any contract or other record created, generated, sent, communicated, received, or stored by electronic means) shall be of the same legal effect, validity and enforceability as a manually executed signature or use of a paper-based recordkeeping system to the fullest extent permitted by Applicable Law. This Agreement shall become effective when each party hereto shall have received a counterpart hereof signed by the other party hereto. Until and unless each party has received a counterpart hereof signed by the other party hereto, this Agreement shall have no effect and no party shall have any right or obligation hereunder (whether by virtue of any other oral or written agreement or other communication). Except for Section 4.07 and the indemnification and release provisions of Article 5, neither this Agreement nor any provision hereof is intended to confer any rights, benefits, remedies, obligations, or liabilities hereunder upon any Person other than the parties hereto and their respective successors and permitted assigns.

Section 6.08. *Entire Agreement*. This Agreement and the other Distribution Documents constitute the entire understanding of the parties with respect to the subject matter hereof and thereof and supersede all prior agreements, understandings and negotiations, both written and oral, between the parties with respect to the subject matter hereof and thereof. No representation, inducement, promise, understanding, condition or warranty not set forth herein or in the other Distribution Documents has been made or relied upon by any party hereto or any member of their Group with respect to the transactions contemplated by the Distribution Documents. Without limiting Section 5.09 and subject to Section 6.08, in the event and to the extent that there shall be a conflict between the provisions of this Agreement and the provisions of any Ancillary Agreement, the Ancillary Agreement shall control with respect to the subject matter thereof, and this Agreement shall control with respect to all other matters; *provided*, that except as provided for in Section 2.04 to extent that there shall be a conflict between the provisions of this Agreement and the provisions of any Restructuring Agreement, this Agreement shall control with respect to all matters.

Section 6.09. *Tax and Employee Matters*. Except as otherwise expressly provided herein, this Agreement shall not govern (i) Tax matters (including any

administrative, procedural and related matters thereto), which shall be exclusively governed by the Tax Matters Agreement and the Employee Matters Agreement, as applicable or (ii) employee matters (including any labor, compensation plans, benefit plans and related matters thereto), which shall be exclusively governed by the Employee Matters Agreement. For the avoidance of doubt, to the extent of any inconsistency between this Agreement and either of the Tax Matters Agreement or Employee Matters Agreement, the terms of the Tax Matters Agreement or Employee Matters Agreement, as the case may be, shall govern.

Section 6.10. *Jurisdiction.* The parties hereto agree that any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby shall be brought in the Chancery Court of the State of Delaware and any state appellate court therefrom within the State of Delaware (or if the Chancery Court of the State of Delaware declines to accept jurisdiction over a particular matter, any federal or state court sitting in the State of Delaware and any federal or state appellate court therefrom), and each of the parties hereby irrevocably consents to the exclusive jurisdiction of such courts in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any party anywhere in the world, whether within or outside of the jurisdiction of any such court. Without limiting the foregoing, each party agrees that service of process on such party as provided in Section 6.01 shall be deemed effective service of process on such party.

Section 6.11. *WAIVER OF JURY TRIAL.* EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 6.12. *Termination*. Notwithstanding any provision of this Agreement to the contrary, the Board of Directors of ADS may, in its sole discretion and without the approval of Loyalty Ventures or any other Person, at any time prior to the Distribution terminate this Agreement and/or abandon the Distribution, whether or not it has theretofore approved this Agreement and/or the Distribution. In the event this Agreement is terminated pursuant to the preceding sentence, this Agreement shall forthwith become void and neither party nor any of its directors or officers shall have any liability or further obligation to the other party or any other Person by reason of this Agreement.

Section 6.13. *Severability*. If any one or more of the provisions contained in this Agreement should be declared invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions

contained in this Agreement shall not in any way be affected or impaired thereby so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such a declaration, the parties shall modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner so that the transactions contemplated hereby are consummated as originally contemplated to the fullest extent possible.

Section 6.14. *Survival*. All covenants and agreements of the parties contained in this Agreement shall survive the Distribution Date indefinitely, unless a specific survival or other applicable period is expressly set forth herein.

Section 6.15. *Captions*. The captions herein are included for convenience of reference only and shall be ignored in the construction or interpretation hereof.

Section 6.16. *Interpretation.* In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of its authorship of any of the provisions of this Agreement.

Section 6.17. *Specific Performance*. Each party to this Agreement acknowledges and agrees that damages for a breach or threatened breach of any of the provisions of this Agreement would be inadequate and irreparable harm would occur. In recognition of this fact, each party agrees that, if there is a breach or threatened breach, in addition to any damages, the other nonbreaching party to this Agreement, without posting any bond, shall be entitled to seek and obtain equitable relief in the form of specific performance, temporary restraining order, temporary or permanent injunction, attachment, or any other equitable remedy which may then be available to obligate the breaching party (i) to perform its obligations under this Agreement or (ii) if the breaching party is unable, for whatever reason, to perform those obligations, to take any other actions as are necessary, advisable or appropriate to give the other party to this Agreement the economic effect which comes as close as possible to the performance of those obligations (including transferring, or granting liens on, the assets of the breaching party to secure the performance by the breaching party of those obligations).

Section 6.18. *Performance*. Each party shall cause to be performed all actions, agreements and obligations set forth herein to be performed by any member of such party's Group.

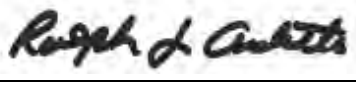
Section 6.19. *Confidential Supervisory Information.* Notwithstanding any other provision of this Agreement, no disclosure, representation or warranty shall be made (or other action taken) pursuant to this Agreement that results in the disclosure of confidential supervisory information (including confidential supervisory information as identified in 12 C.F.R. § 309.5(g)(8)) of a

Governmental Authority by any party to this Agreement to the extent prohibited by applicable law. To the extent legally permissible, appropriate substitute disclosures or actions, which may include the disclosure of underlying facts or circumstances that do not themselves constitute confidential supervisory information, shall be made or taken under circumstances in which the limitations of the preceding sentence apply.

[*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the date first above written.

ALLIANCE DATA SYSTEMS CORPORATION

By: 

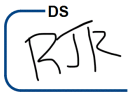
Name: Ralph J. Andretta
Title: President and Chief Executive Officer

LOYALTY VENTURES INC.

By: 

Name: Charles L. Horn
Title: President and Chief Executive Officer

This is Exhibit “S” referred to in the Affidavit of Joseph L. Motes III affirmed by Joseph L. Motes III of the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on February 9, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

RJ REID

EX-10.1 2 exhibit_10-1.htm EXHIBIT 10.1

Exhibit 10.1

DEAL CUSIP: 54912FAA8
REVOLVER CUSIP: 54912FAB6
TERM A CUSIP: 54912FAC4
TERM B CUSIP: 54912FAD2

CREDIT AGREEMENT

Dated as of November 3, 2021

among

LOYALTY VENTURES INC.,
BRAND LOYALTY GROUP B.V.,
BRAND LOYALTY HOLDING B.V.,
BRAND LOYALTY INTERNATIONAL B.V. and
CERTAIN SUBSIDIARIES OF LOYALTY VENTURES INC. IDENTIFIED HEREIN,
as the Borrowers,

LOYALTY VENTURES INC. and
CERTAIN SUBSIDIARIES OF LOYALTY VENTURES INC. IDENTIFIED HEREIN,
as the Guarantors,

BANK OF AMERICA, N.A.,
as Administrative Agent, Swing Line Lender and an L/C Issuer,

and

THE OTHER LENDERS PARTY HERETO

BANK OF AMERICA, N.A.,
DEUTSCHE BANK SECURITIES, MUFG BANK, LTD., RBC CAPITAL MARKETS, LLC, MORGAN STANLEY SENIOR FUNDING, INC., REGIONS CAPITAL MARKETS, A DIVISION OF REGIONS BANK, CITIZENS BANK, NATIONAL ASSOCIATION, FIFTH THIRD BANK, NATIONAL ASSOCIATION, TRUIST SECURITIES, INC., WELLS FARGO SECURITIES, LLC, MIZUHO BANK, LTD., JPMORGAN CHASE BANK, N.A.,
and
TEXAS CAPITAL BANK,
as Joint Lead Arrangers and Joint Bookrunners

SCHEDULES

EXHIBIT

CREDIT AGREEMENT

This CREDIT AGREEMENT ("Agreement") is entered into as of November 3, 2021, among LOYALTY VENTURES INC., a Delaware corporation (the "Company"), BRAND LOYALTY GROUP B.V., BRAND LOYALTY HOLDING B.V. and BRAND LOYALTY INTERNATIONAL B.V., each a Netherlands private limited company (each a "Netherlands Borrower"), certain other Subsidiaries of the Company party hereto pursuant to Section 2.15 (each a "Designated Borrower" and, together with the Company and the Netherlands Borrowers, the "Borrowers"), each Guarantor from time to time party hereto, each Lender from time to time party hereto, and BANK OF AMERICA, N.A., as Administrative Agent, Swing Line Lender and an L/C Issuer.

The Company has requested that the Lenders provide revolving and term loan credit facilities for the purposes set forth herein, and the Lenders are willing to do so on the terms and conditions set forth herein.

In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I.

DEFINITIONS AND ACCOUNTING TERMS

1.01 Defined Terms. As used in this Agreement, the following terms shall have the meanings set forth below:

"Accepting Lenders" has the meaning specified in Section 10.01(c).

"Acquired Indebtedness" has the meaning specified in Section 7.03(i).

"Acquisition" means any transaction or series of related transactions for the purpose of or resulting, directly or indirectly, in (a) the acquisition of all or substantially all of the assets of a Person, or of any business or division of a Person, (b) the acquisition of in excess of fifty percent (50%) of the Equity Interests of any Person, or otherwise causing any Person to become a Subsidiary (other than the formation of a newly formed Subsidiary), or (c) a merger, amalgamation or consolidation or any other combination with another Person (other than a Person that is a Subsidiary before giving effect to such merger, amalgamation or consolidation, provided that the Company or a Subsidiary is the surviving or resulting entity).

"Additional Indebtedness" has the meaning specified in Section 7.03(h).

"Administrative Agent" means Bank of America (or any of its designated branch offices or affiliates) in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent.

"Administrative Agent's Office" means, with respect to any currency, the Administrative Agent's address and, as appropriate, account as set forth on Schedule 10.02 with respect to such currency, or such other address or account with respect to such currency as the Administrative Agent may from time to time notify the Company and the Lenders.

"Administrative Questionnaire" means an Administrative Questionnaire in substantially the form of Exhibit F-2 or any other form approved by the Administrative Agent.

"ADS" means Alliance Data Systems Corporation, a Delaware corporation, and (prior to the Spinoff) the direct or indirect owner of 100% of the Equity Interests of the Company.

"Affiliate" means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

"Affected Financial Institution" means (a) any EEA Financial Institution or (b) any UK Financial Institution.

"Aggregate Commitments" means the Commitments of all the Lenders.

"Aggregate Revolving Commitments" means the Revolving Commitments of all the Revolving Lenders. The initial amount of the Aggregate Revolving Commitments in effect on the Closing Date is ONE HUNDRED AND FIFTY MILLION DOLLARS ($150,000,000).

"Agreed Currency" means Dollars or any Alternative Currency, as applicable.

"Agreement" means this Credit Agreement.

"Agreement Currency" has the meaning specified in Section 10.20.

"All-In-Yield" means, with respect to any Term Facility, the weighted average yield to maturity with respect to such Term Facility which shall take into account any interest rate margins, interest rate floors or similar devices and shall be deemed to include any original issue discount, any upfront fees (which shall be deemed to constitute like amounts of OID, with OID being equated to interest based on an assumed four-year Weighted Average Life) and any other fees (other than facility arrangement, underwriting or other closing fees and expenses not paid for the account of, or distributed to, all Lenders providing such Term Facility) paid or payable to such Lenders in connection with the initial primary syndication such Term Facility, in each case, as reasonably determined by the Administrative Agent in a manner consistent with customary financial practice based on the Weighted Average Life of such Term Facility, commencing from the borrowing date of such Term Facility and assuming that the interest rate (including the Applicable Rate) for such Term Facility in effect on such borrowing date (after giving effect to the Indebtedness incurred in connection with such Term Facility) shall be the interest rate for the entire Weighted Average Life of such Term Facility.

"Alternative Currency" means Euro, together with each other currency (other than Dollars) that is approved in accordance with Section 1.06; provided that for each Alternative Currency, such requested currency is an Eligible Currency.

"Alternative Currency Daily Rate" means, for any day, with respect to any Credit Extension denominated in any Alternative Currency (to the extent such Loans denominated in such currency will bear interest at a daily rate), the daily rate per annum as designated with respect to such Alternative Currency at the time such Alternative Currency is approved by the Administrative Agent and the relevant Revolving Lenders pursuant to Section 1.06(a) plus the adjustment (if any) determined by the Administrative Agent and the relevant Revolving Lenders pursuant to Section 1.06(a); provided, that, if any Alternative Currency Daily Rate shall be less than zero, such rate shall be deemed zero for purposes of this Agreement. Any change in an Alternative Currency Daily Rate shall be effective from and including the date of such change without further notice.

"Alternative Currency Daily Rate Loan" means a Loan that bears interest at a rate based on the definition of "Alternative Currency Daily Rate." All Alternative Currency Daily Rate Loans must be denominated in an Alternative Currency.

"Alternative Currency Equivalent" means, at any time, with respect to any amount denominated in Dollars, the equivalent amount thereof in the applicable Alternative Currency as determined by the Administrative Agent or the applicable L/C Issuer, as the case may be, by reference to Bloomberg (or such other publicly available service for displaying exchange rates), to be the exchange rate for the purchase of such Alternative Currency with Dollars at approximately 11:00 a.m. on the date two (2) Business Days prior to the date as of which the foreign exchange computation is made; provided, however, that if no such rate is available, the "Alternative Currency Equivalent" shall be determined by the Administrative Agent or the applicable L/C Issuer, as the case may be, using any reasonable method of determination its deems appropriate in its sole discretion (and such determination shall be conclusive absent manifest error).

"Alternative Currency Loan" means an Alternative Currency Daily Rate Loan or an Alternative Currency Term Rate Loan, as applicable.

"Alternative Currency Scheduled Unavailability Date" has the meaning specified in Section 3.03(e).

"Alternative Currency Successor Rate" has the meaning specified in Section 3.03(e).

"Alternative Currency Term Rate" means, for any Interest Period, with respect to any Credit Extension:

(a) denominated in Euros, the rate per annum equal to the Euro Interbank Offered Rate ("EURIBOR"), as published on the applicable Reuters screen page (or such other commercially available source providing such quotations as may be designated by the Administrative Agent from time to time) on the day that is two TARGET Days preceding the first day of such Interest Period with a term equivalent to such Interest Period;

(b) denominated in any other Alternative Currency (to the extent such Loans denominated in such currency will bear interest at a term rate), the term rate per annum as designated with respect to such Alternative Currency at the time such Alternative Currency is approved by the Administrative Agent and the relevant Lenders pursuant to Section 1.06(a) plus the adjustment (if any) determined by the Administrative Agent and the relevant Lenders pursuant to Section 1.06(a);

provided, that, if any Alternative Currency Term Rate shall be less than zero, such rate shall be deemed zero for purposes of this Agreement.

"Alternative Currency Term Rate Loan" means a Loan that bears interest at a rate based on the definition of "Alternative Currency Term Rate." All Alternative Currency Term Rate Loans must be denominated in an Alternative Currency.

"Applicable Authority" means with respect to any Alternative Currency, the applicable administrator for the Relevant Rate for such Alternative Currency or any Governmental Authority having jurisdiction over the Administrative Agent or such administrator.

"Applicable Non-U.S. Obligor Documents" has the meaning specified in Section 5.25(a).

"Applicable Percentage" means with respect to any Lender at any time, (a) with respect to such Lender's Revolving Commitment at any time, the percentage (carried out to the ninth decimal place) of the Aggregate Revolving Commitments represented by such Lender's Revolving Commitment at such time, provided that if the commitment of each Lender to make Loans and the obligation of the L/C Issuers to make L/C Credit Extensions have been terminated pursuant to Section 8.02 or if the Aggregate Revolving Commitments have expired, then the Applicable Percentage of each Lender shall be determined based on the Applicable Percentage of such Lender most recently in effect, giving effect to any subsequent assignments; and (b) with respect to such Lender's portion of an outstanding Term Facility at any time, the percentage (carried out to the ninth decimal place) of the outstanding principal amount of such Term Facility held by such Lender at such time. The initial Applicable Percentage of each Lender is set forth opposite the name of such Lender on Schedule 2.01 or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto or in any documentation executed by such Lender in connection with an Incremental Facility. The Applicable Percentages shall be subject to adjustment as provided in Section 2.18.

"Applicable Rate" means (a) with respect to the Term B Loan, four and one half percent (4.50%) per annum in the case of Eurocurrency Rate Loans and three and one half percent (3.50%) per annum in the case of Base Rate Loans, (b) with respect to any Incremental Term Loan, the rate per annum set forth in the Incremental Facility Amendment establishing such Incremental Term Loans, subject, in the case of any Incremental Tranche B Term Loan, to the provisions of Section 2.16(j) and (c) with respect to Revolving Loans, the Term A Loan, Swing Line Loans, Letter of Credit Fees and the commitment fee payable pursuant to Section 2.10(a), the following percentages per annum, based upon the Consolidated Total Leverage Ratio as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 6.02(a):

Pricing Level	Consolidated Total Leverage Ratio	Eurocurrency Rate Loans / Alternative Currency Daily Rate Loans / Alternative Currency Term Rate Loans / Euro Swing Line Loans / Letter of Credit Fees	Base Rate Loans	Commitment Fee
1	> 4.25:1.00	3.75%	2.75%	0.50%
2	> 3.75.00:1.00 but ≤ 4.25:1.00	3.50%	2.50%	0.50%
3	> 3.25:1.00 but ≤ 3.75:1.00	3.25%	2.25%	0.45%
4	≤ 3.25:1.00	3.00%	2.00%	0.40%

Any increase or decrease in the Applicable Rate (other than with respect to the Term B Loan and any Incremental Term Loan) resulting from a change in the Consolidated Total Leverage Ratio shall become effective as of the first Business Day immediately following the date a Compliance Certificate is delivered pursuant to Section 6.02(a); provided, however, that if a Compliance Certificate is not delivered when due in accordance with such Section, then, upon the request of the Required Pro Rata Facilities Lenders, Pricing Level 1 shall apply as of the first Business Day after the date on which such Compliance Certificate was required to have been delivered and shall remain in effect until the first Business Day immediately following

the date on which such Compliance Certificate is delivered, whereupon the Applicable Rate (other than with respect to the Term B Loan and any Incremental Term Loan) shall be adjusted based upon the calculation of the Consolidated Total Leverage Ratio contained in such Compliance Certificate. The Applicable Rate (other than with respect to the Term B Loan and any Incremental Term Loan) in effect from the Closing Date through the first Business Day immediately following the date a Compliance Certificate is delivered pursuant to Section 6.02(a) for the fiscal quarter ending March 31, 2022 shall be determined based upon Pricing Level 2. Notwithstanding anything to the contrary contained in this definition, the determination of the Applicable Rate for any period shall be subject to the provisions of Section 2.11(b).

"Applicable Time" means, with respect to any borrowings and payments in any Alternative Currency, the local time in the place of settlement for such Alternative Currency as may be determined by the Administrative Agent or the applicable L/C Issuer, as the case may be, to be necessary for timely settlement on the relevant date in accordance with normal banking procedures in the place of payment.

"Applicant Borrower" has the meaning specified in Section 2.15.

"Approved Fund" means any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

"Arrangers" means (a) with respect to the Term B Loan, each of the following in its capacity as a joint lead arranger and a joint bookrunner thereof: Bank of America, Deutsche Bank Securities Inc., MUFG Bank, Ltd., RBC Capital Markets, LLC, Morgan Stanley Senior Funding, Inc., Regions capital Markets, a division of Regions Bank, Citizens Bank, National Association, Fifth Third Bank, National Association, Truist Securities, Inc., Wells Fargo Securities, LLC, Mizuho Bank, Ltd., JPMorgan Chase Bank, N.A. and Texas Capital Bank, and (b) with respect to the Revolving Facility, each of the following in its capacity as a joint lead arranger and joint bookrunner thereof: Bank of America, Deutsche Bank Securities Inc., MUFG Bank, Ltd., RBC Capital Markets, LLC, Morgan Stanley Senior Funding, Inc., Regions capital Markets, a division of Regions Bank, Citizens Bank, National Association, Fifth Third Bank, National Association, Truist Securities, Inc., Wells Fargo Securities, LLC, Mizuho Bank, Ltd., JPMorgan Chase Bank, N.A. and Texas Capital Bank.

"Assignment and Assumption" means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 10.06(b)), and accepted by the Administrative Agent, in substantially the form of Exhibit F-1 or any other form (including electronic documentation generated by use of an electronic platform) approved by the Administrative Agent.

"Attributable Indebtedness" means, with respect to any Person on any date, (a) in respect of any finance lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP, (b) in respect of any Synthetic Lease Obligation, the capitalized amount of the remaining lease payments under the relevant lease that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP if such lease were accounted for as a finance lease and (c) in respect of any Securitization Transaction (other than any securitization program that is not recorded as debt in accordance with GAAP), the amount of obligations outstanding on any date of determination that would be characterized as principal if such Securitization Transaction had been structured as a secured loan rather than a sale; provided that, for the avoidance of doubt, no obligations outstanding under any securitization program that is not recorded as debt in accordance with GAAP shall be deemed to be Attributable Indebtedness.

"Audited Financial Statements" means the audited combined balance sheet of the Company and its Subsidiaries for the fiscal year ended December 31, 2020, and the related combined statements of operations, comprehensive income, changes in equity and cash flows for such fiscal year of the Company and its Subsidiaries, including the notes thereto, with respect to the carve-out of the "LoyaltyOne" segment plus an allocation of certain corporate costs, all as contained in the Form 10.

"Authorization to Share Insurance Information" means the authorization, duly executed by the applicable Loan Party or Loan Parties, in form and substance reasonably acceptable to the Administrative Agent, authorizing the sharing of insurance information of the Loan Parties and their Subsidiaries.

"Auto-Extension Letter of Credit" has the meaning specified in Section 2.03(b)(iii).

"Auto-Reinstatement Letter of Credit" has the meaning specified in Section 2.03(b)(iv).

"Available Tenor" means, as of any date of determination and with respect to the then-current Benchmark, as applicable, (x) if the then-current Benchmark is a term rate, any tenor for such Benchmark that is or may be used for determining the length of an Interest Period or (y) otherwise, any payment period for interest calculated with reference to such Benchmark, as applicable, pursuant to this Agreement as of such date.

"Availability Period" means, with respect to the Revolving Commitments, the period from and including the Closing Date to the earliest of (a) the Maturity Date applicable to Revolving Loans, Swing Line Loans and Letters of Credit (and the related L/C Obligations), (b) the date of termination of the Aggregate Revolving Commitments pursuant to Section 2.07, and (c) the date of termination of the commitment of each Lender to make Revolving Loans and of the obligation of each L/C Issuer to make L/C Credit Extensions pursuant to Section 8.02.

"Back-Up Indemnity Payment" has the meaning specified in Section 3.01(c).

"Bail-In Action" means the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.

"Bail-In Legislation" means, (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, rule, regulation or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings).

"Bank of America" means Bank of America, N.A. and its successors.

"Bankruptcy Code" means the Federal Bankruptcy Reform Act of 1978 (11 U.S.C. § 101, et. seq.).

"Base Rate" means for any day a fluctuating rate per annum equal to the highest of (a) the Federal Funds Rate plus ½ of one percent (1.00%), (b) the rate of interest in effect for such day as publicly announced from time to time by Bank of America as its "prime rate," and (c) the Eurocurrency Rate plus one percent (1.00%). The "prime rate" is a rate set by Bank of America based upon various factors including Bank of America's costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced

rate. Any change in such prime rate announced by Bank of America shall take effect at the opening of business on the day specified in the public announcement of such change. If the Base Rate shall be less than (i) with respect to the Revolving Facility and the Term A Loan, 1.00%, such rate shall be deemed 1.00% for purposes of this Agreement and (ii) with respect to the Term B Loan, 1.50%, such rate shall be deemed 1.50% for purposes of this Agreement.

"Base Rate Loan" means a Loan that bears interest based on the Base Rate. All Base Rate Loans are only available for Loans denominated in Dollars.

"Basic ESTR" means, in relation to any day, ESTR for that day, and if that rate is less than zero, Basic ESTR shall be deemed to be zero.

"Benchmark" means, initially, LIBOR; provided that if a replacement of the Benchmark has occurred pursuant to Section 3.03(c), then "Benchmark" means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate. Any reference to "Benchmark" shall include, as applicable, the published component used in the calculation thereof.

"Benchmark Replacement" means:

(1) For purposes of Section 3.03(c)(i), the first alternative set forth below that can be determined by the Administrative Agent:

(a) the sum of: (i) Term SOFR and (ii) 0.11448% (11.448 basis points) for an Available Tenor of one-month's duration, 0.26161% (26.161 basis points) for an Available Tenor of three-months' duration, 0.42826% (42.826 basis points) for an Available Tenor of six-months' duration, and 0.71513% (71.513 basis points) for an Available Tenor of twelve-months' duration, or

(b) the sum of: (i) Daily Simple SOFR and (ii) 0.26161% (26.161 basis points);

provided that, if initially LIBOR is replaced with the rate contained in clause (b) above (Daily Simple SOFR plus the applicable spread adjustment) and subsequent to such replacement, the Administrative Agent determines that Term SOFR has become available and is administratively feasible for the Administrative Agent in its sole discretion, and the Administrative Agent notifies the Company and each Lender of such availability, then from and after the beginning of the Interest Period, relevant interest payment date or payment period for interest calculated, in each case, commencing no less than thirty (30) days after the date of such notice, the Benchmark Replacement shall be as set forth in clause (a) above; and

(2) for purposes of Section 3.03(c)(ii), the sum of (a) the alternate benchmark rate and (b) an adjustment (which may be a positive or negative value or zero), in each case, that has been selected by the Administrative Agent and the Company as the replacement Benchmark giving due consideration to any evolving or then-prevailing market convention, including any applicable recommendations made by a Relevant Governmental Body, for U.S. Dollar-denominated syndicated credit facilities at such time;

provided that, if the Benchmark Replacement as determined pursuant to clause (1) or clause (2) above would be less than (i) with respect to the Revolving Facility and the Term A Loan, zero, such Benchmark Replacement shall be deemed zero for purposes of this Agreement and (ii) with respect to the Term B Loan, 0.50%, such Benchmark Replacement shall be deemed 0.50% for purposes of this Agreement.

Any Benchmark Replacement shall be applied in a manner consistent with market practice; provided that to the extent such market practice is not administratively feasible for the Administrative Agent, such Benchmark Replacement shall be applied in a manner as otherwise reasonably determined by the Administrative Agent.

"Benchmark Transition Event" means, with respect to any then-current Benchmark other than LIBOR, the occurrence of a public statement or publication of information by or on behalf of the administrator of the then-current Benchmark or a Governmental Authority with jurisdiction over such administrator announcing or stating that all Available Tenors are or will no longer be representative, or made available, or used for determining the interest rate of loans, or shall or will otherwise cease, provided that, at the time of such statement or publication, there is no successor administrator that is satisfactory to the Administrative Agent, that will continue to provide any representative tenors of such Benchmark after such specific date.

"Beneficial Ownership Certification" means a certification regarding beneficial ownership required by the Beneficial Ownership Regulation.

"Beneficial Ownership Regulation" means 31 C.F.R. § 1010.230.

"Benefit Plan" means any of (a) an "employee benefit plan" (as defined in Section 3(3) of ERISA) that is subject to Title I of ERISA, (b) a "plan" as defined in Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such "employee benefit plan" or "plan".

"Blocking Law" means (a) any provision of Council Regulation (EC) No 2271/96 of 22 November 1996 (or any law or regulation implementing such Regulation in any member state of the European Union or the United Kingdom) or (b) the Foreign Extraterritorial Measures Act (Canada) or any similar law in Canada (or any regulation implementing such law).

"BofA Securities" means BofA Securities, Inc.

"Borrower" and "Borrowers" each has the meaning specified in the introductory paragraph hereto.

"Borrower Materials" has the meaning specified in Section 6.02.

"Borrowing" means a borrowing consisting of simultaneous Loans of the same Type, in the same currency, and, in the case of Eurocurrency Rate Loans or Alternative Currency Term Rate Loans, having the same Interest Period made by each of the applicable Lenders pursuant to Section 2.01.

"Business Day" means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, the state where the Administrative Agent's Office is located; provided that:

(a) if such day relates to any interest rate settings as to a Eurocurrency Rate Loan denominated in Dollars, any fundings, disbursements, settlements and payments in Dollars in respect of any such Eurocurrency Rate Loan, or any other dealings in Dollars to be carried out pursuant to this Agreement in respect of any such Eurocurrency Rate Loan, means any such day that is also a London Banking Day;

(b) if such day relates to any interest rate settings as to an Alternative Currency Loan denominated in Euro, any fundings, disbursements, settlements and payments in Euro in respect of

any such Alternative Currency Loan, or any other dealings in Euro to be carried out pursuant to this Agreement in respect of any such Alternative Currency Loan, means a Business Day that is also a TARGET Day;

(c) if such day relates to any fundings, disbursements, settlements and payments in a currency other than Euro in respect of an Alternative Currency Loan denominated in a currency other than Euro, or any other dealings in any currency other than Euro to be carried out pursuant to this Agreement in respect of any such Alternative Currency Loan (other than any interest rate settings), means any such day on which banks are open for foreign exchange business in the principal financial center of the country of such currency.

"Canadian AML Acts" means applicable Canadian law regarding anti-money laundering, anti-terrorist financing and "know your client" matters, including the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada).

"Canadian Defined Benefit Pension Plan" means a Canadian Pension Plan that contains or has ever contained a "defined benefit provision" as such term is defined in Section 147.1(1) of the Income Tax Act (Canada).

"Canadian Pension Plan" means a pension plan or plan that is subject to applicable pension benefits legislation in any jurisdiction of Canada and that is organized and administered to provide pensions, pension benefits or retirement benefits for employees and former employees of any Loan Party or any Subsidiary thereof.

"Canadian Sanctions List" means the list of names subject to the Regulations Establishing a List of Entities made under subsection 83.05(1) of the Criminal Code (Canada), the Regulations Implementing the United Nations Resolutions on the Suppression of Terrorism, the United Nations Al-Qaida and Taliban Regulations and/or the Special Economic Measures Act (Canada).

"Canadian Security Agreements" means, collectively, (a) that certain Canadian Security and Pledge Agreement, dated as of the Closing Date, executed in favor of the Administrative Agent, for the benefit of the Secured Parties, by certain Loan Parties, (b) each deed of hypothec between a Loan Party and the Administrative Agent, for the benefit of the Secured Parties, as applicable and (c) that certain Canadian Pledge Agreement, dated as of the Closing Date, executed in favor of the Administrative Agent, for the benefit of the Secured Parties, by LVI Lux Financing.

"Cash Collateralize" means to pledge and deposit with or deliver to the Administrative Agent, for the benefit of one or more of the L/C Issuers or the Lenders, as collateral for L/C Obligations, or obligations of the Lenders to fund participations in respect of L/C Obligations, cash or deposit account balances or, if the Administrative Agent and the applicable L/C Issuer(s) shall agree in their sole discretion, other credit support, in each case pursuant to documentation in form and substance reasonably satisfactory to the Administrative Agent and the applicable L/C Issuer(s). "Cash Collateral" shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

"Cash Equivalents" means, at any date:

(a) securities issued or directly and fully guaranteed or insured by the United States or, in the case of a Non-U.S. Subsidiary, readily marketable obligations issued or directly and fully guaranteed or insured by the government of the country of such Non-U.S. Subsidiary, or any agency or instrumentality thereof (provided that the full faith and credit of the United States or, in the case of a Non-U.S. Subsidiary, the government of the country of such Non-U.S. Subsidiary, is pledged

in support thereof), having maturities of not more than three hundred sixty (360) days from the date of acquisition;

(b) (i) with respect to any U.S. Borrower or any U.S. Subsidiary, Dollar denominated time deposits, certificates of deposit and bankers' acceptances of (A) any Lender under the Revolving Facility, (B) any domestic commercial bank of recognized standing having capital and surplus in excess of $500,000,000 or (C) any bank whose short-term commercial paper rating from S&P is at least A-1 or the equivalent thereof or from Moody's is at least P-1 or the equivalent thereof (any such bank being a "U.S. Approved Bank") and (ii) with respect to the Company or any Non-U.S. Subsidiary, time deposits, certificates of deposit and bankers' acceptances denominated in (x) Dollars, (y) the currency of the country in which such Non-U.S. Subsidiary maintains its chief executive office and principal place of business, provided such country is a member of the Organization for Economic Cooperation and Development or (z) such currency acceptable to the Administrative Agent in its sole discretion, in each case, of (A) any Lender under the Revolving Facility, (B) any domestic commercial bank of recognized standing having capital and surplus in excess of $500,000,000, (C) a bank having capital and surplus in excess of $500,000,000 formed under any state, commonwealth, territory, province or similar political subdivision of the country in which such Non-U.S. Subsidiary maintains its chief executive office and principal place of business, provided such country is a member of the Organization for Economic Cooperation and Development, (D) any bank whose short-term commercial paper rating from S&P is at least A-1 or the equivalent thereof or from Moody's is at least P-1 or the equivalent thereof or (E) a bank or other financial institution acceptable to the Administrative Agent in its sole discretion (any such bank being a "Non-U.S. Approved Bank" and together with any U.S. Approved Bank, each an "Approved Bank"), in each case with maturities of not more than two hundred seventy (270) days from the date of acquisition;

(c) commercial paper and variable or fixed rate notes issued by any Approved Bank (or by the parent company thereof) or any variable rate notes issued by, or guaranteed by, any domestic corporation rated A-1 (or the equivalent thereof) or better by S&P or P-1 (or the equivalent thereof) or better by Moody's and maturing within one hundred eighty (180) days of the date of acquisition;

(d) repurchase agreements entered into by any Person with a bank or trust company (including any Lender under the Revolving Facility) or recognized securities dealer having capital and surplus in excess of $500,000,000 for direct obligations issued by or fully guaranteed by the United States in which such Person shall have a perfected first priority security interest (subject to no other Liens) and having, on the date of purchase thereof, a fair market value of at least one hundred percent (100%) of the amount of the repurchase obligations;

(e) securities with maturities of one (1) year or less from the date of acquisition thereof issued or fully guaranteed by (i) any state, commonwealth or territory of the United States, by any political subdivision or taxing authority of any such state, commonwealth or territory, the securities of any such state, commonwealth or territory being rated at least "Prime-1" (or the then equivalent grade) by Moody's or at least "A-1" (or the then equivalent grade) by S&P or (ii) solely with respect to any Non-U.S. Subsidiary, any state, commonwealth, territory, province or similar political subdivision of the country in which such Non-U.S. Subsidiary maintains its chief executive office and principal place of business, provided such country is a member of the Organization for Economic Cooperation and Development; and

(f) investments, classified in accordance with GAAP as current assets, in money market investment programs registered under the Investment Company Act of 1940 which have

the highest rating obtainable from either Moody's or S&P and the portfolios of which substantially all of the Investments in such portfolios are of the character described in the foregoing clauses (a) through (d).

"Cash Management Agreement" means any agreement that is not prohibited by the terms hereof to provide treasury or cash management services, including deposit accounts, overnight draft, cash pooling (including notional cash pooling), credit cards, debit cards, p-cards (including purchasing cards and commercial cards), funds transfer, automated clearinghouse, zero balance accounts, returned check concentration, controlled disbursement, lockbox, account reconciliation and reporting and trade finance services and other cash management services.

"Cash Management Bank" means any Person in its capacity as a party to a Cash Management Agreement that, (a) at the time it enters into a Cash Management Agreement with a Loan Party or any Subsidiary, is a Lender or an Affiliate of a Lender, or (b) at the time it (or its Affiliate) becomes a Lender, is a party to a Cash Management Agreement with a Loan Party or any Subsidiary, in each case in its capacity as a party to such Cash Management Agreement (even if such Person ceases to be a Lender or such Person's Affiliate ceased to be a Lender); provided, however, that for any of the foregoing to be included as a "Secured Cash Management Agreement" on any date of determination by the Administrative Agent, the applicable Cash Management Bank (other than the Administrative Agent or an Affiliate of the Administrative Agent) must have delivered a Secured Party Designation Notice to the Administrative Agent prior to such date of determination.

"Change in Law" means the occurrence, after the Closing Date, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith or in the implementation thereof and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States, Canada, Luxembourg, Netherlands or other foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a "Change in Law", regardless of the date enacted, adopted, issued or implemented.

"Change of Control" means an event or series of events by which:

(a) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, but excluding any employee benefit plan of such person or its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) other than ADS becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, except that a person or group shall be deemed to have "beneficial ownership" of all securities that such person or group has the right to acquire, whether such right is exercisable immediately or only after the passage of time (such right, an "option right")), directly or indirectly, of equity securities of the Company carrying thirty-five percent (35%) or more of the voting power of all outstanding equity securities of the Company on a fully-diluted basis (and taking into account all such securities that such person or group has the right to acquire pursuant to any option right); or

(b) the Company fails to own and control, directly or indirectly, one hundred percent (100%) of the outstanding Equity Interests (other than (i) directors' qualifying shares and (ii) shares issued to foreign nationals to the extent required by applicable Law) of each other Borrower.

"Class" when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Revolving Loans or Term Loans and, when used in reference to any Commitment, refers to whether such Commitment is a Revolving Commitment, a Term A Loan Commitment or a Term B Loan Commitment.

"Closing Date" means November 3, 2021.

"Code" means the Internal Revenue Code of 1986.

"Collateral" means a collective reference to all property with respect to which Liens in favor of the Administrative Agent are purported to be granted pursuant to and in accordance with the Collateral Documents.

"Collateral Documents" means a collective reference to the Security Agreements, each Joinder Agreement and all other security or pledge agreements or documents as may be executed and delivered by any Loan Party pursuant to the terms of Section 6.15 or any of the Loan Documents.

"Commitment" means, as to each Lender, the Revolving Commitment of such Lender, the Term A Loan Commitment of such Lender and/or the Term B Loan Commitment of such Lender and shall include, as the context requires, any unfunded commitment of such Lender to fund any portion of an Incremental Term Loan.

"Commodity Exchange Act" means the Commodity Exchange Act (7 U.S.C. Section 1 *et seq.*).

"Communication" means this Agreement, any Loan Document and any document, any amendment, approval, consent, information, notice, certificate, request, statement, disclosure or authorization related to any Loan Document.

"Company" has the meaning specified in the introductory paragraph hereto.

"Compliance Certificate" means a certificate substantially in the form of Exhibit E.

"Conforming Changes" means, with respect to the use, administration of or any conventions associated with any proposed Successor Rate for an Agreed Currency, any conforming changes to the definitions of "Base Rate" or "Interest Period", timing and frequency of determining rates and making payments of interest and other technical, administrative or operational matters (including, for the avoidance of doubt, the definition of "Business Day", timing of borrowing requests or prepayment, conversion or continuation notices and length of lookback periods) as may be appropriate, in the discretion of the Administrative Agent, to reflect the adoption and implementation of such applicable rate(s) and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice for such Agreed Currency (or, if the Administrative Agent determines that adoption of any portion of such market practice is not administratively feasible or that no market practice for the administration of such rate for such Agreed Currency exists, in such other manner of administration as the Administrative Agent determines is reasonably necessary in connection with the administration of this Agreement and any other Loan Document).

"Connection Income Taxes" means Other Connection Taxes that are imposed on or measured by net earnings or net income (however denominated) or that are franchise Taxes or branch profits Taxes.

"Consolidated Current Assets" shall mean, as of any date of determination, all assets of the Company and its Subsidiaries (other than cash and Cash Equivalents) that would, in accordance with GAAP, be classified on a consolidated balance sheet of the Company as current assets as of such date.

"Consolidated Current Liabilities" shall mean, as of any date of determination, all liabilities (without duplication) of the Company and its Subsidiaries that would, in accordance with GAAP, be classified on a consolidated balance sheet of the Company and its Subsidiaries as current liabilities as of such date; provided, however, that Consolidated Current Liabilities shall not include (a) current maturities of any long-term Indebtedness, (b) outstanding revolving loans and (c) the current portion of any other long-term liabilities.

"Consolidated EBITDA" means, for any period, for the Company and its Subsidiaries on a consolidated basis, an amount equal to Consolidated Net Income for such period plus (a) the following without duplication and to the extent deducted (and not added back) in calculating such Consolidated Net Income (other than clause (vi) below): (i) Consolidated Interest Charges for such period (other than the implicit financing costs in respect of Synthetic Lease Obligations), (ii) the provision for U.S. federal, state, local and non-U.S. Taxes by the Company and its Subsidiaries for such period, (iii) depreciation and amortization expense for such period, (iv) non-cash charges and purchase accounting deductions reducing such Consolidated Net Income, including (A) any write offs or write downs, (B) losses on sales, disposals or abandonment of, or any impairment charges or asset write offs related to, intangible assets, goodwill, long-lived assets and investments in debt and equity securities and (C) other non-cash charges, non-cash expenses or non-cash losses, provided that notwithstanding the foregoing, nothing contained in this clause (iv) shall exclude from the calculation of Consolidated EBITDA (1) any non-cash charge that is expected to be paid in cash in any future period or (2) any write-down of accounts receivable, (v) unusual or non-recurring expenses and charges for such period, and (vi) the amount of synergies and cost savings projected by the Company in good faith to be realized as a result of the Spinoff or any Permitted Acquisition so long as (A) such synergies and costs savings are (I) reasonably identifiable and factually supportable and (II) reasonably attributable to the Spinoff or such Permitted Acquisition and reasonably anticipated to result therefrom, and (B) the benefits resulting from the Spinoff or such Permitted Acquisition are reasonably expected to be realized within twelve (12) months of the closing date of the Spinoff or such Permitted Acquisition, provided that the aggregate amount added pursuant to the foregoing clauses (v) and (vi) shall not exceed twenty-five percent (25%) of Consolidated EBITDA (calculated prior to giving effect to any such adjustment made pursuant to the foregoing clauses (v) or (vi)) for such period and (vii) the amount of any costs, charges, accruals, reserves or expenses attributable to the undertaking and/or implementation of cost savings initiatives, operating expense reductions, operating improvements, product margin synergies and product cost and other synergies and similar initiatives, integration, transition, reconstruction, decommissioning, recommissioning or reconfiguration of fixed assets for alternative uses, restructuring costs (including those related to tax restructurings), charges, accruals, reserves or expenses attributable to the undertaking and/or implementation of cost savings initiatives, operating expense reductions, business optimization and other restructuring costs, charges, accruals, reserves and expenses (including, but not limited to, costs related to the opening, pre-opening, closure, relocation and/or consolidation of locations, recruitment expenses (including headhunter fees and relocation expenses), severance payments, and professional and consulting fees incurred in connection with any of the foregoing); provided that the aggregate amount added pursuant to this clause (vii) shall not exceed in any measurement period the greater of (A) $10,000,000 and (B) 5% of Consolidated EBITDA (calculated prior to giving effect to any such adjustment made pursuant to the foregoing clause (vii)) for such period, minus (b) the following without duplication and to the extent included (and not deducted) in calculating such Consolidated Net Income: (i) U.S. federal, state, local and non-U.S. Tax recoveries of the Company and its Subsidiaries for such

period, (ii) non-cash items (excluding (A) any non-cash recovery that is expected to be received in cash in any future period and (B) any reversal of a write-down of current assets) increasing Consolidated Net Income for such period and (iii) unusual or non-recurring gains for such period incurred outside the ordinary course of business; provided that in the event of the acquisition by the Company or a Subsidiary of a newly acquired Subsidiary or operation (as such term is used in the definition of "Pro Forma Basis"), Consolidated EBITDA will include the Target EBITDA of the newly acquired Subsidiary or operation on a Pro Forma Basis in accordance with the terms of the definition of "Pro Forma Basis".

"Consolidated Excess Cash Flow" means, for any period for the Company and its Subsidiaries on a consolidated basis, an amount (if positive) equal to Consolidated Net Income for such period plus (a) the following without duplication: (i) an amount equal to any net decrease in Consolidated Working Capital from the first day to the last day of such period, (ii) to the extent not included in Consolidated Net Income, any cash gains and income (actually received in cash) during such period and (iii) the amount of all non-cash losses, charges and expenses deducted in calculating Consolidated Net Income including for depreciation and amortization for such period, minus (b) the following without duplication: (i) Consolidated Interest Charges actually paid in cash for such period, (ii) cash Taxes paid by the Company and its Subsidiaries during such period, (iii) the amount of (A) all scheduled payments of principal on Consolidated Funded Indebtedness (including the Term Loans) actually paid in such period and (B) all optional prepayments of principal on Consolidated Funded Indebtedness (other than Revolving Loans and the Term Loans) actually paid in cash in such period (in the case of revolving credit facilities, solely to the extent the commitments with respect thereto are permanently reduced), (iv) an amount equal to any net increase in Consolidated Working Capital from the first day to the last day of such period, (v) the amount of (A) any non-cash gains and income included in calculating Consolidated Net Income for such period and (B) all cash expenses, charges and losses excluded in arriving at such Consolidated Net Income, in each case, to the extent not financed with the proceeds of long-term, non-revolving Indebtedness, (vi) any required up-front cash payments in respect of Swap Contracts to the extent not financed with the proceeds of long-term, non-revolving Indebtedness and not deducted in arriving at such Consolidated Net Income, (vii) any cash payments actually made during such period that represent a non-cash charge from a previous period and deducted in calculating Consolidated Excess Cash Flow in a previous period, (viii) the aggregate amount of expenditures actually made by the Company or any of its Subsidiaries in cash during such period for the payment of financing fees, rent and pension and other retirement benefits to the extent that such expenditures are not from such period, (ix) capital expenditures actually paid in cash by the Company or any Subsidiary, (x) the aggregate amount actually paid in cash by the Company and its Subsidiaries on account of Permitted Investments, (xi) to the extent not deducted in the calculation of Consolidated Net Income for such period, the amount of Restricted Payments pursuant to Section 7.06(d) and (e) (or otherwise consented to by the Required Lenders) made in cash, and (xii) without duplication, the aggregate amount of cash payments made in respect of finance leases for such period; provided that in the case of each of the preceding clauses (b)(viii) through (b)(xi), such amount shall be deducted only to the extent any such amount is (I) paid (1) during such period (other than any such amount paid during such period but prior to the Consolidated Excess Cash Flow Prepayment Date for the immediately preceding period and previously deducted from Consolidated Excess Cash Flow for the immediately preceding period) or (2) following the end of such period but prior to the Consolidated Excess Cash Flow Prepayment Date for such period and, upon the election of the Company by written notice delivered to the Administrative Agent prior to the Consolidated Excess Cash Flow Prepayment Date for such period, deducted from Consolidated Excess Cash Flow for such period and (II) not financed with long-term, non-revolving Indebtedness.

"Consolidated Excess Cash Flow Prepayment Date" has the meaning specified in Section 2.06(b)(iii).

"Consolidated Funded Indebtedness" means, as of any date of determination, for the Company and its Subsidiaries on a consolidated basis, the sum of (a) the outstanding principal amount of all obligations,

whether current or long-term, for borrowed money (including Obligations hereunder) and all obligations evidenced by bonds, debentures, notes, loan agreements or other similar instruments, (b) all purchase money Indebtedness, (c) all drawn and unreimbursed obligations (whether direct or contingent) arising under letters of credit (including standby and commercial), bankers' acceptances, bank guaranties, surety bonds and similar instruments, (d) all obligations in respect of the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business), (e) all Attributable Indebtedness, (f) without duplication, all Guarantees with respect to outstanding Indebtedness of the types specified in clauses (a) through (e) above of Persons other than the Company or any Subsidiary, and (g) all Indebtedness of the types referred to in clauses (a) through (f) above of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which the Company or a Subsidiary is a general partner or joint venturer, unless such Indebtedness is expressly made non-recourse to the Company or such Subsidiary.

"Consolidated Interest Charges" means, for any period, for the Company and its Subsidiaries on a consolidated basis, the sum of (a) all interest, premium payments, debt discount, fees, charges and related expenses of the Company and its Subsidiaries in connection with borrowed money (including capitalized interest) or in connection with the deferred purchase price of assets, in each case to the extent treated as interest in accordance with GAAP, and (b) the portion of rent expense of the Company and its Subsidiaries with respect to such period under finance leases that is treated as interest in accordance with GAAP.

"Consolidated Net Income" means, for any period, for the Company and its Subsidiaries on a consolidated basis, the net earnings of the Company and its Subsidiaries (excluding extraordinary gains and extraordinary losses) for that period.

"Consolidated Secured Indebtedness" means, as of any date of determination, for the Company and its Subsidiaries on a consolidated basis, all Consolidated Funded Indebtedness secured by Liens.

"Consolidated Secured Leverage Ratio" means, as of any date of determination, the ratio of (a) Consolidated Secured Indebtedness as of such date to (b) Consolidated EBITDA for the period of the four (4) fiscal quarters most recently ended.

"Consolidated Total Leverage Ratio" means, as of any date of determination, the ratio of (a) Consolidated Funded Indebtedness as of such date to (b) Consolidated EBITDA for the period of the four (4) fiscal quarters most recently ended.

"Consolidated Working Capital" means, as of any date of determination, Consolidated Current Assets as of such date minus Consolidated Current Liabilities as of such date; provided that there shall be excluded (a) the effect of reclassification during such period between current assets and long term assets and current liabilities and long term liabilities (with a corresponding restatement of the prior period to give effect to such reclassification), (b) the effect of any Disposition of any Person, facility or line of business or acquisition of any Person, facility or line of business during such period, (c) the effect of any fluctuations in the amount of accrued and contingent obligations under any Swap Contract, (d) the application of purchase or recapitalization accounting and (e) non-cash changes in redemption settlement assets related to unrealized gains and losses reported as a component of accumulated other comprehensive income (loss).

"Contractual Obligation" means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract

or otherwise. "Controlling" and "Controlled" have meanings correlative thereto. Without limiting the generality of the foregoing, a Person shall be deemed to be Controlled by another Person if such other Person possesses, directly or indirectly, power to vote fifteen percent (15%) or more of the securities having ordinary voting power for the election of directors, managing general partners or the equivalent.

"Controlled Account" means each deposit account and securities account that is subject to an account control agreement and/or blocked account agreement in form and substance reasonably satisfactory to the Administrative Agent and the applicable L/C Issuer.

"Corresponding Debt" has the meaning specified in Section 10.24(a).

"Credit Extension" means each of the following: (a) a Borrowing and (b) an L/C Credit Extension.

"Credit Party" means each L/C Issuer, the Swing Line Lender, and each Lender.

"Daily Simple SOFR" with respect to any applicable determination date means the secured overnight financing rate ("SOFR") published on such date by the Federal Reserve Bank of New York, as the administrator of the benchmark (or a successor administrator) on the Federal Reserve Bank of New York's website (or any successor source).

"Debt Issuance" means the issuance by any Loan Party or any of their respective Subsidiaries of any Indebtedness other than Indebtedness permitted under Section 7.03.

"Debtor Relief Laws" means the Bankruptcy Code, the Bankruptcy and Insolvency Act (Canada), the Companies' Creditors Arrangement Act (Canada), the Winding-Up and Restructuring Act (Canada), the Dutch Bankruptcy Code (Faillissementswet), and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States, Canada or other applicable jurisdictions (including any applicable foreign jurisdiction) from time to time in effect and affecting the rights of creditors generally.

"Default" means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

"Default Rate" means (a) when used with respect to Obligations other than Letter of Credit Fees, an interest rate equal to (i) the Base Rate plus (ii) the Applicable Rate, if any, applicable to Base Rate Loans plus (iii) 2% per annum; provided, however, that with respect to a Eurocurrency Rate Loan or an Alternative Currency Loan, the Default Rate shall be an interest rate equal to the interest rate (including any Applicable Rate) otherwise applicable to such Loan plus 2% per annum, and (b) when used with respect to Letter of Credit Fees, a rate equal to the Applicable Rate plus 2% per annum.

"Defaulting Lender" means, subject to Section 2.18(b), any Lender that (a) has failed to (i) fund all or any portion of its Loans within two (2) Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Company in writing that such failure is the result of such Lender's determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent, any L/C Issuer, the Swing Line Lender or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit or Swing Line Loans) within two (2) Business Days of the date when due, (b) has notified the Company, the Administrative Agent, any L/C Issuer or the Swing Line Lender in writing that it does not intend to comply with its funding obligations hereunder, or has made a public

statement to that effect (unless such writing or public statement relates to such Lender's obligation to fund a Loan hereunder and states that such position is based on such Lender's determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three (3) Business Days after written request by the Administrative Agent or the Company, to confirm in writing to the Administrative Agent and the Company that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Company), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation, the Canada Deposit Insurance Corporation or any other state, provincial or federal regulatory authority acting in such a capacity or (iii) become the subject of a Bail-In Action; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any Equity Interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or (unless such Lender is an agent for all purposes of Her Majesty in right of Canada) from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above, and of the effective date of such status, shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.18(b)) as of the date established therefor by the Administrative Agent in a written notice of such determination, which shall be delivered by the Administrative Agent to the Company, the L/C Issuers, the Swing Line Lender and each other Lender promptly following such determination.

"Designated Borrower" has the meaning specified in the introductory paragraph hereto.

"Designated Borrower Notice" has the meaning specified in Section 2.15.

"Designated Borrower Request and Assumption Agreement" has the meaning specified in Section 2.15.

"Designated Lender" has the meaning specified in Section 2.19.

"Designated Jurisdiction" means any country or territory to the extent that such country or territory itself is the subject of any comprehensive Sanction (currently, Crimea, Cuba, Iran, North Korea, and Syria).

"Disposition" or "Dispose" means the sale, transfer, license, lease or other disposition (including any Sale and Leaseback Transaction) of any property by any Person, including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith.

"Disposition Reserves" has the meaning specified in the definition of "Net Cash Proceeds".

"Disqualified Institution" means, on any date, (a) as of the Closing Date, any Person set forth on Schedule 10.06, (b) following the Closing Date, any other Person that is a competitor of the Company or any of its Subsidiaries, which Person has been designated by the Company as a "Disqualified Institution" by written notice (specifying such Person by legal name) to the Administrative Agent and the Lenders (by posting such notice to the Platform) not less than two (2) Business Days prior to such date and (c) any

Affiliates of any such entities identified under clauses (a) and (b) of this definition that are either (i) clearly identifiable as Affiliates on the basis of such Affiliate's legal name or (ii) identified in writing by legal name in a written notice to the Administrative Agent and the Lenders not less than 2 Business Days prior to such date; provided, that, the foregoing shall not apply to retroactively disqualify any Person that has previously acquired an assignment in the Loans or Commitments under this Agreement to the extent that any such Person was not a Disqualified Institution at the time of the applicable assignment; provided, further, that "Disqualified Institutions" shall exclude (i) any Person that the Company has designated as no longer being a "Disqualified Institution" by written notice delivered to the Administrative Agent and the Lenders from time to time and (ii) any bona fide debt fund or investment vehicle of any competitor of the Company that is engaged in making, purchasing, holding or otherwise investing in commercial loans, fixed-income instruments, bonds and similar extensions of credit in the ordinary course of business with separate fiduciary duties to investors in such fund or vehicle.

"Dollar" and "$" mean lawful money of the United States.

"Dollar Equivalent" means, for any amount, at the time of determination thereof, (a) if such amount is expressed in dollars, such amount, (b) if such amount is expressed in an Alternative Currency, the equivalent of such amount in dollars determined by using the rate of exchange for the purchase of dollars with the Alternative Currency last provided (either by publication or otherwise provided to the Administrative Agent or the applicable L/C Issuer, as applicable) by the applicable Bloomberg source (or such other publicly available source for displaying exchange rates) on date that is two (2) Business Days immediately preceding the date of determination (or if such service ceases to be available or ceases to provide such rate of exchange, the equivalent of such amount in dollars as determined by the Administrative Agent or the applicable L/C Issuer, as applicable, using any method of determination it deems appropriate in its sole discretion) and (c) if such amount is denominated in any other currency, the equivalent of such amount in dollars as determined by the Administrative Agent or the applicable L/C Issuer, as applicable, using any method of determination it deems appropriate in its sole discretion. Any determination by the Administrative Agent or the applicable L/C Issuer pursuant to clauses (b) or (c) above shall be conclusive absent manifest error.

"DQ List" has the meaning specified in Section 10.06(h)(iv).

"Dutch Fiscal Unity" means a fiscal unity (*fiscale eenheid*) for Dutch Corporate income tax or value added tax purposes.

"Dutch Loan Party" means a Loan Party resident for tax purposes in the Netherlands and includes any Loan Party carrying on a business through a permanent establishment or deemed permanent establishment taxable in the Netherlands.

"Dutch Security Agreements" means (a) that certain Dutch Security Agreement, dated the Closing Date, executed in favor of the Administrative Agent by certain Loan Parties and (b) the Dutch Share Pledges, dated the Closing Date, executed in favor of the Administrative Agent by certain Loan Parties.

"Early Opt-in Effective Date" means, with respect to any Early Opt-in Election, the sixth (6th) Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, so long as the Administrative Agent has not received, by 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, written notice of objection to such Early Opt-in Election from Lenders comprising the Required Lenders.

"Early Opt-in Election" means the occurrence of:

(a) a determination by the Administrative Agent, or a notification by the Company to the Administrative Agent that the Company has made a determination, that U.S. Dollar-denominated syndicated credit facilities currently being executed, or that include language similar

to that contained in Section 3.03(c), are being executed or amended (as applicable) to incorporate or adopt a new benchmark interest rate to replace LIBOR, and

(b) the joint election by the Administrative Agent and the Company to replace LIBOR with a Benchmark Replacement and the provision by the Administrative Agent of written notice of such election to the Lenders.

"EEA Financial Institution" means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

"EEA Member Country" means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"EEA Resolution Authority" means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"Electronic Record" and "Electronic Signature" shall have the meanings assigned to them, respectively, by 15 USC §7006, as it may be amended from time to time.

"Eligible Assignee" means any Person that meets the requirements to be an assignee under Section 10.06(b) (subject to such consents, if any, as may be required under Section 10.06(b)(iii)). For the avoidance of doubt, any Disqualified Institution is subject to Section 10.06(h).

"Eligible Currency" means any lawful currency other than Dollars that is readily available, freely transferable and convertible into Dollars in the international interbank market available to the Revolving Lenders in such market and as to which a Dollar Equivalent may be readily calculated. If, after the designation by the Revolving Lenders or the applicable L/C Issuer, as applicable, of any currency as an Alternative Currency, any change in currency controls or exchange regulations or any change in the national or international financial, political or economic conditions are imposed in the country in which such currency is issued, result in, in the reasonable opinion of the Administrative Agent or the Required Revolving Lenders (in the case of any Revolving Loans to be denominated in an Alternative Currency) or the applicable L/C Issuer (in the case of any Letter of Credit to be denominated in an Alternative Currency), (a) such currency no longer being readily available, freely transferable and convertible into Dollars, (b) a Dollar Equivalent is no longer readily calculable with respect to such currency, (c) providing such currency is impracticable for the Revolving Lenders or (d) no longer a currency in which the Required Revolving Lenders are willing to make such Credit Extensions (each of clauses (a), (b), (c), and (d) a "Disqualifying Event"), then the Administrative Agent shall promptly notify the Revolving Lenders, the L/C Issuers and the Company, and such country's currency shall no longer be an Alternative Currency until such time as the Disqualifying Event(s) no longer exist. Within five (5) Business Days after receipt of such notice from the Administrative Agent, the applicable Borrowers shall repay all Revolving Loans denominated in such currency to which the Disqualifying Event applies or convert such Revolving Loans into the Dollar Equivalent of Loans in Dollars, subject to the other terms contained herein.

"Environmental Laws" means any and all federal, state, provincial, territorial, local, foreign and other applicable statutes, laws, regulations, ordinances, rules, judgments, orders, decrees or agreements with Governmental Authorities relating to pollution and the protection of the environment or the release of any materials into the environment, including those related to hazardous substances or wastes, air emissions and discharges to waste or public systems.

"Environmental Liability" means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Company, any other Loan Party or any of their respective Subsidiaries directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"Environmental Permit" means any permit, approval, identification number, license or other authorization required under any Environmental Law.

"Equity Interests" means, with respect to any Person, all of the shares of capital stock of (or other ownership or profit interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination.

"ERISA" means the Employee Retirement Income Security Act of 1974.

"ERISA Affiliate" means any trade or business (whether or not incorporated) under common control with the Company within the meaning of Section 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

"ERISA Event" means (a) a Reportable Event with respect to a Pension Plan; (b) the withdrawal of the Company or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which such entity was a "substantial employer" as defined in Section 4001(a)(2) of ERISA or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by the Company or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is insolvent within the meaning of Section 4245 of ERISA; (d) the filing of a notice of intent to terminate or the treatment of a Pension Plan or Multiemployer Plan amendment as a termination under Section 4041 or 4041A of ERISA; (e) the institution by the PBGC of proceedings to terminate a Pension Plan; (f) any event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan; (g) the determination that any Pension Plan is considered in at-risk status (within the meaning of Section 430 of the Code or Section 303 of ERISA) or that a Multiemployer Plan is in endangered or critical status (within the meaning of Section 432 of the Code or Section 305 of ERISA); or (h) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Company or any ERISA Affiliate.

"ESTR" means, in relation to any day:

(a) the Euro short-term rate administered by the European Central Bank (or any other person which takes over the administration of that rate) displayed (before any correction, recalculation or republication by the administrator) on page "EUROSTR=" of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate); or

(b) if the rate otherwise to be determined by clause (a) is not available for ESTR for any day the applicable ESTR shall the equal the rate notified to the Administrative Agent by the Swing Line Lender as soon as practicable, and in any event before interest is due to be paid in respect of that Swing Line Loan, to be that which expresses as a percentage rate per annum the cost to the relevant Swing Line Lender of funding its participation in that Swing Line Loan for that day from whatever source it may reasonably select;

provided that if any day during an Interest Period for a Euro Swing Line Rate Loan is not a TARGET Day, ESTR on that day will be ESTR applicable on the immediately preceding TARGET Day.

"EU Bail-In Legislation Schedule" means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

"Euro" and "€" mean the single currency of the Participating Member States.

"Euro Swing Line Loan" has the meaning specified in Section 2.05(a)

"Euro Swing Line Rate Loan" means any Swing Line Loan bearing interest at a rate determined by reference to ESTR.

"Euro Swing Line Sublimit" means an amount equal to the lesser of (a) $10,000,000, as such amount may be adjusted from time to time in accordance with this Agreement, and (b) the Aggregate Revolving Commitments less the U.S. Dollar Swing Line Sublimit at such time. The Euro Swing Line Sublimit is part of, and not in addition to, the Aggregate Revolving Commitments.

"Eurocurrency Rate" means, for any Interest Period with respect to any Credit Extension:

(a) denominated in Dollars, the rate per annum equal to the London Interbank Offered Rate as administered by ICE Benchmark Administration (or any other Person that takes over the administration of such rate for such currency for a period equal in length to such Interest Period) ("LIBOR"), as published on the applicable Bloomberg screen page (or such other commercially available source providing such quotations as may be designated by the Administrative Agent from time to time) at or about 11:00 a.m. (London time) on the Rate Determination Date, for deposits in the relevant currency, with a term equivalent to such Interest Period;

(b) for any interest calculation with respect to a Base Rate Loan on any date, the rate per annum equal to LIBOR, at or about 11:00 a.m., London time determined two London Banking Days prior to such date for U.S. Dollar deposits with a term of one month commencing that day; and

(c) if the Eurocurrency Rate shall be less than (i) with respect to the Revolving Facility and the Term A Loan, zero, such rate shall be deemed zero for purposes of this Agreement and (ii) with respect to the Term B Loan, 0.50%, such rate shall be deemed 0.50% for purposes of this Agreement.

"Eurocurrency Rate Loan" means a Loan that bears interest at a rate based on clause (a) of the definition of "Eurocurrency Rate". Eurocurrency Rate Loans may only be denominated in Dollars.

"European Insolvency Regulation" means Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (recast).

"Event of Default" has the meaning specified in Section 8.01.

"Excluded Accounts" means any (a) account solely used as a payroll account, (b) zero balance account, (c) account solely used as a withholding tax, trust or fiduciary account, in each case, for the benefit of third parties (other than Loan Parties), and (d) account solely used as a pension fund, escrow (including, without limitation, any escrow accounts for the benefit of any Loan Party's customers but excluding any escrow accounts for the benefit of any Loan Party).

"Excluded Property" means, with respect to any Loan Party, (a) any owned or leased real property, (b) Excluded Accounts and any deposit accounts or securities accounts (for which a perfected Lien thereon is not effected either by filing of a PPSA financing statement or an RPMRR (Quebec) registration), (c) [reserved], (d) any Equity Interests of any Person that is not a Subsidiary, to the extent an assignment, pledge or grant thereof requires, pursuant to the constituent documents of such Person or any related joint venture, shareholder or similar agreement binding on any shareholder, partner or member of such Person, the consent of any governing body or of Persons (other than the Company or any of its Subsidiaries) holding Equity Interests in such Person and such consent shall not have been obtained, (e) any property which, subject to the terms of Section 7.09, is subject to a Lien of the type described in Section 7.01(i) pursuant to documents which prohibit such Loan Party from granting any other Liens in such property, (f) any lease, license, contract, property rights or agreement to which such Loan Party is a party or any of its respective rights or interests therein and property subject thereto if and for so long as the grant of a security interest therein shall constitute or result in (i) the abandonment, invalidation or unenforceability of any right, title or interest of such Loan Party therein or (ii) a breach or termination pursuant to the terms of, or a default under, any such lease, license, contract, property rights or agreement or under applicable law (other than to the extent that any such term would be rendered ineffective pursuant to Section 9-406, 9-407, 9-408 or 9-409 of the UCC or pursuant to the PPSA (or any successor provision or provisions) or any other applicable law of the Netherlands or Luxembourg); provided that to the extent permitted under local law, a security interest shall attach immediately (and such lease, license, contract, property rights or agreement or the rights or interest therein or property thereunder, as applicable, shall immediately cease to be Excluded Property) at such time as the condition causing such abandonment, invalidation or unenforceability shall be remedied, and, to the extent severable, shall attach immediately to any portion of such lease, license, contract, property rights or agreement or the rights or interests therein or property thereunder (and such portion of such lease, license, contract, property rights or agreement or the rights or interests therein or property thereunder shall immediately cease to be Excluded Property) that does not result in any of the consequences specified in the foregoing clauses (i) or (ii); provided, further, that in any jurisdiction where a security interest in favor of the Administrative Agent shall not immediately attach when such lease, license, contract, property rights or agreement or the rights or interests therein or property thereunder shall cease to constitute Excluded Property, upon the written request of the Administrative Agent such Loan Party Agent shall use commercially reasonable efforts to cause a security interest in favor of the Administrative Agent to attach thereto, (g) at any time any Permitted Securitization Transaction is outstanding, (i) any Securitized Asset that is subject thereto and (ii) the Equity Interests of the Special Purpose Subsidiary for such Permitted Securitization Transaction, (h) at any time any Permitted Receivables Transaction is outstanding, the accounts receivable subject thereto, (i) consumer goods (as defined under the PPSA) and the last day of the term of any lease or agreement for lease of real property, (j) redemption settlement assets of LoyaltyOne, Co. that are required to be reserved for collectors in the AIR MILES® Reward Program, together with all investments thereof and all interest, dividends and other amounts earned or derived therefrom, (k) tax refund

proceeds subject to rights of ADS under the Form 10 Transaction Documents, (l) motor vehicles and other assets subject to certificates of title, to the extent a Lien thereon cannot be perfected by the filing of a UCC or PPSA financing statement (or analogous procedures under applicable Laws in Canada or the Netherlands), and (m) other assets for which the cost or other negative consequence of obtaining or perfecting a security interest exceeds is excessive in relation to the value to the Lenders of obtaining or perfecting such security interests, as determined by the Administrative Agent in its sole discretion; provided, however, that the security interest granted under the Loan Documents in favor of the Administrative Agent shall attach immediately to any asset of such Loan Party at such time as such asset ceases to meet any of the criteria for "Excluded Property" described in any of the foregoing clauses (a) through (m), including if the terms of the agreement(s) relating thereto that prohibit or limit the pledge or granting of security interest therein, that would give rise to a violation or invalidation of the agreement(s) with respect thereto, (i) are no longer in effect or (ii) have been waived by the other party to any such lease, license or other agreement.

"Excluded Subsidiary" means (a) each Subsidiary of the Company organized in a jurisdiction other than the United States, Canada, the Netherlands and Luxembourg, (b) LoyaltyOne Travel Services Co., a Nova Scotia unlimited company, but only so long as it, together with its direct and indirect Subsidiaries, has total Gross Assets of less than $50,000,000 (it being understood that in such case, joining such Subsidiary as a Guarantor shall be subject to a cost-benefit analysis between the Company and the Administrative Agent), (c) Merison Retail B.V., Merison Group B.V., Max Holding B.V., Edison International Concept & Agencies B.V., and Brand Loyalty Special Promotions B.V., provided that any such entity shall cease to be an Excluded Subsidiary, and shall at such time otherwise be subject to the provisions hereof, if it either (i) is not an Immaterial Subsidiary at any time or (ii) has not been dissolved by no later than the date that is 2 years after the Closing Date (or such later date as the Administrative Agent may agree), (d) any Special Purpose Subsidiary, (e) any Subsidiary that is prohibited by applicable Law or Contractual Obligation existing on the Closing Date (or, with respect to any Subsidiary acquired by the Company or a Subsidiary (and so long as such Contractual Obligation was not incurred in contemplation of such acquisition), on the date such Subsidiary is so acquired) from providing the Guaranty, or if such Guaranty would require the consent, approval, license or authorization of any Governmental Authority or other third party, unless such consent, approval, license or authorization has been received, (f) each Subsidiary of the Company that is a joint venture or that is not a wholly-owned Subsidiary (provided that this clause (f) shall not apply to any Subsidiary that is not wholly-owned by virtue of either (A) the issuance of directors qualifying shares or similar shares under relevant Law or (B) a *de minimis* portion of the Equity Interests of such Loan Party being held by a Person that is not an Affiliate of the Company other than for a bona fide business purpose (and not to evade the collateral and guarantee requirements under this Agreement or the other Loan Documents)) and (g) any other Subsidiary with respect to which the Administrative Agent and the Company reasonably agree that the burden or cost of providing the Guaranty shall outweigh the benefits to be obtained by the Lenders therefrom. Notwithstanding anything to the contrary in this Agreement, neither any Borrower (including, for the avoidance of doubt, any Designated Borrower) nor any Subsidiary that is part of a "Dutch Fiscal Unity" with any Borrower or any Guarantor shall in any such case constitute an Excluded Subsidiary.

"Excluded Swap Obligation" means, with respect to any Loan Party, any Swap Obligation if, and to the extent that, all or a portion of the Guaranty of such Loan Party of, or the grant under a Loan Document by such Loan Party of a security interest to secure, such Swap Obligation (or any Guarantee thereof) is or becomes illegal under the Commodity Exchange Act (or the application or official interpretation thereof) by virtue of such Loan Party's failure for any reason to constitute an "eligible contract participant" as defined in the Commodity Exchange Act (determined after giving effect to any applicable "keepwell" provisions in any Loan Document and any and all Guarantees of such Loan Party's Swap Obligations by other Loan Parties) at the time the Guaranty of such Loan Party, or grant by such Loan Party of a security interest, becomes effective with respect to such Swap Obligation. If a Swap Obligation arises under a

Master Agreement governing more than one Swap Contract, such exclusion shall apply to only the portion of such Swap Obligation that is attributable to Swap Contracts for which such Guaranty or security interest is or becomes illegal.

"Excluded Taxes" means any of the following Taxes imposed on or with respect to any Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the Laws of, or having its principal office or, in the case of any Lender, its Lending Office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a Law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Company under Section 10.13) or (ii) such Lender changes its Lending Office, except in each case to the extent that, pursuant to Section 3.01(a)(ii), 3.01(a)(iii) or 3.01(c), amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its Lending Office, (c) Taxes attributable to such Recipient's failure to comply with Section 3.01(e) and (d) any U.S. federal withholding Taxes imposed pursuant to FATCA.

"Existing Credit Agreement" means that certain Secured Facilities Agreement, dated April 3, 2020, between Brand Loyalty Group B.V., certain subsidiaries of Brand Loyalty Group B.V. party thereto, Deutsche Bank AG, Amsterdam and Coöperatieve Rabobank U.A. ("Rabobank"), as arrangers, the financial institutions party thereto as lenders, and Rabobank, as facility agent and as security agent.

"Existing Letters of Credit" means those certain letters of credit set forth on Schedule 1.01. Existing Letters of Credit shall be deemed, as of the Closing Date, to be outstanding under the Revolving Facility.

"FATCA" means Sections 1471 through 1474 of the Code, as of the Closing Date (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such Sections of the Code.

"Federal Funds Rate" means, for any day, the rate per annum equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of one percent (1%)) charged to Bank of America on such day on such transactions as determined by the Administrative Agent and (c) if the Federal Funds Rate shall be less than zero, such rate shall be deemed zero for purposes of this Agreement.

"Fee Letters" means, collectively or individually as the context may indicate, each of (a) the letter agreement, dated as of September 29, 2021 among the Company, BofA Securities and Bank of America and (b) the letter agreement, dated as of September 29, 2021 among the Company, BofA Securities and each Arranger.

"Form 10" means the Form 10 (together with any exhibits thereto) filed with the SEC in the Company's name relating to the Spinoff.

"Form 10 Transaction Documents" means the agreements entered into among ADS, the Company, and certain of their Subsidiaries in connection with the Form 10 Transactions, including (a) a Separation and Distribution Agreement, (b) a Transition Services Agreement, (c) a Tax Matters Agreement, (d) an Employee Matters Agreement, and (e) a Registration Rights Agreement, which documents shall collectively govern the terms of the post-Spinoff sharing and allocations of assets and liabilities, services (and the sharing thereof), tax matters, employees and securities offering registrations.

"Form 10 Transactions" means the individual transactions entered into in connection with the Spinoff on substantially the same terms as set forth in the Form 10 and Form 10 Transaction Documents (with non-material changes or other additional non-material transactions, steps or terms that are not adverse to any material interest of the Lenders being considered to be "on substantially the same terms" as the other transactions (including payments) contemplated by the Form 10 Transaction Documents).

"FRB" means the Board of Governors of the Federal Reserve System of the United States.

"Fronting Exposure" means, at any time there is a Defaulting Lender, (a) with respect to each L/C Issuer, such Defaulting Lender's Applicable Percentage of the Outstanding Amount of all outstanding L/C Obligations relating to Letters of Credit issued by such L/C Issuer other than L/C Obligations as to which such Defaulting Lender's participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof, and (b) with respect to the Swing Line Lender, such Defaulting Lender's Applicable Percentage of Swing Line Loans other than Swing Line Loans as to which such Defaulting Lender's participation obligation has been reallocated to other Lenders in accordance with the terms hereof.

"Fund" means any Person (other than a natural Person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities.

"GAAP" means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or such other principles as may be approved by a significant segment of the accounting profession in the United States, that are applicable to the circumstances as of the date of determination, consistently applied.

"Governmental Authority" means the government of the United States, Canada or any other nation, or of any political subdivision thereof, whether state, provincial, territorial or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including, without limitation, the Financial Conduct Authority, the Prudential Regulation Authority and any supra-national bodies such as the European Union or the European Central Bank).

"Gross Assets" means, with respect to any Person (or any consolidated group of Persons) as of any date of measurement, the sum of the book value of the gross assets of such Person (or such consolidated group of Persons), as determined in accordance with GAAP.

"Guarantee" means, as to any Person, without duplication, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation payable or performable by another Person (the "primary obligor") in any manner, whether

directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other obligation of the payment or performance of such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien); provided, however, with respect to any Guarantee described in clause (b) above, to the extent the Indebtedness or obligation secured thereby has not been assumed by the guarantor or is nonrecourse to the guarantor, the amount of such Guarantee shall be deemed to be an amount equal to the lesser of the fair market value of the assets subject to such Lien or the Indebtedness or obligation secured thereby. The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term "Guarantee" as a verb has a corresponding meaning.

"Guaranty" means, collectively, the Guarantee made by the Guarantors under Article XI in favor of the Secured Parties, together with each other guaranty delivered pursuant to Section 6.14.

"Guarantors" means, collectively, each Borrower, the Subsidiaries of the Company listed on Schedule 6.14 as of the Closing Date and each other Subsidiary of the Company that shall be required to execute and deliver a guaranty or guaranty supplement pursuant to Section 6.14; provided that, if a Subsidiary is released from its obligations as a Guarantor hereunder as provided in Section 9.10(c), such Subsidiary shall cease to be a Guarantor hereunder effective upon such release.

"Hazardous Materials" means all explosive or radioactive substances or wastes and all hazardous or toxic substances or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

"Hedge Bank" means any Person in its capacity as a party to a Swap Contract that, (a) at the time it enters into a Swap Contract not prohibited under Article VII, is a Lender or an Affiliate of a Lender, or (b) at the time it (or its Affiliate) becomes a Lender, is a party to a Swap Contract not prohibited under Article VII, in each case, in its capacity as a party to such Swap Contract (even if such Person ceases to be a Lender or such Person's Affiliate ceased to be a Lender); provided, in the case of a Secured Swap Contract with a Person who is no longer a Lender (or Affiliate of a Lender), such Person shall be considered a Hedge Bank only through the stated termination date (without extension or renewal) of such Secured Swap Contract and provided, further, that for any of the foregoing to be included as a "Secured Swap Contract" on any date of determination by the Administrative Agent, the applicable Hedge Bank (other than the Administrative Agent or an Affiliate of the Administrative Agent) must have delivered a Secured Party Designation Notice to the Administrative Agent prior to such date of determination.

"HMT" has the meaning specified in the definition of "Sanction(s)".

"Honor Date" has the meaning specified in Section 2.03(c).

"Hypothecary Representative" has the meaning specified in Section 9.01.

"IFRS" means international accounting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements delivered under or referred to herein.

"Immaterial Subsidiary" means any Subsidiary of the Company that, together with its direct and indirect Subsidiaries, has total Gross Assets of less than $50,000,000.

"Impacted Loans" has the meaning specified in Section 3.03.

"Incremental Facilities" has the meaning specified in Section 2.16.

"Incremental Facility Amendment" has the meaning specified in Section 2.16.

"Incremental Facility Commitment" has the meaning specified in Section 2.16(g).

"Incremental Revolving Increase" has the meaning specified in Section 2.16.

"Incremental Term Facility" has the meaning specified in Section 2.16.

"Incremental Term Loan" means a term loan made by a Lender to the Company under an Incremental Term Facility.

"Incremental Tranche A Facility Commitment" means an Incremental Facility Commitment in respect of an Incremental Tranche A Term Facility.

"Incremental Tranche A Term Facility" has the meaning specified in Section 2.16(h).

"Incremental Tranche A Term Loan" means a term loan made by a Lender to the Company under an Incremental Tranche A Term Facility.

"Incremental Tranche B Term Facility" has the meaning specified in Section 2.16(h).

"Incremental Tranche B Term Loan" means a term loan made by a Lender to the Company under an Incremental Tranche B Term Facility.

"Indebtedness" means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

(a) all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;

(b) all direct or contingent obligations of such Person arising under letters of credit (including standby and commercial), bankers' acceptances, bank guaranties, surety bonds and similar instruments;

(c) net obligations of such Person under any Swap Contract;

(d) all obligations of such Person to pay the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business and not past due more than 90 days);

(e) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;

(f) all Attributable Indebtedness of such Person;

(g) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any Equity Interest in such Person or any other Person, valued, in the case of a redeemable preferred interest, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends; and

(h) all Guarantees of such Person in respect of any of the foregoing.

For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, unless such Indebtedness is expressly made non-recourse to such Person, whether by Law, by contract, or by the organizational documents of such Person. The amount of any net obligation under any Swap Contract on any date shall be deemed to be the Swap Termination Value thereof as of such date. The amount of any Indebtedness described in clause (e), if such Indebtedness has not been assumed or is limited in recourse to the property subject to such Lien, shall be deemed to be an amount equal to the lesser of the fair market value of such property and the amount of the Indebtedness secured thereby.

"Indemnified Taxes" means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document and (b) to the extent not otherwise described in clause (a), Other Taxes.

"Indemnitees" has the meaning specified in Section 10.04(b).

"Information" has the meaning specified in Section 10.07.

"Interest Payment Date" means, (a) as to any Eurocurrency Rate Loan, the last day of each Interest Period applicable to such Eurocurrency Rate Loan and the Maturity Date applicable thereto; provided, however, that if any Interest Period for a Eurocurrency Rate Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates, (b) as to any Base Rate Loan (including a Swing Line Loan), the last Business Day of each March, June, September and December and the Maturity Date applicable thereto, (c) as to any Alternative Currency Daily Rate Loan, the last Business Day of each March, June, September and December and the Maturity Date applicable thereto; (d) as to any Alternative Currency Term Rate Loan, the last day of each Interest Period applicable to such Loan; provided, however, that if any Interest Period for an Alternative Currency Term Rate Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall be Interest Payment Dates; and (e) with respect to each Euro Swing Line Rate Loan, the last Business Day of each March, June, September and December and the Maturity Date applicable thereto.

"Interest Period" means, as to each Eurocurrency Rate Loan or Alternative Currency Term Rate Loan, the period commencing on the date such Eurocurrency Rate Loan or Alternative Currency Term Rate Loan is disbursed or converted to or continued as a Eurocurrency Rate Loan or Alternative Currency Term Rate Loan and ending on the date one, three or six months thereafter (in each case, subject to availability

for the interest rate applicable to the relevant currency), as selected by the applicable Borrower in its Loan Notice; provided that:

(a) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless, in the case of a Eurocurrency Rate Loan or an Alternative Currency Term Rate Loan, such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(b) any Interest Period pertaining to a Eurocurrency Rate Loan or an Alternative Currency Term Rate Loan that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(c) no Interest Period shall extend beyond the Maturity Date applicable to such Loan.

"Interim Financial Statements" means the unaudited, reviewed combined balance sheet of the Company and its Subsidiaries for the fiscal quarter ended June 30, 2021, and the related combined statements of operations, comprehensive income, changes in equity and cash flows for such fiscal year of the Company and its Subsidiaries, including the notes thereto, with respect to the carve-out of the "LoyaltyOne" segment plus an allocation of certain corporate costs, all as contained in the Form 10.

"Investment" means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests of another Person, (b) a loan, advance or capital contribution to, Guarantee of Indebtedness of or assumption of Indebtedness of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person and any arrangement pursuant to which the investor Guarantees Indebtedness of such other Person, or (c) an Acquisition. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

"IP Rights" has the meaning specified in Section 5.20.

"IRS" means the United States Internal Revenue Service.

"ISP" means, with respect to any Letter of Credit, the "International Standby Practices 1998" published by the Institute of International Banking Law & Practice, Inc. (or such later version thereof as may be in effect at the time of issuance).

"Issuer Documents" means with respect to any Letter of Credit, the Letter of Credit Application, and any other document, agreement and instrument entered into by the applicable L/C Issuer and the Company (or any Subsidiary) or in favor of the applicable L/C Issuer and relating to such Letter of Credit.

"ITA" means the Income Tax Act (Canada).

"Joinder Agreement" means a joinder agreement substantially in the form of Exhibit J or such other form as may be approved by the Administrative Agent, in either case, executed and delivered in accordance with the provisions of Section 6.14.

"Judgment Currency" has the meaning specified in Section 10.20.

"Junior Payment" means any principal payment on any Additional Indebtedness.

"Laws" means, collectively, all international, foreign, federal, state, provincial, territorial and local statutes, treaties, rules, binding guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the binding interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, and directed duties of any Governmental Authority, in each case whether or not having the force of law.

"L/C Advance" means, with respect to each Revolving Lender, such Revolving Lender's funding of its participation in any L/C Borrowing in accordance with its Applicable Percentage. All L/C Advances shall be denominated in Dollars.

"L/C Borrowing" means an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed on the date when made or refinanced as a Borrowing. All L/C Borrowings shall be denominated in Dollars.

"L/C Credit Extension" means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the increase of the amount thereof.

"L/C Issuer" means each of (a) Bank of America (through itself or through one of its designated Affiliates or branch offices), (b) any other Lender (through itself or through one of its designated Affiliates or branch offices) appointed by the Company (with the consent of such Lender and the Administrative Agent) as an L/C Issuer by written notice to the Administrative Agent, (c) any Lender (through itself or through one of its designated Affiliates or branch offices) appointed by the Company (with the consent of such Lender and the Administrative Agent) as an L/C Issuer by written notice to the Administrative Agent as a replacement for any L/C Issuer who, at the time of such notice, is a Defaulting Lender and (d) any successor issuer of Letters of Credit hereunder, in each case its capacity as issuer of Letters of Credit hereunder; provided that no more than three L/C Issuers (including Bank of America) may provide Letters of Credit hereunder in Alternative Currencies at any time.

"L/C Obligations" means, as at any date of determination, the aggregate amount available to be drawn under all outstanding Letters of Credit plus the aggregate of all Unreimbursed Amounts, including all L/C Borrowings. For purposes of computing the amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.09. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of Rule 3.14 of the ISP, such Letter of Credit shall be deemed to be "outstanding" in the amount so remaining available to be drawn.

"LCA Election" has the meaning specified in Section 1.10.

"LCA Test Date" has the meaning specified in Section 1.10.

"Lender" means each of the Persons identified as a "Lender" on the signature pages hereto, each other Person that becomes a "Lender" in accordance with this Agreement and their successors and assigns and, as the context requires, includes the Swing Line Lender and each L/C Issuer.

"Lending Office" means, as to any Lender, the office or offices of such Lender described as such in such Lender's Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Company and the Administrative Agent which office may include any Affiliate of such

Lender or any domestic or foreign branch of such Lender or such Affiliate. Unless the context otherwise requires each reference to a Lender shall include its applicable Lending Office.

"Letter of Credit" means any letter of credit issued hereunder providing for the payment of cash upon the honoring of a presentation thereunder and shall include the Existing Letters of Credit. A Letter of

Credit may be a commercial letter of credit or a standby letter of credit. Letters of Credit may be issued in Dollars or in an Alternative Currency.

"Letter of Credit Application" means an application and agreement for the issuance or amendment of a Letter of Credit in the form from time to time in use by the applicable L/C Issuer.

"Letter of Credit Expiration Date" means the day that is seven (7) days prior to the Maturity Date then in effect for Letters of Credit (or, if such day is not a Business Day, the next preceding Business Day).

"Letter of Credit Fee" has the meaning specified in Section 2.03(h).

"Letter of Credit Sublimit" means, for each L/C Issuer, an amount equal to the lesser of (a) $50,000,000 and (b) the Aggregate Revolving Commitments. The Letter of Credit Sublimit is part of, and not in addition to, the Aggregate Revolving Commitments.

"LIBOR" has the meaning specified in the definition of Eurocurrency Rate.

"Lien" means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), hypothec, charge, or preference, priority or other security interest or preferential arrangement in the nature of a security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any financing lease having substantially the same economic effect as any of the foregoing).

"Limited Condition Acquisition" means any Permitted Acquisition by one or more of the Loan Parties or their Subsidiaries (a) that is not prohibited hereunder, (b) is financed in whole or in part with a substantially concurrent incurrence of Incremental Term Facilities and (c) whose consummation is not conditioned on the availability of, or on obtaining, third-party financing and which is consummated no more than one hundred eighty (180) days after the applicable Limited Condition Acquisition Agreement date is executed and effective.

"Limited Condition Acquisition Agreement" has the meaning specified in Section 1.10.

"Loan" means an extension of credit by a Lender to a Borrower under Article II in the form of a Revolving Loan, Swing Line Loan or Term Loan.

"Loan Documents" means, collectively, this Agreement, the Collateral Documents, each Designated Borrower Request and Assumption Agreement, each Note, each Issuer Document, each Joinder Agreement, any agreement creating or perfecting rights in Cash Collateral pursuant to the provisions of Section 2.17, the Fee Letters, each Incremental Facility Amendment, each Loan Modification Agreement, each intercreditor agreement or subordination agreement contemplated hereby and entered into by the Administrative Agent and each other agreement designated by its terms as a Loan Document (but specifically excluding any Secured Cash Management Agreement and any Secured Swap Contract).

"Loan Modification Agreement" has the meaning specified in Section 10.01(c).

"Loan Modification Offer" has the meaning specified in Section 10.01(c).

"Loan Notice" means a notice of (a) a Borrowing, (b) a conversion of Loans from one Type to the other, or (c) a continuation of Eurocurrency Rate Loans or Alternative Currency Term Rate Loans, pursuant to Section 2.02(a), which shall be substantially in the form of Exhibit A or such other form as may be approved by the Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent), appropriately completed and signed by a Responsible Officer of the applicable Borrower.

"Loan Parties" means, collectively, each Borrower and each Guarantor.

"London Banking Day" means any day on which dealings in Dollar deposits are conducted by and between banks in the London interbank Eurodollar market.

"Luxembourg" means the Grand Duchy of Luxembourg.

"Luxembourg Obligor" means an Obligor incorporated under the laws of Luxembourg or having its "centre of main interests" (as such term is defined in Article 3(1) of the European Insolvency Regulation) in Luxembourg.

"Luxembourg Receivables Pledge Agreements" means (i) the first ranking receivables pledge agreement (*gage de premier rang*) to be granted by LVI Lux Holdings over any receivables owed to it in favour of the Administrative Agent and (ii) the first ranking receivables pledge agreement (*gage de premier rang*) to be granted by LVI Lux Financing over any receivables owed to it in favour of the Administrative Agent.

"Luxembourg Share Pledge Agreement" means the first ranking share pledge agreement (*gage de premier rang*) to be granted by Loyalty Ventures Inc. over its shares in LVI Lux Holdings in favour of the Administrative Agent.

"Luxembourg Security Agreements" means the Luxembourg Share Pledge Agreement and the Luxembourg Receivables Pledge Agreements.

"Luxembourg Trade and Companies Register" means the Luxembourg register of commerce and companies (*R.C.S. Luxembourg*).

"LVI Lux Financing" means LVI Lux Financing S.à r.l. (formerly known as Alliance Data Lux Financing S.à r.l.), a private limited liability company (*société à responsabilité limitée*) incorporated under the laws of Luxembourg, having its registered office at 11-13 boulevard de la Foire, L-1528 Luxembourg and registered with the Luxembourg Trade and Companies Register under number B181593.

"LVI Lux Holdings" means LVI Lux Holdings S.à r.l. (formerly known as Alliance Data Lux Holdings S.à r.l.), a private limited liability company (*société à responsabilité limitée*) incorporated under the laws of Luxembourg, having its registered office at 11-13 boulevard de la Foire, L-1528 Luxembourg and registered with the Luxembourg Trade and Companies Register under number B181613.

"Make-Whole Amount" means, with respect to any portion of the Term B Loan that is subject to any Prepayment Premium Event, the greater of (a) 2.00% of the Term B Loan so prepaid and (b) the excess of (i) the present value at the date of such Prepayment Premium Event of the sum of (A) 102% of the principal amount of such Term B Loan on the first anniversary of the Closing Date plus (B) the present value, as determined by the Administrative Agent in accordance with accepted financial practice at the date

of such Prepayment Premium Event, of the amount of the regularly scheduled interest payments (calculated with reference to the last used Eurocurrency Rate as of the time of such Prepayment Premium Event plus the last used Applicable Margin, and with the assumption that such Eurocurrency Rate plus such Applicable Margin would have continued to apply through the first anniversary of the Closing Date had such Prepayment Premium Event not occurred), discounted to the date such Prepayment Premium Event occurred at a rate equal to the sum of (x) the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two (2) Business Days prior to such date (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) plus (y) 0.50% over (ii) the principal amount of such Term B Loan subject to such Prepayment Premium Event.

"Mandatory Cost" means any amount incurred periodically by any Lender during the term of this Agreement which constitutes fees, costs or charges imposed on lenders generally in the jurisdiction in which such Lender is domiciled, subject to regulation or has its Lending Office by any Governmental Authority which are applicable to the Credit Extensions and such Lender's Lending Office.

"Master Agreement" has the meaning specified in the definition of "Swap Contract".

"Material Adverse Effect" means (a) a material adverse change in, or a material adverse effect upon, the business, financial condition or operations of the Company and its Subsidiaries taken as a whole; (b) a material impairment of the ability of the Loan Parties to perform their material obligations under the Loan Documents; or (c) a material adverse effect upon (i) the legality, validity, binding effect or enforceability against the Loan Parties of the Loan Documents or (ii) the material rights and remedies of the Administrative Agent and the Lenders under the Loan Documents.

"Material Contract" means, with respect to any Person, each contract to which such Person is a party that either (a) involves aggregate consideration payable to or by such Person of $50,000,000 or more in any fiscal year or (b) for which breach, nonperformance, cancellation or failure to renew would reasonably be expected to have a Material Adverse Effect.

"Material Subsidiary" means each Subsidiary of the Company that is not an Excluded Subsidiary or an Immaterial Subsidiary; provided that (i) in the event that as of the last day of any fiscal quarter the amount of the aggregate Gross Assets, net of intercompany amounts, of the Loan Parties does not equal at least 80% of the amount of the consolidated Gross Assets of the Company and its Subsidiaries, then concurrently with the delivery of the Compliance Certificate pursuant to Section 6.02(a) for such fiscal quarter the Company shall designate such other Subsidiaries (other than Excluded Subsidiaries, but including Immaterial Subsidiaries) to be "Material Subsidiaries" so that after such designation (and the related compliance by the Company with Sections 6.14 and 6.15), either (x) the amount of the aggregate Gross Assets, net of intercompany amounts, owned by the Loan Parties shall be at least 80% of the amount of the consolidated Gross Assets of the Company and its Subsidiaries or (y) the Company and all Subsidiaries of the Company that are not Excluded Subsidiaries shall be Material Subsidiaries and Loan Parties, and (ii) in any event any Subsidiary of the Company organized in the Netherlands that is part of a "Dutch Fiscal Unity" with any Borrower or any Guarantor shall be a Material Subsidiary.

"Maturity Date" means (a) as to the Revolving Loans, Swing Line Loans, Letters of Credit (and the related L/C Obligations) and the Term A Loan, November 3, 2026 and (b) as to the Term B Loan, November 3, 2027; provided, however, that, in each case, if such date is not a Business Day, the Maturity Date shall be the next preceding Business Day.

"Minimum Collateral Amount" means, at any time, (a) with respect to Cash Collateral consisting of cash or deposit account balances provided to reduce or eliminate Fronting Exposure during the existence of a Defaulting Lender, an amount equal to one hundred three percent (103%) of the Fronting Exposure of each applicable L/C Issuer with respect to Letters of Credit issued and outstanding at such time, (b) with respect to Cash Collateral consisting of cash or deposit account balances provided in accordance with the provisions of Section 2.17(a)(i), (a)(ii) or (a)(iii), an amount equal to one hundred three percent (103%) of the Outstanding Amount of all L/C Obligations, and (c) otherwise, an amount determined by the Administrative Agent and the applicable L/C Issuer in their sole discretion.

"Moody's" means Moody's Investors Service, Inc. and any successor thereto.

"Multiemployer Plan" means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which the Company or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions and has or would reasonably be expected to have any liability, contingent or otherwise.

"Multiple Employer Plan" means a Plan which has two or more contributing sponsors (including the Company or any ERISA Affiliate) at least two of whom are not under common control, as such a plan is described in Section 4064 of ERISA.

"Net Cash Proceeds" means the aggregate cash or Cash Equivalents proceeds received by the Company or any Subsidiary in respect of any Disposition, Debt Issuance or Recovery Event, net of (a) costs and direct expenses incurred in connection therewith (including, without limitation, legal, accounting and investment banking fees, costs, underwriting discounts, and sales commissions), (b) Taxes paid or reasonably estimated to be payable as a result thereof or in connection therewith (including pursuant to any Tax sharing arrangement), (c) in the case of any Disposition or any Recovery Event, the amount necessary to retire any Indebtedness secured by a Lien on the related property to the extent such Indebtedness is actually retired and such payment is not prohibited under Section 7.14 and (d) in connection with any Disposition, a reasonable reserve determined by the Company or such Subsidiary in its reasonable business judgment for (i) any reasonably anticipated adjustment in sale price of such asset or assets and (ii) reasonably anticipated liabilities associated with such asset or assets and retained by the Company or any Subsidiary after such Disposition, including pension and other post-employment benefit liabilities and liabilities related to environmental matters or with respect to any indemnification payments (fixed or contingent) or purchase price adjustments attributable to seller's indemnities and representations and warranties to purchaser in respect of such Disposition undertaken by the Company or such Subsidiary in connection with such Disposition (the "Disposition Reserves"); it being understood that "Net Cash Proceeds" shall include, without limitation, (a) any cash or Cash Equivalents received upon the sale or other disposition of any non-cash consideration received by the Company or any Subsidiary in any Disposition, Debt Issuance or Recovery Event and (b) any Disposition Reserves that are no longer necessary with respect to the applicable Disposition; provided, that (x) any amount of the purchase price in connection with any Disposition that is held in escrow shall not be deemed to be received by the Company or any of its Subsidiaries until such amount is paid to the Company or such Subsidiary out of escrow and (y) (i) Net Cash Proceeds received by the Company or any wholly-owned Subsidiary of the Company shall equal one hundred percent (100%) of the cash proceeds received by the Company or such Subsidiary pursuant to the foregoing definition and (ii) Net Cash Proceeds received by any Subsidiary other than a wholly-owned Subsidiary of the Company shall equal a percentage of the cash proceeds received by such Subsidiary pursuant to the foregoing definition equal to the percentage of such Subsidiary's total outstanding Equity Interests owned by the Company and its Subsidiaries.

"Non-Consenting Lender" means any Lender that does not approve any consent, waiver or amendment that (a) requires the approval of all Lenders or all affected Lenders in accordance with the terms of Section 10.01 and (b) has been approved by the Required Lenders.

"Non-Defaulting Lender" means, at any time, each Lender that is not a Defaulting Lender at such time.

"Non-Extension Notice Date" has the meaning specified in Section 2.03(b)(iii).

"Non-Reinstatement Deadline" has the meaning specified in Section 2.03(b)(iv).

"Non-U.S. Borrower" means any Borrower that is organized in a jurisdiction that is not the United States or any state or political subdivision thereof.

"Non-U.S. Lender" means, with respect to any Borrower, (a) if such Borrower is a U.S. Person, a Lender that is not a U.S. Person, and (b) if such Borrower is not a U.S. Person, a Lender that is resident or organized under the laws of a jurisdiction other than that in which such Borrower is resident for tax purposes. For purposes of this definition, the United States, each state thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

"Non-U.S. Obligor" means any Loan Party that is organized or incorporated under the laws of a jurisdiction other than the United States, a state thereof or the District of Columbia.

"Non-U.S. Subsidiary" means any Subsidiary that is organized or incorporated under the laws of a jurisdiction other than the United States, a state thereof or the District of Columbia.

"Note" has the meaning specified in Section 2.12.

"Notice of Loan Prepayment" means a notice of prepayment with respect to a Loan, which shall be substantially in the form of Exhibit C or such other form as may be approved by the Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent), appropriately completed and signed by a Responsible Officer of the applicable Borrower.

"Obligations" means (a) all advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Loan or Letter of Credit, (b) all debts, liabilities, obligations, covenants and duties of any Loan Party or any Subsidiary arising under any Secured Swap Contract and (c) all debts, liabilities, obligations, covenants and duties of any Loan Party or any Subsidiary arising under any Secured Cash Management Agreement, in the case of each of clauses (a), (b) and (c), whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including all costs and expenses incurred in connection with the enforcement and collection of the foregoing and interest and fees that accrue after the commencement by or against any Loan Party or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding; provided, however, that the "Obligations" of a Loan Party shall exclude any Excluded Swap Obligations with respect to such Loan Party.

"OFAC" means the Office of Foreign Assets Control of the United States Department of the Treasury.

"Organization Documents" means, (a) with respect to any corporation or, to the extent organized or incorporated under the laws of a foreign jurisdiction, any company, the certificate and/or articles of incorporation and the bylaws, memorandum of association, articles of association and/or memorandum and articles of association (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate and/or articles of formation or organization and operating agreement or limited liability company agreement; and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate and/or articles of formation or organization of such entity.

"Other Connection Taxes" means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

"Other Rate Early Opt-in" means the Administrative Agent and the Company have elected to replace LIBOR with a Benchmark Replacement other than a SOFR-based rate pursuant to (a) an Early Opt-in Election and (b) Section 3.03(c)(ii) and clause (2) of the definition of "Benchmark Replacement".

"Other Taxes" means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 3.06).

"Outstanding Amount" means (i) with respect to Loans on any date, the Dollar Equivalent of the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments thereof occurring on such date; and (ii) with respect to any L/C Obligations on any date, the Dollar Equivalent of the aggregate outstanding amount of such L/C Obligations on such date after giving effect to any L/C Credit Extension occurring on such date and any other changes in the aggregate amount of the L/C Obligations as of such date, including as a result of any reimbursements of Unreimbursed Amounts or any reductions in the maximum amount available for drawing under Letters of Credit taking effect on such date.

"Overnight Rate" means, for any day, (a) with respect to any amount denominated in Dollars, the greater of (i) the Federal Funds Rate and (ii) an overnight rate determined by the Administrative Agent, the applicable L/C Issuer, or the Swing Line Lender, as the case may be, in accordance with banking industry rules on interbank compensation, and (b) with respect to any amount denominated in an Alternative Currency, an overnight rate determined by the Administrative Agent or the applicable L/C Issuer, as the case may be, in accordance with banking industry rules on interbank compensation.

"Parallel Debt" has the meaning specified in Section 10.24(a).

"Pari Passu Indebtedness" means Indebtedness of the Company or any Loan Party that by its terms is secured on a *pari passu* basis to the Obligations in a manner and to an extent reasonably acceptable to the Administrative Agent (including, without limitation, the entry into intercreditor and/or subordination agreements generally acceptable to the Administrative Agent).

"Participant" has the meaning specified in Section 10.06(d).

"Participant Register" has the meaning specified in Section 10.06(d).

"Participating Member State" means any member state of the European Union that adopts or has adopted the Euro, and in each case continues to adopt, as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

"PATRIOT Act" has the meaning specified in Section 10.19.

"PBGC" means the Pension Benefit Guaranty Corporation.

"Pension Act" means the Pension Protection Act of 2006.

"Pension Funding Rules" means the rules of the Code and ERISA regarding minimum required contributions (including any installment payment thereof) to Pension Plans or Mulitemployer Plans and set forth in, with respect to plan years ending prior to the effective date of the Pension Act, Section 412 of the Code and Section 302 of ERISA, each as in effect prior to the Pension Act and, thereafter, Section 412, 430, 431, 432 and 436 of the Code and Sections 302, 303, 304 and 305 of ERISA.

"Pension Plan" means any employee pension benefit plan (including a Multiple Employer Plan, but excluding a Multiemployer Plan) that is maintained or is contributed to by the Company and any ERISA Affiliate and is either covered by Title IV of ERISA or is subject to the minimum funding standards under Section 412 of the Code, and any employee pension benefit plan that has or could reasonably be expected to have any liability, contingent or otherwise.

"Permitted Acquisition" means a non-hostile Acquisition by the Company or any Subsidiary, provided that (a) subject to the terms of Section 1.10, no Default or Event of Default has occurred and is continuing or would result from such Acquisition, (b) the property acquired (or the property of the Person acquired) in such Acquisition is used or useful in the same or a similar line of business as the Company and its Subsidiaries were engaged in on the Closing Date (or any reasonable extensions or expansions thereof), (c) in the case of an Acquisition of the Equity Interests of another Person, the board of directors (or other comparable governing body) of such other Person shall have duly approved such Acquisition, (d) subject to the terms of Section 1.10, the representations and warranties made by the Loan Parties contained in Article V or any other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct in all material respects (or, if qualified by materiality or reference to Material Adverse Effect, in all respects) on and as of the date of such Acquisition (after giving effect thereto), except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects (or, if qualified by materiality or reference to Material Adverse Effect, in all respects) as of such earlier date, (e) on and as of the date of such Acquisition (after giving effect thereto), no Loan Party or any Subsidiary has any liability or contingent liability in respect of a Canadian Defined Benefit Pension Plan in excess of the Threshold Amount or which would reasonably be expected to result in liability of any Loan Party in an aggregate amount in excess of the Threshold Amount, and (f) subject to Section 1.10, after giving effect to such Acquisition on a Pro Forma Basis, the Loan Parties are in Pro Forma Compliance (and if the aggregate consideration for such Acquisition exceeds $50,000,000, the Company shall have delivered to the Administrative Agent a Pro Forma Compliance Certificate demonstrating such Pro Forma Compliance).

"Permitted Amendments" has the meaning specified in Section 10.01(c).

"Permitted Bridge Indebtedness" means customary bridge facilities of the Company or any Subsidiary that is intended to be converted into a product that satisfies all applicable maturity and weighted average life limitations and, if not so converted into the intended conversion product, is automatically convertible into or required to be exchanged for (subject to customary conditions, including the absence of a payment or bankruptcy default) Indebtedness that satisfies all applicable maturity and weighted average life limitations.

"Permitted Credit Agreement Refinancing Indebtedness" has the meaning assigned to such term in Section 7.03(y).

"Permitted First Priority Refinancing Indebtedness" has the meaning assigned to such term in Section 7.03(y).

"Permitted Investment" means an Investment permitted under Section 7.02.

"Permitted Liens" means, at any time, Liens in respect of property of the Company or any Subsidiary permitted to exist at such time pursuant to the terms of Section 7.01.

"Permitted Receivables Transaction" has the meaning set forth in Section 7.05(u).

"Permitted Refinancing Amendment" means an amendment to this Agreement executed by the Borrower, the Administrative Agent, each Permitted Refinancing Lender and Lender that agrees to provide any portion of the Permitted Credit Agreement Refinancing Indebtedness being incurred pursuant to Section 2.21, and, in the case of Permitted Refinancing Revolving Commitments or Permitted Refinancing Revolving Loans, each L/C Issuer and the Swing Line Lender.

"Permitted Refinancing Commitments" means the Permitted Refinancing Revolving Commitments and the Permitted Refinancing Term Loan Commitments.

"Permitted Refinancing Lender" means, at any time, any bank, other financial institution or institutional investor that agrees to provide any portion of any Permitted Credit Agreement Refinancing Indebtedness pursuant to a Permitted Refinancing Amendment in accordance with Section 2.21; provided, each Permitted Refinancing Lender shall be subject to the Administrative Agent's reasonable consent (solely to the extent such consent would be required for an assignment to any such Lender pursuant to Section 10.06) and, in the case of Permitted Refinancing Revolving Commitments or Permitted Refinancing Revolving Loans, each L/C Issuer and the Swing Line Lender, in each case, to the extent any such consent would be required under Section 10.06 for an assignment of Loans or Commitments to such Permitted Refinancing Lender.

"Permitted Refinancing Loans" means the Permitted Refinancing Revolving Loans and the Permitted Refinancing Term Loans.

"Permitted Refinancing Revolving Commitments" means one or more classes of revolving credit commitments hereunder or extended Revolving Commitments that result from a Permitted Refinancing Amendment.

"Permitted Refinancing Revolving Loans" means the Revolving Loans made pursuant to any Permitted Refinancing Revolving Commitment.

"Permitted Refinancing Term Loan Commitments" means one or more classes of term loan commitments hereunder that result from a Permitted Refinancing Amendment.

"Permitted Refinancing Term Loans" means one or more classes of Term Loans that result from a Permitted Refinancing Amendment.

"Permitted Securitization Transaction" means any Securitization Transaction permitted under clause (i) of Section 7.03(j).

"Person" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

"Plan" means any employee benefit plan within the meaning of Section 3(3) of ERISA (including a Pension Plan), maintained for employees of the Company or, with respect to any such plan that is subject to Section 412 of the Code or Title IV of ERISA, any ERISA Affiliate or any such Plan to which the Company or, with respect to any such plan that is subject to Section 412 of the Code or Title IV of ERISA, any ERISA Affiliate is required to contribute on behalf of any of its employees and which is subject to ERISA and has or would reasonably be expected to have any liability, contingent or otherwise.

"Plan of Reorganization" has the meaning specified in Section 10.06(h)(iii).

"Platform" has the meaning specified in Section 6.02.

"Post-Closing Compliance Date" has the meaning specified in Section 6.19(a).

"PPSA" means the Personal Property Security Act (Ontario); provided that, if perfection or the effect of perfection or non-perfection or the priority of any security interest in any Collateral is governed by the Personal Property Security Act as in effect in a Canadian jurisdiction other than the Province of Ontario, or the Civil Code of Quebec, "PPSA" means the Personal Property Security Act as in effect from time to time in such other jurisdiction or the Civil Code of Quebec, as applicable, for purposes of the provisions hereof relating to such perfection, effect of perfection or non-perfection or priority.

"Prepayment Premium" means any Make-Whole Amount or other premium required pursuant to Section 2.06(c).

"Prepayment Premium Event" shall mean (a) any voluntary prepayment made by or on behalf of the Company of all or any portion of the outstanding principal balance of the Term B Loan, other than any regularly scheduled principal amortization payments specifically provided for in Section 2.08, (b) any mandatory prepayment made or required to be made by or on behalf of the Company of all or any portion of the outstanding principal balance of the Term B Loan pursuant to Section 2.06(b)(ii) or (iv), (c) any mandatory assignment of any portion of the outstanding principal balance of the Term B Loan under Section 10.13 as a result of such Lender being a Non-Consenting Lender with respect to an amendment that has the effect of reducing the Applicable Rate with respect to the Term B Loan (as reasonably determined by the Administrative Agent) and (d) any payment made or required to be made of all or any portion of the outstanding principal balance of the Term B Loan as a result of an acceleration, with or without notice, of all or any portion of the Obligations pursuant to Section 8.02 for any reason (including as a result of the commencement of any bankruptcy or similar case for any Loan Party). For purposes of determining the Make-Whole Amount, if a Prepayment Premium Event occurs under clause (d) above, the entire outstanding principal amount of the Term B Loan shall be deemed to have been prepaid on the date on which such Prepayment Premium Event occurs.

"Pro Forma Basis" and "Pro Forma Effect" means, in respect of a Specified Transaction, that such Specified Transaction and the following transactions in connection therewith (to the extent applicable) shall be deemed to have occurred as of the first day of the applicable four (4) fiscal quarter period for the

applicable covenant or requirement: (a) (i) with respect to any Disposition, income statement and cash flow statement items (whether positive or negative) attributable to the Person or property disposed of shall be excluded, (ii) with respect to any Investment, income statement and cash flow statement items (whether positive or negative) attributable to the Person or property acquired shall be included to the extent relating to any period applicable in such calculations to the extent (A) such items are not otherwise included in such income statement items for the Company and its Subsidiaries in accordance with GAAP or in accordance with any defined terms set forth in Section 1.01, and (B) such items are supported by financial statements or other information reasonably satisfactory to the Administrative Agent, and (iii) with respect to any Acquisition by the Company or a Subsidiary of (A) a corporation which becomes a new Subsidiary or (B) any other entity or a group of assets or an operation, provided that such operation comprises a going concern which becomes a division or part of the business of the Company or a Subsidiary (each, an "operation"), Consolidated EBITDA will include the Target EBITDA of the newly acquired Subsidiary or operation for its immediately preceding four (4) fiscal quarters completed prior to such acquisition as determined using the following method: (x) if such newly acquired Subsidiary or operation was, immediately prior to such acquisition, accounted for on a stand-alone basis, each of the components of Consolidated EBITDA applied *mutatis mutandis* as if such definition and its component definitions referred to such newly acquired Subsidiary or operation ("Target EBITDA") shall only be included in the calculation of Consolidated EBITDA for such newly acquired Subsidiary or operation, as the case may be, if Target EBITDA can be determined by reference to historical financial statements reasonably satisfactory to the Administrative Agent and (y) if such newly acquired Subsidiary or operation: (A) was not, immediately prior to such acquisition, accounted for on a stand-alone basis; or (B) was immediately prior to such acquisition, accounted for on a stand-alone basis but, in the determination of the Administrative Agent acting reasonably, the business of such newly acquired Subsidiary or operation will not be conducted by the Company or its Subsidiary, as the case may be, in substantially the same form or the same manner as conducted by the seller immediately prior to such acquisition, then subject to the satisfaction of the Administrative Agent and the Required Lenders with the method of determination thereof acting reasonably, Target EBITDA for such newly acquired Subsidiary or operation will be determined having regard to historical financial results together with, and having regard to, contractual arrangements and any other changes made or proposed to be made by the Company or its Subsidiary, as the case may be, to the business of such newly acquired Subsidiary or operation; (b) any retirement or prepayment of Indebtedness; and (c) any incurrence or assumption of Indebtedness by the Company or any of its Subsidiaries (and if such Indebtedness has a floating or formula rate, such Indebtedness shall have an implied rate of interest for the applicable period for purposes of this definition determined by utilizing the rate which is or would be in effect with respect to such Indebtedness as at the relevant date of determination).

"Pro Forma Compliance" means, with respect to any transaction, that after giving effect to such transaction on a Pro Forma Basis, the Loan Parties would be in compliance with the financial covenant set forth in Section 7.11 recomputed as of the end of such period.

"Pro Forma Compliance Certificate" means a certificate of a Responsible Officer of the Company containing reasonably detailed calculations of the financial covenant set forth in Section 7.11 recomputed as of the end of the applicable period after giving effect to the applicable transaction on a Pro Forma Basis.

"PTE" means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

"Public Lender" has the meaning specified in Section 6.02.

"Qualified ECP Guarantor" means, at any time, each Loan Party with total assets exceeding $10,000,000 or that qualifies at such time as an "eligible contract participant" under the Commodity

Exchange Act and can cause another Person to qualify as an "eligible contract participant" at such time under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

"Rate Determination Date" means two (2) Business Days prior to the commencement of such Interest Period (or such other day as is generally treated as the rate fixing day by market practice in such interbank market, as determined by the Administrative Agent; provided that, to the extent such market practice is not administratively feasible for the Administrative Agent, then "Rate Determination Date" means such other day as otherwise reasonably determined by the Administrative Agent).

"Recipient" means the Administrative Agent, any Lender, any L/C Issuer or any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder.

"Recovery Event" means any casualty loss of, damage to or destruction of, or any condemnation or other taking for public use of, any property of the Company or other Loan Party.

"Register" has the meaning specified in Section 10.06(c).

"Registered Equivalent Notes" means, with respect to any notes originally issued in an offering pursuant to Rule 144A under the Securities Act or other private placement transaction under the Securities Act, substantially identical notes (having the same guarantees and collateral) issued in a dollar-for-dollar exchange therefor pursuant to an exchange offer registered with the SEC.

"Related Indemnified Parties" means, with respect to any Indemnitee, (a) any Affiliate of such Person, (b) the respective directors, officers or employees of such Person or any of its Affiliates and (c) the respective agents of such Person or any of its Affiliates, in the case of this clause (c), acting on behalf of, or at the express instructions of, such Person or Affiliate; provided that each such reference to an Affiliate, director, officer or employee shall refer to an Affiliate, director, officer or employee involved in the execution or delivery of this Agreement or any other Loan Document, the performance by the parties hereto of their respective obligations hereunder or thereunder, the consummation of the transactions contemplated hereby or thereby, or, in the case of the Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents

"Related Parties" means, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and of such Person's Affiliates.

"Relevant Governmental Body" means (a) with respect to Loans denominated in Dollars, the Federal Reserve Board and/or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board and/or the Federal Reserve Bank of New York, (b) with respect to Loans denominated in Euros, the European Central Bank, or a committee officially endorsed or convened by the European Central Bank or, in each case, any successor thereto and (c) with respect to Loans denominated in any other Agreed Currency, (i) the central bank for the currency in which such Loan is denominated or any central bank or other supervisor which is responsible for supervising either (x) such Successor Rate or (y) the administrator of such Successor Rate or (ii) any working group or committee officially endorsed or convened by (w) the central bank for the currency in which such Successor Rate is denominated, (x) any central bank or other supervisor that is responsible for supervising either (A) such Successor Rate or (B) the administrator of such Successor Rate, (y) a group of those central banks or other supervisors or (z) the Financial Stability Board or any part thereof.

"Relevant Rate" means with respect to any Credit Extension denominated in (a) Dollars, the Eurocurrency Rate or (b) Euro, EURIBOR, as applicable.

"Removal Effective Date" has the meaning specified in Section 9.06(b).

"Reportable Event" means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30-day notice period has been waived.

"Request for Credit Extension" means (a) with respect to a Borrowing, conversion or continuation of Loans, a Loan Notice, (b) with respect to an L/C Credit Extension, a Letter of Credit Application, and (c) with respect to a Swing Line Loan, a Swing Line Loan Notice.

"Required Lenders" means, at any time, Lenders having Total Credit Exposures representing more than fifty percent (50%) of the Total Credit Exposures of all Lenders. The Total Credit Exposure of any Defaulting Lender shall be disregarded in determining Required Lenders at any time; provided that, the amount of any participation in any Swing Line Loan and Unreimbursed Amounts that such Defaulting Lender has failed to fund that have not been reallocated to and funded by another Lender shall be deemed to be held by the Lender that is the Swing Line Lender or an L/C Issuer, as the case may be, in making such determination.

"Required Pro Rata Facilities Lenders" means, at any time, Lenders holding in the aggregate more than fifty percent (50%) of sum of (a) the aggregate Revolving Credit Exposures of all the Lenders at such time, plus (b) the unfunded Term A Loan Commitments at such time, plus (c) the outstanding Term A Loan, plus (d) the unfunded Incremental Tranche A Facility Commitments at such time, plus (e) the outstanding Incremental Tranche A Term Loans. The Revolving Credit Exposure, Term A Loan Commitments, Term A Loan, Incremental Tranche A Facility Commitments and Incremental Tranche A Term Loans of any Defaulting Lender shall be disregarded in determining Required Pro Rata Facilities Lenders at any time; provided that the amount of any participation in any Swing Line Loan and Unreimbursed Amounts that such Defaulting Lender has failed to fund that have not been reallocated to and funded by another Lender shall be deemed to be held by the Lender that is the Swing Line Lender or applicable L/C Issuer, as the case may be, in making such determination.

"Required Revolving Lenders" means, at any time, Lenders having Revolving Credit Exposures representing more than fifty percent (50%) of the Revolving Credit Exposures of all Lenders having Revolving Credit Exposures. The Revolving Credit Exposure of any Defaulting Lender shall be disregarded in determining Required Revolving Lenders at any time; provided that the amount of any participation in any Swing Line Loan and Unreimbursed Amounts that such Defaulting Lender has failed to fund that have not been reallocated to and funded by another Lender shall be deemed to be held by the Lender that is the Swing Line Lender or applicable L/C Issuer, as the case may be, in making such determination.

"Resignation Effective Date" has the meaning specified in Section 9.06(a).

"Resolution Authority" means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

"Responsible Officer" means the chief executive officer, president, executive vice president, vice president, chief financial officer, treasurer, assistant treasurer, controller or such other Person who is the highest ranking officer appointed pursuant to the relevant Organization Documents (or, in foreign jurisdictions, substantially equivalent representatives, including a director or manager) of a Loan Party, and solely for purposes of the delivery of incumbency certificates pursuant to Section 4.01, the secretary or any assistant secretary (or, in foreign jurisdictions, substantially equivalent representatives, including a director or manager) of a Loan Party and, solely for purposes of notices given pursuant to Article II, any other officer or employee or equivalent representative of the applicable Loan Party so designated by any of

the foregoing officers, directors or managers in a notice to the Administrative Agent or any other officer or employee of the applicable Loan Party designated in or pursuant to an agreement between the applicable Loan Party and the Administrative Agent. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party. To the extent requested by the Administrative Agent, each Responsible Officer will provide an incumbency certificate and appropriate authorization documentation, in form and substance reasonably satisfactory to the Administrative Agent.

"Restricted Payment" means any dividend or other distribution (whether in cash, securities or other property) with respect to any capital stock or other Equity Interest of the Company or any Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such capital stock or other Equity Interest, or on account of any return of capital to the Company's stockholders, partners or members (or the equivalent Person thereof), including any normal-course issuer bids by the Company.

"Revaluation Date" means (a) with respect to any Loan, each of the following: (i) each date of a Borrowing of an Alternative Currency Loan, (ii) each date of a continuation of an Alternative Currency Term Rate Loan pursuant to Section 2.02, and (iii) such additional dates as the Administrative Agent shall determine or the Required Revolving Lenders shall require; and (b) with respect to any Letter of Credit, each of the following: (i) each date of issuance, amendment and/or extension of a Letter of Credit denominated in an Alternative Currency, (ii) each date of any payment by the applicable L/C Issuer under any Letter of Credit denominated in an Alternative Currency, and (iii) such additional dates as the Administrative Agent or the applicable L/C Issuer shall determine or the Required Revolving Lenders shall require.

"Revolving Commitment" means, as to each Lender, its obligation to (a) make Revolving Loans to the Borrowers pursuant to Section 2.01(a), (b) purchase participations in L/C Obligations, and (c) purchase participations in Swing Line Loans, in an aggregate principal amount at any one time outstanding not to exceed the applicable Dollar amount set forth opposite such Lender's name on Schedule 2.01 or in the Assignment and Assumption or other documentation pursuant to which such Lender becomes a party hereto or in any documentation executed by such Lender in connection with an Incremental Facility, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement. Revolving Commitments shall include any Incremental Revolving Increase. The aggregate principal amount of the Revolving Commitments of all of the Lenders as in effect on the Closing Date is ONE HUNDRED AND FIFTY MILLION DOLLARS ($150,000,000).

"Revolving Credit Exposure" means, as to any Lender at any time, the aggregate Outstanding Amount at such time of its Revolving Loans and the aggregate Outstanding Amount of such Lender's participation in L/C Obligations and Swing Line Loans at such time.

"Revolving Facility" means the revolving facility established pursuant to Section 2.01(a).

"Revolving Lender" means, at any time, a Lender that has a Revolving Commitment, outstanding Revolving Loans or participation interests in outstanding L/C Obligations and Swing Line Loans at such time.

"Revolving Loan" has the meaning specified in Section 2.01(a).

"RPMRR (Quebec)" means the Register of Personal and Movable Real Rights (Quebec).

"S&P" means Standard & Poor's Financial Services LLC, a subsidiary of The McGraw-Hill Companies, Inc. and any successor thereto.

"Sale and Leaseback Transaction" means, with respect to the Company or any Subsidiary, any arrangement, directly or indirectly, with any Person whereby the Company or such Subsidiary shall sell or transfer any property used or useful in its business, whether now owned or hereafter acquired, and thereafter rent or lease such property or other property that it intends to use for substantially the same purpose or purposes as the property being sold or transferred.

"Same Day Funds" means (a) with respect to disbursements and payments in Dollars, immediately available funds, and (b) with respect to disbursements and payments in an Alternative Currency, same day or other funds as may be determined by the Administrative Agent or the applicable L/C Issuer, as the case may be, to be customary in the place of disbursement or payment for the settlement of international banking transactions in the relevant Alternative Currency.

"Sanction(s)" means any economic or financial sanction administered or enforced by the United States Government (including without limitation, OFAC), the Canadian Government, the United Nations Security Council, the European Union, Her Majesty's Treasury ("HMT"), The Netherlands, South Korea, Australia, or Japan.

"SEC" means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

"Secured Cash Management Agreement" means any Cash Management Agreement between any Loan Party or any Subsidiary and any Cash Management Bank. For the avoidance of doubt, a holder of Obligations in respect of Secured Cash Management Agreements shall be subject to the provisions of the last paragraph of Section 8.03 and the provisions of Section 9.11.

"Secured Parties" means, collectively, the Administrative Agent, the Lenders (including Designated Lenders), the Hedge Banks, the Cash Management Banks, the L/C Issuers, the Indemnitees and each co-agent or sub-agent appointed by the Administrative Agent from time to time pursuant to Section 9.05.

"Secured Party Designation Notice" means a notice from any Lender or an Affiliate of a Lender substantially in the form of Exhibit K.

"Secured Swap Contract" means any Swap Contract between any Loan Party or any Subsidiary and any Hedge Bank. For the avoidance of doubt, a holder of Obligations in respect of a Secured Swap Contract shall be subject to the provisions of the last paragraph of Section 8.03 and the provisions of Section 9.11.

"Securitization Transaction" means any transaction providing for the sale, securitization or other asset-backed financing of Securitized Assets of or owing to the Company or any Subsidiary (and/or contractual rights relating thereto). The terms and conditions of all Securitization Transactions shall be on an arm's length basis and on commercially reasonable and customary terms. Except to the extent mandated under any then-existing Securitization Transaction, no new assets may become Securitized Assets during the occurrence and continuance of a Default.

"Securitized Assets" means with respect to any Securitization Transaction, the assets securitized under such transaction and contributed or transferred to a Special Purpose Subsidiary pursuant thereto, including:

(i) any Securitized Receivable;

(ii) the interest of the Company or any Subsidiary in any goods (including returned goods), and documentation of title evidencing the shipment or storage of any goods (including returned goods) relating to any sale by the Company or any Subsidiary giving rise to such Securitized Receivable;

(iii) all guarantees, indemnities, letters of credit, insurance and other agreements (including any and all contracts, understandings, instruments, agreements, leases, invoices, notes or other writings pursuant to which such Securitized Receivable arises or which evidences such Securitized Receivable or under which the applicable customer becomes or is obligated to make payment to the Company or any Subsidiary in respect of such Securitized Receivable) or arrangements of whatever character from time to time supporting or securing payment of such Securitized Receivable;

(iv) all collections and other proceeds received and payment or application by the Company or a Subsidiary of any amounts owed in respect of Securitized Receivables, including, without limitation, purchase price, finance charges, interests, and other similar charges which are net proceeds of the sale or other disposition of repossessed goods or other collateral or property available to be applied thereon; and

(v) all proceeds of, and all amounts received or receivable under, any or all of the foregoing clauses (i) through (iv).

"Securitized Receivable" means an account receivable arising from a sale of goods by the Company or a Subsidiary which is the subject of a Securitization Transaction.

"Security Agreements" means, collectively, (a) the U.S. Security Agreements, (b) the Canadian Security Agreements, (c) the Dutch Security Agreements, (d) the Luxembourg Security Agreements and (e) any other pledge and/or security agreement dated on or after the Closing Date executed in favor of the Administrative Agent, for the benefit of the Secured Parties (or in its own name as creditor of Parallel Debt, as applicable), by any Loan Party.

"SOFR" has the meaning assigned to that term in the definition of "Daily Simple SOFR".

"SOFR Early Opt-in" means the Administrative Agent and the Company have elected to replace LIBOR pursuant to (a) an Early Opt-in Election and (b) Section 3.03(c)(i) and clause (1) of the definition of "Benchmark Replacement".

"Solvent" and "Solvency" mean, with respect to any Person on any date of determination, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person, which for this purpose shall include rights of contribution in respect of obligations for which such Person has provided a Guarantee, (b) the present fair saleable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, which for this purpose shall include rights of contribution in respect of obligations for which such Person has provided a Guarantee, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability

to pay such debts and liabilities as they mature, (d) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person's property would constitute an unreasonably small capital, and (e) such Person is able to pay its debts and liabilities, contingent obligations and other commitments as they mature in the ordinary course of business. The amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"Special Notice Currency" means at any time an Alternative Currency, other than the currency of a country that is a member of the Organization for Economic Cooperation and Development at such time located in North America or Europe.

"Special Purpose Subsidiary" means, with respect to any Permitted Securitization Transaction, the special purpose Subsidiary or Affiliate for such Permitted Securitization Transaction.

"Specified Loan Party" means any Loan Party that is not an "eligible contract participant" under the Commodity Exchange Act (determined prior to giving effect to any "keepwell" or similar agreement contained in this Agreement or any other Loan Document).

"Specified Transaction" means any Acquisition, any Disposition, any Investment, any incurrence of Indebtedness or any other event that by the terms of the Loan Documents requires compliance on a Pro Forma Basis with a test or covenant, calculation as to Pro Forma Effect with respect to a financial definition, test or covenant or requires such financial definition, test or covenant to be calculated on a Pro Forma Basis.

"Spin Payment" means, collectively, (i) immediately prior to the Borrowing of the Term A Loan and the Term B Loan on the Closing Date, the distribution by the Company or one of its Subsidiaries of certain cash on hand to ADS in an aggregate amount of approximately $100,000,000 and (ii) promptly after the Borrowing of the Term A Loan and the Term B Loan on the Closing Date, the distribution by the Company of approximately $650,000,000 of the net proceeds of the Term A Loan and the Term B Loan to ADS (or one or more of its Subsidiaries), in each case in connection with the transfer of the "LoyaltyOne" business of ADS to the Company.

"Spinoff" means the distribution of at least 80.1% of the issued and outstanding Equity Interests of the Company to the shareholders of ADS, to occur on or after the Closing Date, the result of which is that immediately thereafter at least 80.1% of the Equity Interests of the Company shall be owned directly by the shareholders of ADS immediately prior to such distribution and no more than 19.9% of the Equity Interests of the Company shall be owned directly or indirectly by ADS.

"Subordinated Indebtedness" means Indebtedness of the Company or any Subsidiary that by its terms is subordinated to the Obligations in a manner and to an extent reasonably acceptable to the Administrative Agent (including, without limitation, the entry into intercreditor and/or subordination agreements generally acceptable to the Administrative Agent).

"Subsidiary" of a Person means a corporation, partnership, joint venture, limited liability company, exempted company or other business entity of which a majority of the shares of securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a "Subsidiary" or to "Subsidiaries" shall refer to a Subsidiary or Subsidiaries of the Company.

"Successor Rate" means the Benchmark Replacement and/or the Alternative Currency Successor Rate, as the context requires.

"Swap Contract" means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a "Master Agreement"), including any such obligations or liabilities under any Master Agreement.

"Swap Obligation" means with respect to any Loan Party any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of Section 1a(47) of the Commodity Exchange Act.

"Swap Termination Value" means, in respect of any one or more Swap Contracts, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Contracts, (a) for any date on or after the date such Swap Contracts have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Swap Contracts, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Swap Contracts (which may include a Lender or any Affiliate of a Lender).

"SWIFT" has the meaning specified in Section 2.03(f).

"Swing Line Borrowing" means a borrowing of a Swing Line Loan pursuant to Section 2.05.

"Swing Line Lender" means Bank of America (acting through any branch, office or Affiliate of it (including, without limitation, Bank of America, N.A., London Branch)), in its capacity as provider of Swing Line Loans, or any successor swing line lender hereunder.

"Swing Line Loan" has the meaning specified in Section 2.05(a).

"Swing Line Loan Notice" means a notice of a Swing Line Borrowing pursuant to Section 2.05(b), which shall be substantially in the form of Exhibit B or such other form as approved by the Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approve by the Administrative Agent), appropriately completed and signed by a Responsible Officer of the Company.

"Swing Line Sublimit" means the U.S. Dollar Swing Line Sublimit and the Euro Swing Line Sublimit.

"Synthetic Lease Obligation" means the monetary obligation of a Person under (a) a so-called synthetic, off-balance sheet or tax retention lease, or (b) an agreement for the use or possession of property creating obligations that do not appear on the balance sheet of such Person but which, upon the insolvency

or bankruptcy of such Person, would be characterized as the indebtedness of such Person (without regard to accounting treatment).

"TARGET Day" means any day on which TARGET2 (or, if such payment system ceases to be operative, such other payment system, if any, determined by the Administrative Agent to be a suitable replacement) is open for the settlement of payments in Euro.

"TARGET2" means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilizes a single shared platform and which was launched on November 19, 2007.

"Taxes" means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"Term A Loan" has the meaning specified in Section 2.01.

"Term A Loan Commitment" means, as to each Lender, its obligation to make its portion of the Term A Loan to the Company on the Closing Date pursuant to Section 2.01(b), in the principal amount set forth opposite such Lender's name on Schedule 2.01. The aggregate principal amount of the Term A Loan Commitments of all of the Lenders as in effect on the Closing Date is ONE HUNDRED SEVENTY-FIVE MILLION DOLLARS ($175,000,000).

"Term B Loan" has the meaning specified in Section 2.01.

"Term B Loan Commitment" means, as to each Lender, its obligation to make its portion of the Term B Loan to the Company on the Closing Date pursuant to Section 2.01(c), in the principal amount set forth opposite such Lender's name on Schedule 2.01. The aggregate principal amount of the Term B Loan Commitments of all of the Lenders as in effect on the Closing Date is FIVE HUNDRED MILLION DOLLARS ($500,000,000).

"Term Facility" means the Term A Loan, the Term B Loan and any Incremental Term Facilities.

"Term Loans" means the Term A Loan, the Term B Loan and any Incremental Term Loans.

"Term SOFR" means, for the applicable corresponding tenor (or if any Available Tenor of a Benchmark does not correspond to an Available Tenor for the applicable Benchmark Replacement, the closest corresponding Available Tenor and if such Available Tenor corresponds equally to two Available Tenors of the applicable Benchmark Replacement, the corresponding tenor of the shorter duration shall be applied), the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body.

"Threshold Amount" means $20,000,000.

"Total Credit Exposure" means, as to any Lender at any time, the unused Commitments of such Lender at such time, the outstanding Loans of such Lender at such time and such Lender's participations in L/C Obligations and Swing Line Loans at such time.

"Total Revolving Outstandings" means the aggregate Outstanding Amount of all Revolving Loans, all Swing Line Loans and all L/C Obligations. For purposes of determining the Total Revolving Outstandings at any time, the Outstanding Amount of all Euro Swing Line Loans shall be deemed to be the amount of the Euro Swing Line Sublimit then in effect (whether or not drawn).

"Trade Date" has the meaning specified in Section 10.06(h)(i).

"Type" means, with respect to a Loan, its character as a Base Rate Loan, a Eurocurrency Rate Loan, a Euro Swing Line Rate Loan, an Alternative Currency Daily Rate Loan or an Alternative Currency Term Rate Loan.

"UCP" means, with respect to any Letter of Credit, the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce ("ICC") Publication No. 600 (or such later version thereof as may be in effect at the time of issuance).

"UCC" means the Uniform Commercial Code as in effect in the State of New York; provided that, if perfection or the effect of perfection or non-perfection or the priority of any security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, "UCC" means the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions hereof relating to such perfection, effect of perfection or non-perfection or priority.

"UK Financial Institution" means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person subject to IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

"UK Resolution Authority" means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

"U.S. Borrower" means the Company and each Designated Borrower that is organized in the United States or any state or political subdivision thereof.

"U.S. Dollar Swing Line Loan" has the meaning specified in Section 2.05(a)

"U.S. Dollar Swing Line Sublimit" means an amount equal to the lesser of (a) $15,000,000, as such amount may be adjusted from time to time in accordance with this Agreement, and (b) the Aggregate Revolving Commitments less the Euro Swing Line Sublimit at such time. The U.S. Dollar Swing Line Sublimit is part of, and not in addition to, the Aggregate Revolving Commitments.

"U.S. Obligor" means any Loan Party that is organized under the laws of the United States, a state thereof or the District of Columbia.

"U.S. Person" means any Person that is a "United States Person" as defined in Section 7701(a)(30) of the Code.

"U.S. Security Agreement" means the U.S. Security and Pledge Agreement, dated as of the Closing Date, executed in favor of the Administrative Agent, for the benefit of the Secured Parties, by each Loan Party.

"U.S. Subsidiary" means any Subsidiary that is organized under the laws of the United States, a state thereof or the District of Columbia.

"U.S. Tax Compliance Certificate" has the meaning specified in Section 3.01(e)(ii)(B)(3).

"United States" and "U.S." mean the United States of America.

"Unreimbursed Amount" has the meaning specified in Section 2.03(c)(i).

"Weighted Average Life" means, when applied to any Indebtedness at any date of determination, the period of time (expressed in years) obtained by dividing (a) the sum of the total of the products obtained by multiplying (i) the amount of each scheduled installment, sinking fund, serial maturity or other required payment of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) which will elapse between such date of determination and the making

of such payment by (b) the then-outstanding principal amount of such Indebtedness as of such date of determination.

"Write-Down and Conversion Powers" means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

1.02 Other Interpretive Provisions. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document (including any Loan Document or Organization Document) shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person's successors and assigns, (iii) the words "hereto," "herein," "hereof" and "hereunder," and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in a Loan Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such law and any reference to any law, rule or regulation shall, unless otherwise specified, refer to such law, rule or regulation as amended, modified, extended, restated, replaced or supplemented from time to time, (vi) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights, and (vii) the word "or" is not exclusive.

(b) n the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including;" the words "to" and "until" each mean "to but excluding;" and the word "through" means "to and including."

(c) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

(d) Any reference herein to a merger, amalgamation, consolidation, assignment, sale, disposition or transfer, or similar term, shall be deemed to apply to a division of or by a limited liability company, or an allocation of assets to a series of a limited liability company (or the unwinding of such a division or allocation), as if it were a merger, amalgamation, consolidation, assignment, sale, disposition or transfer, or similar term, as applicable, to, of or with a separate Person. Any division of a limited liability company shall constitute a separate Person hereunder (and each division of any limited liability company that is a Subsidiary, joint venture or any other like term shall also constitute such a Person or entity).

(e) Without prejudice to the generality of any provision of this Agreement, for all other purposes pursuant to which the interpretation or construction of this Agreement, any Collateral Document or any other Loan Document may be subject to the laws of the Province of Quebec or a court or tribunal exercising jurisdiction in the Province of Quebec, (i) "personal property" shall be deemed to include "movable property", (ii) "real property" shall be deemed to include "immovable property" and an "easement" shall be deemed to include a "servitude", (iii) "tangible property" shall be deemed to include "corporeal property", (iv) "intangible property" shall be deemed to include "incorporeal property", (v) "security interest", "lien", "mortgage" and "charge" shall be deemed to include a "hypothec", (vi) all references to filing, registering or recording financing statements shall be deemed to include publication under the Civil Code of Quebec, and all references to releasing any lien shall be deemed to include a release, discharge and mainlevée of a hypothec, (vii) any "right of offset", "right of setoff" or similar expression shall be deemed to include a "right of compensation", (viii) "goods" shall be deemed to include "corporeal movable property" other than chattel paper, documents of title, instruments, money and securities, (ix) an "agent" shall be deemed to include a "mandatary" and (x) "deposit account" or "bank account" shall include "financial accounts" (as defined in the Civil Code of Quebec) maintained by a bank.

(f) For purposes of this Agreement and the other Loan Documents (other than Articles II, IX and X of this Agreement), where the permissibility of any transaction or the determination of any required action or circumstance, in each case under or with respect to any Security Agreement that makes reference to this provision and is governed by the law of a jurisdiction other than the United States, a state thereof or the District of Columbia, depends upon compliance with, or is determined by reference to, amounts stated in Dollars, (i) such amounts shall be deemed to refer to Dollars and/or the equivalent amount thereof denominated in any currency other than Dollars, as applicable, and (ii) any requisite currency translation shall, unless otherwise specified, be the Dollar Equivalent on the Business Day immediately preceding the date of such transaction or determination. The provisions of any such Security Agreement shall be subject to such reasonable changes of construction as the Administrative Agent may from time to time specify with the Company's consent (not to be unreasonably withheld) to appropriately reflect a change in currency of any country and any relevant market conventions or practices relating to such change in currency, in each case as it relates to such Security Agreement.

(g) Any provision of Section 5.22 or Section 7.16 shall not apply to or in favor of any Person if and to the extent that it would result in a breach, by or in respect of that Person, of any applicable Blocking Law.

1.03 Accounting Terms.

(a) Generally. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the Audited Financial Statements, except as otherwise specifically prescribed herein. Notwithstanding the foregoing, for purposes of determining compliance with any covenant (including the computation of any financial covenant) contained herein, Indebtedness of the Company and its Subsidiaries shall be deemed to be carried at 100% of the outstanding principal amount thereof, and the effects of FASB ASC 825 on financial liabilities shall be disregarded.

(b) Changes in GAAP. If at any time any change in GAAP (including the adoption of IFRS) would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either the Company or the Required Lenders (or, in the case of a change affecting the computation of only the Consolidated Total Leverage Ratio, the Required Pro Rata Facilities Lenders) shall so request, the Administrative Agent, the Lenders and the Company shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders (or, in the case of a change affecting the computation of only the Consolidated Total Leverage Ratio, the Required Pro Rata Facilities Lenders)); provided that, until so amended, (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) the Company shall provide to the Administrative Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP. Without limiting the foregoing, leases shall continue to be classified and accounted for on a basis consistent with that reflected in the Audited Financial Statements (subject to the exceptions noted in clause (a) above) for all purposes of this Agreement, notwithstanding any change in GAAP relating thereto, unless the parties hereto shall enter into a mutually acceptable amendment addressing such changes, as provided for above.

1.04 Rounding. Any financial ratios required to be maintained by the Company pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

1.05 Exchange Rates; Currency Equivalents; Interest Rates.

(a) The Administrative Agent or the applicable L/C Issuer, as applicable, shall determine the Dollar Equivalent amounts of Credit Extensions and Outstanding Amounts denominated in Alternative Currencies. Such Dollar Equivalent shall become effective as of such Revaluation Date and shall be the Dollar Equivalent of such amounts until the next Revaluation Date to occur. Except for purposes of financial statements delivered by the Company hereunder or calculating financial covenants hereunder or except as otherwise provided herein, the applicable amount of any currency (other than Dollars) for purposes of the Loan Documents shall be such Dollar Equivalent amount as so determined by the Administrative Agent or the applicable L/C Issuer, as applicable.

(b) Wherever in this Agreement in connection with a Borrowing, conversion, continuation or prepayment of an Alternative Currency Loan or the issuance, amendment or extension of a Letter of Credit, an amount, such as a required minimum or multiple amount, is expressed in Dollars, but such Borrowing, Loan or Letter of Credit is denominated in an Alternative Currency, such amount shall be the relevant Alternative Currency Equivalent of such Dollar amount (rounded to the nearest unit of such Alternative Currency, with 0.5 of a unit being rounded upward), as determined by the Administrative Agent or the applicable L/C Issuer, as the case may be.

(c) The Administrative Agent does not warrant, nor accept responsibility, nor shall the Administrative Agent have any liability with respect to the administration, submission or any other matter related to the rates in the definition of "Eurocurrency Rate", "Alternative Currency Daily Rate", "Alternative Currency Term Rate", "Basic ESTR" or with respect to any rate (including, for the avoidance of doubt, the selection of such rate and any related spread or other adjustment) that is an alternative or replacement for or successor to any such rate (including, without limitation, any Successor Rate) or the effect of any of the foregoing, or of any Conforming Changes.

1.06 Additional Alternative Currencies.

(a) The Company may from time to time request that Alternative Currency Loans be made and/or Letters of Credit be issued in a currency other than those specifically listed in the definition of "Alternative Currency"; provided that such requested currency is an Eligible Currency. In the case of any such request with respect to the making of Alternative Currency Loans, such request shall be subject to the approval of the Administrative Agent and each Lender with a Commitment under the facility for which such currency is requested to be made available; and in the case of any such request with respect to the issuance of Letters of Credit, such request shall be subject to the approval of the Administrative Agent and the applicable L/C Issuer.

(b) Any such request shall be made to the Administrative Agent not later than 11:00 a.m., twenty (20) Business Days prior to the date of the desired Credit Extension (or such other time or date as may be agreed by the Administrative Agent and, in the case of any such request pertaining to Letters of Credit, the applicable L/C Issuer, in its or their sole discretion). In the case of any such request pertaining to Alternative Currency Term Rate Loans, the Administrative Agent shall promptly notify each applicable Lender thereof; and in the case of any such request pertaining to Letters of Credit, the Administrative Agent shall promptly notify the applicable L/C Issuer thereof. Each applicable Lender (in the case of any such request pertaining to Alternative Currency Term Rate Loans) or the applicable L/C Issuer (in the case of a request pertaining to Letters of Credit) shall notify the Administrative Agent, not later than 11:00 a.m., ten (10) Business Days after receipt of such request whether it consents, in its sole discretion, to the making of Alternative Currency Term Rate Loans or the issuance of Letters of Credit, as the case may be, in such requested currency.

(c) Any failure by a Lender or an L/C Issuer, as the case may be, to respond to such request within the time period specified in the preceding sentence shall be deemed to be a refusal by such Lender or such L/C Issuer, as the case may be, to permit Alternative Currency Term Rate Loans to be made or Letters of Credit to be issued in such requested currency. If the Administrative Agent and all the applicable Lenders consent to making Alternative Currency Term Rate Loans in such requested currency and the Administrative Agent and such Lenders reasonably determine that an appropriate interest rate is available to be used for such requested currency, the Administrative Agent shall so notify the Company and (i) the Administrative Agent and such Lenders may amend the definition of Alternative Currency Daily Rate or Alternative Currency Term Rate to the extent necessary to add the applicable rate for such currency and any applicable adjustment for such rate

and (ii) to the extent the definition of Alternative Currency Daily Rate or Alternative Currency Term Rate, as applicable, has been amended to reflect the appropriate rate for such currency, such currency shall thereupon be deemed for all purposes to be an Alternative Currency for purposes of any Borrowings of Alternative Currency Loans. If the Administrative Agent and the applicable L/C Issuer consent to the issuance of Letters of Credit in such requested currency, the Administrative Agent shall so notify the Company and (x) the Administrative Agent and the applicable L/C Issuer may amend the definition of Alternative Currency Daily Rate or Alternative Currency Term Rate, as applicable, to the extent necessary to add the applicable rate for such currency and any applicable adjustment for such rate and (y) to the extent the definition of Alternative Currency Daily Rate or Alternative Currency Term Rate, as applicable, has been amended to reflect the appropriate rate for such currency, such currency shall thereupon be deemed for all purposes to be an Alternative Currency, for purposes of any Letter of Credit issuances. If the Administrative Agent shall fail to obtain consent to any request for an additional currency under this Section 1.06, the Administrative Agent shall promptly so notify the Company.

1.07 Change of Currency.

(a) Each obligation of the Borrowers to make a payment denominated in the national currency unit of any member state of the European Union that adopts the Euro as its lawful currency after the Closing Date shall be redenominated into Euro at the time of such adoption. If, in relation to the currency of any such member state, the basis of accrual of interest expressed in this Agreement in respect of that currency shall be inconsistent with any convention or practice in the interbank market for the basis of accrual of interest in respect of the Euro, such expressed basis shall be replaced by such convention or practice with effect from the date on which such member state adopts the Euro as its lawful currency; provided that if any Borrowing in the currency of such member state is outstanding immediately prior to such date, such replacement shall take effect, with respect to such Borrowing, at the end of the then current Interest Period.

(b) Each provision of this Agreement shall be subject to such reasonable changes of construction as the Administrative Agent may from time to time specify to be appropriate to reflect the adoption of the Euro by any member state of the European Union and any relevant market conventions or practices relating to the Euro.

(c) Each provision of this Agreement also shall be subject to such reasonable changes of construction as the Administrative Agent may from time to time specify to be appropriate to reflect a change in currency of any other country and any relevant market conventions or practices relating to the change in currency.

1.08 Times of Day. Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

1.09 Letter of Credit Amounts. Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the Dollar Equivalent of the stated amount of such Letter of Credit in effect at such time; provided, however, that with respect to any Letter of Credit that, by its terms or the terms of any Issuer Document related thereto, provides for one or more automatic increases in the stated amount thereof, the amount of such Letter of Credit shall be deemed to be the Dollar Equivalent of the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at such time.

1.10 Limited Condition Acquisition. It is understood and agreed that, notwithstanding anything to the contrary in this Agreement, if the proceeds of any Incremental Term Facility are being used

to finance a Limited Condition Acquisition, and the Company has obtained commitments of Lenders to fund such Incremental Term Facility ("Incremental Financing Commitments"), then at the Company's option (the Company's election to exercise such option in connection with any Limited Condition Acquisition, a "LCA Election"):

(a) the conditions set forth in Section 2.16(b), clauses (i)(B)(1) and (i)(B)(2) of Section 2.16(f), Section 4.02(a), Section 4.02(b), and clauses (a) and (d) in the definition of "Permitted Acquisition" shall be limited as follows, if and to the extent such Lenders so agree in their Incremental Financing Commitments: (i) the conditions set forth in clause (i)(B)(2) of Section 2.16(f), Section 4.02(a) and clause (d) of the definition of "Permitted Acquisition" shall be limited such that the only representations and warranties the accuracy of which shall be a condition to the availability of such Incremental Term Facility shall be (A) customary "specified representations" (as agreed by the Administrative Agent and the lenders providing such Incremental Term Facility), and (B) such representations and warranties under the definitive agreement governing such Limited Condition Acquisition (the "Limited Condition Acquisition Agreement") as entitle the applicable Loan Party (or the applicable Subsidiary) to terminate its obligations under such Limited Condition Acquisition Agreement or decline to consummate such Limited Condition Acquisition, in each case, without paying any penalty or compensation to the other party or incurring liability for breach if such representations and warranties fail to be true and correct; provided that on the date the Limited Condition Acquisition Agreement is executed (such date of execution, the "LCA Test Date"), and as a condition to entering into such Limited Condition Acquisition Agreement, the representations and warranties of each Loan Party contained in Article V or any other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct in all material respects (or, if qualified by materiality or reference to Material Adverse Effect, in all respects) on and as of the relevant LCA Test Date, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects (or, if qualified by materiality or reference to Material Adverse Effect, in all respects) as of such earlier date, and (ii) the reference in Section 2.16(b), clause (i)(B)(2) of Section 2.16(f), Section 4.02(b) and clause (a) in the definition of "Permitted Acquisition" to no Default or no Event of Default, as applicable, means (A) no Default or no Event of Default, as applicable, shall have occurred and be continuing at the time of the execution of the Limited Condition Acquisition Agreement, and (B) no Event of Default under Section 8.01(a), 8.01(f) or 8.01(g) shall have occurred and be continuing immediately prior to or after giving effect to the funding of such Incremental Term Facility in connection with the consummation of such Limited Condition Acquisition, and/or

(b) for purposes of determining whether the conditions and measurements set forth in Section 2.16(a)(ii) (if applicable), Section 2.16(l) or clause (f) in the definition of "Permitted Acquisition" have been satisfied in connection with such Limited Condition Acquisition, the date of determination of whether any such condition or measurement has been satisfied shall be deemed to be the relevant LCA Test Date, and if, for the Limited Condition Acquisition and the funding of such Incremental Term Facility in connection with the consummation of such Limited Condition Acquisition, the Loan Party or the applicable Subsidiary would have satisfied such condition or measurement on the relevant LCA Test Date, such condition or measurement shall be deemed to have been satisfied.

If the Company has made a LCA Election for any Limited Condition Acquisition, then in connection with (i) the calculation of the financial covenant set forth in Section 7.11 and the computation of the Applicable Rate following the relevant LCA Test Date and prior to the earlier of the date on which such Limited Condition Acquisition is consummated and the date that the definitive agreement governing such Limited Condition Acquisition is terminated or expires

without consummation of such Limited Condition Acquisition, the Consolidated Total Leverage Ratio shall be measured on a standalone basis without giving effect to such Limited Condition Acquisition and the other transactions in connection therewith and (ii) any other calculation of any ratio, test or basket availability with respect to any Specified Transaction (each, a "Subsequent Transaction") following the relevant LCA Test Date and prior to the earlier of the date on which such Limited Condition Acquisition is consummated and the date that the definitive agreement governing such Limited Condition Acquisition is terminated or expires without consummation of such Limited Condition Acquisition, for purposes of determining whether such Subsequent Transaction is permitted under this Agreement, any such ratio, test or basket shall be calculated and tested on a Pro Forma Basis assuming such Limited Condition Acquisition and the other transactions in connection therewith have been consummated until such time as the applicable Limited Condition Acquisition has actually closed or the applicable Limited Condition Acquisition Agreement has been terminated or expires without consummation of such Limited Condition Acquisition. It is understood and agreed that this Section 1.10 shall not limit the conditions set forth in Section 4.02 or in the definition of "Permitted Acquisition" with respect to any proposed Borrowing of Revolving Loans or Swing Line Loans or any issuance of Letters of Credit, in each case, in connection with such Limited Condition Acquisition or otherwise.

1.11 Dutch Terms. In this Agreement where it relates to a Loan Party incorporated in the Netherlands a reference to:

(a) a necessary corporate or other organizational action where applicable includes without limitation:

(i) any action any action required to comply with the Works Councils Act of the Netherlands (*Wet op de ondernemingsraden*); and

(ii) obtaining an unconditional positive advice (*advies*) from the competent works council(s) if a positive advice is required pursuant to the Works Councils Act (*Wet op de ondernemingsraden*);

(b) a security interest includes any mortgage (*hypotheek*), pledge (*pandrecht*), retention of title arrangement (*eigendomsvoorbehoud*), right of retention (*recht van retentie*), right to reclaim goods (*recht van reclame*), and, in general, any right in rem (*beperkt recht*), created for the purpose of granting security (*goederenrechtelijk zekerheidsrecht*);

(c) a winding-up or dissolution includes a bankruptcy (*faillissement*) or dissolution (*ontbinding*);

(d) a moratorium includes *surseance van betaling* and a moratorium is declared or occurs includes *surseance verleend*;

(e) any step or procedure taken in connection with insolvency proceedings includes a Dutch entity having filed a notice under section 36 of the Tax Collection Act of the Netherlands (*Invorderingswet 1990*);

(f) a liquidator includes a *curator* or a *beoogd curator*;

(g) an administrator includes a *bewindvoerder,* a *beoogd bewindvoerder,* a *stille bewindvoerder* and a *herstructureringsdeskundige* or an *observator*;

(h) an attachment includes a *conservatoir beslag* or *executoriaal beslag*;

(i) gross negligence means *grove schuld*; and

(j) willful misconduct means *opzet*.

1.12 Luxembourg Terms. In this Agreement or any other Loan Document, if applicable, where it relates to a Luxembourg Obligor, a reference to:

(a) a winding-up, administration or dissolution includes bankruptcy (*faillite*), insolvency, voluntary or judicial liquidation (*liquidation volontaire ou judiciaire*), composition with creditors (*concordat préventif de la faillite*), moratorium or reprieve from payments (*sursis de paiement*), controlled management (*gestion contrôlée*), a general settlement with creditors, reorganisation or similar law affecting the rights of creditors generally;

(b) a receiver, administrative receiver, administrator, trustee in bankruptcy, judicial custodian, sequestrator, conservator, compulsory manager, or similar officer includes a *juge délégué, expert-vérificateur, commissaire, juge-commissaire, mandataire ad hoc, administrateur provisoire, liquidateur* or *curateur*;

(c) a person being unable to pay its debts includes that person being in a state of cessation of payments (*cessation de paiements*);

(d) a lien, security or security interest includes any *hypothèque*, *nantissement*, *gage*, *privilège*, *sûreté réelle*, *droit de rétention*, and any type of security in rem (*sûreté réelle*) or agreement or arrangement having a similar effect and any transfer of title (*transfert à titre de garantie*) by way of security;

(e) a guarantee includes any guarantee which is independent from the debt to which it relates and excludes any suretyship (*cautionnement*) within the meaning of Articles 2011 et seq. of the Luxembourg Civil Code;

(f) an agent includes, without limitation, a *mandataire*;

(g) by-laws or constitutional documents includes its up-to-date articles of association (*statuts*);

(h) shares includes *parts sociales*;

(i) a set-off includes, for purposes of Luxembourg law, legal set-off; and

(j) a director and/or manager includes a *gérant* or an *administrateur*.

ARTICLE II.

THE COMMITMENTS AND CREDIT EXTENSIONS

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2.01 Revolving Loans, Term A Loan and Term B Loan.

(a) Revolving Loans. Subject to the terms and conditions set forth herein, each Revolving Lender severally agrees to make loans (each such loan, a "Revolving Loan") to the Borrowers or any of them in Dollars or in one or more Alternative Currencies from time to time,

on any Business Day during the Availability Period, in an aggregate amount not to exceed at any time outstanding the amount of such Lender's Revolving Commitment; provided, however, that after giving effect to any Borrowing of Revolving Loans:

(i) the Total Revolving Outstandings shall not exceed the Aggregate Revolving Commitments; and

(ii) the aggregate Outstanding Amount of the Revolving Loans of any Lender, plus such Lender's Applicable Percentage of the Outstanding Amount of all L/C Obligations, plus such Lender's Applicable Percentage of the Outstanding Amount of all Swing Line Loans shall not exceed such Lender's Revolving Commitment.

Within the limits of each Lender's Revolving Commitment, and subject to the other terms and conditions hereof, each Borrower may borrow under this Section 2.01(a), prepay under Section 2.06, and reborrow under this Section 2.01. Revolving Loans (x) made to any U.S. Borrower may be Base Rate Loans, Eurocurrency Rate Loans or Alternative Currency Loans or (y) made to any Non-U.S. Borrower may be Eurocurrency Rate Loans or Alternative Currency Loans, in each case as further provided herein.

(b) Term A Loan. Subject to the terms and conditions set forth herein, each Lender severally agrees to make its portion of a term loan (the "Term A Loan") to the Company in Dollars on the Closing Date in an amount not to exceed such Lender's Term A Loan Commitment. Amounts repaid on the Term A Loan may not be reborrowed. The Term A Loan may consist of Base Rate Loans or Eurocurrency Rate Loans, or a combination thereof, as further provided herein, provided, however, any Borrowings made on the Closing Date shall be made as Base Rate Loans unless the Company delivers a funding indemnity letter not less than three (3) Business Days prior to the date of such Borrowing.

(c) Term B Loan. Subject to the terms and conditions set forth herein, each Lender severally agrees to make its portion of a term loan (the "Term B Loan") to the Company in Dollars on the Closing Date in an amount not to exceed such Lender's Term B Loan Commitment. Amounts repaid on the Term B Loan may not be reborrowed. The Term B Loan may consist of Base Rate Loans or Eurocurrency Rate Loans, or a combination thereof, as further provided herein, provided, however, any Borrowings made on the Closing Date shall be made as Base Rate Loans unless the Company delivers a funding indemnity letter not less than three (3) Business Days prior to the date of such Borrowing.

2.02 Borrowings, Conversions and Continuations of Loans.

(a) Each Borrowing of Loans (other than Swing Line Loans), each conversion of Loans (other than Swing Line Loans) from one Type to the other, and each continuation of Eurocurrency Rate Loans or Alternative Currency Term Rate Loans, shall be made upon a Borrower's irrevocable notice to the Administrative Agent, which may be given by (A) telephone or (B) a Loan Notice; provided that any telephonic notice must be confirmed promptly by delivery to the Administrative Agent of a Loan Notice. Each such Loan Notice must be received by the Administrative Agent not later than 11:00 a.m. (i) three (3) Business Days prior to the requested date of any Borrowing of, conversion to or continuation of Eurocurrency Rate Loans denominated in Dollars or of any conversion of Eurocurrency Rate Loans denominated in Dollars to Base Rate Loans, (ii) in the case of Alternative Currency Loans, four Business Days (or five Business Days in the case of a Special Notice Currency) prior to the requested date of any Borrowing or, in the case of Alternative Currency Term Rate Loans, any continuation, and (iii) on the requested date of any Borrowing of Base Rate Loans. Each Borrowing of, conversion to or continuation of

Eurocurrency Rate Loans or Alternative Currency Loans shall be in a principal amount of the Dollar Equivalent of $1,000,000 or a whole multiple of the Dollar Equivalent of $1,000,000 in excess thereof. Except as provided in Sections 2.03(c) and 2.05(c), each Borrowing of or conversion to Base Rate Loans shall be in a principal amount of $500,000 or a whole multiple of $100,000 in excess thereof. Each Loan Notice shall specify (i) whether the Company is requesting a Borrowing, a conversion of Loans from one Type to the other, or a continuation of Eurocurrency Rate Loans or Alternative Currency Term Rate Loans, (ii) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount of Loans to be borrowed, converted or continued, (iv) the Type of Loans to be borrowed or to which existing Loans are to be converted, (v) if applicable, the duration of the Interest Period with respect thereto, (vi) the currency of the Loans to be borrowed, and (vii) the applicable Borrower. If a Borrower fails to specify a currency in a Loan Notice requesting a Borrowing, then the Loans so requested shall be made in Dollars. If a Borrower fails to specify a Type of Loan in a Loan Notice or if a Borrower fails to give a timely notice requesting a conversion or continuation, then the applicable Loans shall be made as, or converted to, Base Rate Loans; provided, however, that in the case of a failure to timely request a continuation of Alternative Currency Term Rate Loans, such Loans shall be continued as Alternative Currency Term Rate Loans in their original currency with an Interest Period of one (1) month. Any automatic conversion to Base Rate Loans shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Loans. If a Borrower requests a Borrowing of, conversion to, or continuation of Eurocurrency Rate Loans or Alternative Currency Term Rate Loans in any such Loan Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one (1) month. No Loan may be converted into or continued as a Loan denominated in a different currency, but instead must be repaid in the original currency of such Loan and reborrowed in the other currency. Notwithstanding anything to the contrary herein, no Swing Line Loan may be converted to any other Type of Loan.

(b) Following receipt of a Loan Notice, the Administrative Agent shall promptly notify each Lender of the amount (and currency) of its Applicable Percentage of the applicable Loans, and if no timely notice of a conversion or continuation is provided by the applicable Borrower, the Administrative Agent shall notify each Lender of the details of any automatic conversion to Base Rate Loans or continuation of Alternative Currency Term Rate Loans, in each case as described in the preceding subsection. In the case of a Borrowing, each Lender shall make the amount of its Loan available to the Administrative Agent in Same Day Funds at the Administrative Agent's Office for the applicable currency not later than 1:00 p.m., in the case of any Loan denominated in Dollars, and not later than the Applicable Time specified by the Administrative Agent in the case of any Loan denominated in an Alternative Currency, in each case on the Business Day specified in the applicable Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 4.02 (and, if such Borrowing is the initial Credit Extension, Section 4.01), the Administrative Agent shall make all funds so received available to the applicable Borrower in like funds as received by the Administrative Agent either by, as directed by such Borrower, (i) crediting the account of such Borrower on the books of Bank of America with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to (and reasonably acceptable to) the Administrative Agent by such Borrower; provided, however, that if, on the date the Loan Notice with respect to such Borrowing denominated in Dollars is given by a Borrower, there are L/C Borrowings outstanding, then the proceeds of such Borrowing, first, shall be applied to the payment in full of any such L/C Borrowings, and, second, shall be made available to the applicable Borrower as provided above.

(c) Except as otherwise provided herein, a Eurocurrency Rate Loan or Alternative Currency Term Rate Loan may be continued or converted only on the last day of an Interest Period for such Loan. During the existence of a Default, no Loans may be requested as, converted to or continued as Eurocurrency Rate Loans or Alternative Currency Loans, as applicable, without the consent of the Required Lenders or the Required Revolving Lenders (as applicable with respect to such Loans), and the Required Revolving Lenders may demand that any or all of the then-outstanding Alternative Currency Loans be prepaid, or

redenominated into Dollars in the amount of the Dollar Equivalent thereof, on the last day of the then-current Interest Period with respect thereto.

(d) The Administrative Agent shall promptly notify (i) the Company and the Lenders of the interest rate applicable to any Interest Period for Eurocurrency Rate Loans or Alternative Currency Term Rate Loans upon determination of such interest rate and (ii) the relevant Borrower of the interest rate applicable to Euro Swing Line Rate Loans upon determination of such interest rate.

(e) After giving effect to all Borrowings, all conversions of Revolving Loans and Term Loans from one Type to the other, and all continuations of Revolving Loans and Term Loans as the same Type, there shall not be more than ten Interest Periods in effect.

(f) Notwithstanding anything to the contrary in this Agreement, any Lender may exchange, continue or rollover all or a portion of its Loans in connection with any refinancing, extension, loan modification or similar transaction permitted by the terms of this Agreement, pursuant to a cashless settlement mechanism approved by the Company, the Administrative Agent, and such Lender.

(g) With respect to any Alternative Currency Daily Rate the Administrative Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document; provided that, with respect to any such amendment effected, the Administrative Agent shall post each such amendment implementing such Conforming Changes to the Company and the Lenders reasonably promptly after such amendment becomes effective.

2.03 Letters of Credit.

(a) The Letter of Credit Commitment.

(i) Subject to the terms and conditions set forth herein, (A) each L/C Issuer agrees, in reliance upon the agreements of the Revolving Lenders set forth in this Section 2.03, (1) from time to time on any Business Day during the period from the Closing Date until the Letter of Credit Expiration Date, to issue Letters of Credit denominated in Dollars or in one or more Alternative Currencies for the account of the Company or any Subsidiary, and to amend Letters of Credit previously issued by it, in accordance with subsection (b) below, and (2) to honor drawings under the Letters of Credit; provided that no more than three L/C Issuers (including Bank of America) may provide Letters of Credit hereunder in Alternative Currencies at any time; and (B) the Revolving Lenders severally agree to participate in Letters of Credit issued for the account of the Company (or the applicable Subsidiary) and any drawings thereunder; provided that after giving effect to any L/C Credit Extension with respect to any Letter of Credit, (x) the Total Revolving Outstandings shall not exceed the Aggregate Revolving Commitments, (y) the Revolving Credit Exposure of any Lender shall not exceed such Lender's Revolving Commitment and (z) the aggregate Outstanding Amount of the L/C Obligations shall not exceed the Letter of Credit Sublimit. Each request by the Company or any other Borrower for the issuance or amendment of a Letter of Credit shall be deemed to be a representation by the Company or such other Borrower that the L/C Credit Extension so requested complies with the conditions set forth in the proviso to the preceding sentence. Within the foregoing limits, and subject to the terms and conditions hereof, the Borrowers' ability to obtain Letters of Credit shall be fully revolving, and accordingly the Borrowers may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or

that have been drawn upon and reimbursed. All Existing Letters of Credit shall be deemed to have been issued pursuant hereto and deemed L/C Obligations, and from and after the Closing Date shall be subject to and governed by the terms and conditions hereof.

(ii) No L/C Issuer shall issue any Letter of Credit, if:

(A) subject to Section 2.03(b)(iii), the expiry date of the requested Letter of Credit would occur more than eighteen (18) months after the date of issuance or last extension, unless the Required Revolving Lenders have approved such expiry date; or

(B) the expiry date of the requested Letter of Credit would occur after the Letter of Credit Expiration Date, unless all the Revolving Lenders have approved such expiry date.

(iii) No L/C Issuer shall be under any obligation to issue any Letter of Credit if:

(A) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such L/C Issuer from issuing such Letter of Credit, or any Law applicable to such L/C Issuer or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such L/C Issuer shall prohibit, or request that such L/C Issuer refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon such L/C Issuer with respect to such Letter of Credit any restriction, reserve or capital requirement (for which such L/C Issuer is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon such L/C Issuer any unreimbursed loss, cost or expense which was not applicable on the Closing Date and which such L/C Issuer in good faith deems material to it;

(B) the issuance of such Letter of Credit would violate one or more policies of such L/C Issuer applicable to letters of credit generally;

(C) except as otherwise agreed by the applicable L/C Issuer, the Letter of Credit is in an initial stated amount less than the Dollar Equivalent of $50,000 (or in such lesser amount as such L/C Issuer may agree in its sole discretion);

(D) except as otherwise agreed by the Administrative Agent and such L/C Issuer, the Letter of Credit is to be denominated in a currency other than Dollars or an Alternative Currency;

(E) such L/C Issuer does not as of the issuance date of the requested Letter of Credit issue Letters of Credit in the requested currency; or

(F) any Lender is at that time a Defaulting Lender, unless such L/C Issuer has entered into arrangements, including the delivery of Cash Collateral, satisfactory to such L/C Issuer (in its sole discretion) with the Company (or any other Borrower) or such Lender to eliminate such L/C Issuer's actual or potential Fronting Exposure (after giving effect to Section 2.18(a)(iv)) with respect to the Defaulting Lender arising from either the Letter of Credit then proposed to be

issued or that Letter of Credit and all other L/C Obligations as to which such L/C Issuer has actual or potential Fronting Exposure, as it may elect in its sole discretion.

(iv) No L/C Issuer shall amend any Letter of Credit if such L/C Issuer would not be permitted at such time to issue the Letter of Credit in its amended form under the terms hereof.

(v) No L/C Issuer shall be under any obligation to amend any Letter of Credit if (A) such L/C Issuer would have no obligation at such time to issue the Letter of Credit in its amended form under the terms hereof, or (B) the beneficiary of the Letter of Credit does not accept the proposed amendment to the Letter of Credit.

(vi) Each L/C Issuer shall act on behalf of the Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and each L/C Issuer shall have all of the benefits and immunities (A) provided to the Administrative Agent in Article IX with respect to any acts taken or omissions suffered by such L/C Issuer in connection with Letters of Credit issued by it or proposed to be issued by it and Issuer Documents pertaining to such Letters of Credit as fully as if the term "Administrative Agent" as used in Article IX included such L/C Issuer with respect to such acts or omissions, and (B) as additionally provided herein with respect to such L/C Issuer.

(b) Procedures for Issuance and Amendment of Letters of Credit; Auto-Extension Letters of Credit.

(i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Company or any other Borrower delivered to the applicable L/C Issuer (with a copy to the Administrative Agent, if Bank of America is not the applicable L/C Issuer) in the form of a Letter of Credit Application, appropriately completed and signed by a Responsible Officer of the Company or such other Borrower. Such Letter of Credit Application may be sent by facsimile, by United States mail, by overnight courier, by electronic transmission using the system provided by such L/C Issuer, by personal delivery or by any other means acceptable to such L/C Issuer. Such Letter of Credit Application must be received by the applicable L/C Issuer and the Administrative Agent not later than 11:00 a.m. at least two (2) Business Days (or such later date and time as the Administrative Agent and such L/C Issuer may agree in a particular instance in their sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail reasonably satisfactory to the applicable L/C Issuer: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount and currency thereof (and in the absence of specification of currency, shall be deemed a request for a Letter of Credit denominated in Dollars); (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; (G) the purpose and nature of the requested Letter of Credit; and (H) such other matters as such L/C Issuer may require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail reasonably satisfactory to such L/C Issuer (A) the Letter of Credit to be amended; (B) the proposed date of amendment thereof (which shall be a Business Day); (C) the nature of the proposed amendment; and (D) such other matters as such L/C Issuer may require.

Additionally, the applicable Borrower shall furnish to such L/C Issuer and the Administrative Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any Issuer Documents, as such L/C Issuer or the Administrative Agent may require.

(ii) Promptly after receipt of any Letter of Credit Application, the applicable L/C Issuer will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received a copy of such Letter of Credit Application from the applicable Borrower and, if not, such L/C Issuer will provide the Administrative Agent with a copy thereof. Unless such L/C Issuer has received written notice from any Lender, the Administrative Agent or any Loan Party, at least one Business Day prior to the requested date of issuance or amendment of the applicable Letter of Credit, that one or more applicable conditions contained in Article IV shall not then be satisfied, then, subject to the terms and conditions hereof, such L/C Issuer shall, on the requested date, issue a Letter of Credit for the account of the Company (or the applicable Subsidiary) or enter into the applicable amendment, as the case may be, in each case in accordance with such L/C Issuer's usual and customary business practices. Immediately upon the issuance of each Letter of Credit, each Revolving Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from such L/C Issuer a risk participation in such Letter of Credit in an amount equal to the product of such Lender's Applicable Percentage times the amount of such Letter of Credit.

(iii) If the Company or any other Borrower so requests in any applicable Letter of Credit Application, the applicable L/C Issuer may, in its sole discretion, agree to issue a Letter of Credit that has automatic extension provisions (each, an "Auto-Extension Letter of Credit"); provided that any such Auto-Extension Letter of Credit must permit such L/C Issuer to prevent any such extension at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the "Non-Extension Notice Date") in each such twelve-month period to be agreed upon at the time such Letter of Credit is issued. Unless otherwise directed by such L/C Issuer, the applicable Borrower shall not be required to make a specific request to such L/C Issuer for any such extension. Once an Auto-Extension Letter of Credit has been issued, the Lenders shall be deemed to have authorized (but may not require) the applicable L/C Issuer to permit the extension of such Letter of Credit at any time to an expiry date not later than the Letter of Credit Expiration Date; provided, however, that such L/C Issuer shall not permit any such extension if (A) such L/C Issuer has determined that it would not be permitted, or would have no obligation, at such time to issue such Letter of Credit in its revised form (as extended) under the terms hereof (by reason of the provisions of clause (ii) or (iii) of Section 2.03(a) or otherwise), or (B) it has received notice (which may be by telephone or in writing) on or before the day that is seven (7) Business Days before the Non-Extension Notice Date (1) from the Administrative Agent that the Required Revolving Lenders have elected not to permit such extension or (2) from the Administrative Agent, any Lender or the Company that one or more of the applicable conditions specified in Section 4.02 is not then satisfied, and in each case directing such L/C Issuer not to permit such extension.

(iv) If the Company or any other Borrower so requests in any applicable Letter of Credit Application, the applicable L/C Issuer may, in its sole discretion, agree to issue a Letter of Credit that permits the automatic reinstatement of all or a portion of the stated amount thereof after any drawing thereunder (each, an "Auto-Reinstatement Letter of Credit"). Unless otherwise directed by such L/C Issuer, the applicable Borrower shall not

be required to make a specific request to the applicable L/C Issuer to permit such reinstatement. Once an Auto-Reinstatement Letter of Credit has been issued, except as provided in the following sentence, the Lenders shall be deemed to have authorized (but may not require) the applicable L/C Issuer to reinstate all or a portion of the stated amount thereof in accordance with the provisions of such Letter of Credit. Notwithstanding the foregoing, if such Auto-Reinstatement Letter of Credit permits the applicable L/C Issuer to decline to reinstate all or any portion of the stated amount thereof after a drawing thereunder by giving notice of such non-reinstatement within a specified number of days after such drawing (the "Non-Reinstatement Deadline"), such L/C Issuer shall not permit such reinstatement if it has received a notice (which may be by telephone or in writing) on or before the day that is seven (7) Business Days before the Non-Reinstatement Deadline (A) from the Administrative Agent that the Required Revolving Lenders have elected not to permit such reinstatement or (B) from the Administrative Agent, any Lender or the Company that one or more of the applicable conditions specified in Section 4.02 is not then satisfied (treating such reinstatement as an L/C Credit Extension for purposes of this clause) and, in each case, directing such L/C Issuer not to permit such reinstatement.

(v) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the applicable L/C Issuer will also deliver to the applicable Borrower and the Administrative Agent a true and complete copy of such Letter of Credit or amendment.

(c) Drawings and Reimbursements; Funding of Participations.

(i) Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, the applicable L/C Issuer shall notify the applicable Borrower and the Administrative Agent thereof. In the case of a Letter of Credit denominated in an Alternative Currency, the applicable Borrower shall reimburse such L/C Issuer in such Alternative Currency, unless (A) the applicable L/C Issuer (at its option) shall have specified in such notice that it will require reimbursement in Dollars, or (B) in the absence of any such requirement for reimbursement in Dollars, the applicable Borrower shall have notified such L/C Issuer promptly following receipt of the notice of drawing that the applicable Borrower will reimburse such L/C Issuer in Dollars. In the case of any such reimbursement in Dollars of a drawing under a Letter of Credit denominated in an Alternative Currency, the applicable L/C Issuer shall notify the applicable Borrower of the Dollar Equivalent of the amount of the drawing promptly following the determination thereof. If the applicable Borrower is notified prior to 11:00 a.m. on the date of any payment by an L/C Issuer under a Letter of Credit to be reimbursed in Dollars, or prior to the Applicable Time on the date of any payment by an L/C Issuer under a Letter of Credit to be reimbursed in an Alternative Currency (each such date, an "Honor Date"), the applicable Borrower shall reimburse the applicable L/C Issuer through the Administrative Agent in an amount equal to the amount of such drawing and in the applicable currency on such date (or, if notified after such time, then no later than 11:00 a.m. on the next succeeding Business Day with respect to any payment by the applicable L/C Issuer under a Letter of Credit to be reimbursed in Dollars or the Applicable Time on the next succeeding Business Day with respect to any payment by the applicable L/C Issuer under a Letter of Credit to be reimbursed in an Alternative Currency). In the event that (A) a drawing denominated in an Alternative Currency is to be reimbursed in Dollars pursuant to the second sentence in this Section 2.03(c)(i) and (B) the Dollar amount paid by the applicable Borrower, whether on or after the Honor Date, shall not be adequate on the date of that payment to purchase in accordance with normal banking procedures a sum

denominated in the Alternative Currency equal to the drawing, the applicable Borrower agrees, as a separate and independent obligation, to indemnify the applicable L/C Issuer for the loss resulting from its inability on that date to purchase the Alternative Currency in the full amount of the drawing. If the applicable Borrower fails to timely reimburse an L/C Issuer on the Honor Date, the Administrative Agent shall promptly notify each Lender of the Honor Date, the amount of the unreimbursed drawing (expressed in Dollars in the amount of the Dollar Equivalent thereof in the case of a Letter of Credit denominated in an Alternative Currency) (the "Unreimbursed Amount"), and the amount of such Lender's Applicable Percentage thereof. In such event, the applicable Borrower shall be deemed to have requested a Borrowing of Revolving Loans that are Base Rate Loans to be disbursed on the Honor Date in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.02 for the principal amount of Revolving Loans that are Base Rate Loans, but subject to the amount of the unutilized portion of the Aggregate Revolving Commitments and the conditions set forth in Section 4.02 (other than the delivery of a Loan Notice) and provided that, after giving effect to such Borrowing, the Total Revolving Outstandings shall not exceed the Aggregate Revolving Commitments. Any notice given by an L/C Issuer or the Administrative Agent pursuant to this Section 2.03(c)(i) may be given by telephone if promptly confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each Revolving Lender shall upon any notice pursuant to Section 2.03(c)(i) make funds available (and the Administrative Agent may apply Cash Collateral provided for this purpose) for the account of the applicable L/C Issuer, in Dollars, at the Administrative Agent's Office for Dollar-denominated payments in an amount equal to its Applicable Percentage of the Unreimbursed Amount not later than 1:00 p.m. on the Business Day specified in such notice by the Administrative Agent, whereupon, subject to the provisions of Section 2.03(c)(iii), each Revolving Lender that so makes funds available shall be deemed to have made a Revolving Loan that is a Base Rate Loan to the applicable Borrower in such amount. The Administrative Agent shall remit the funds so received to the applicable L/C Issuer in Dollars.

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by a Borrowing of Revolving Loans that are Base Rate Loans because the conditions set forth in Section 4.02 cannot be satisfied or for any other reason, the applicable Borrower shall be deemed to have incurred from the applicable L/C Issuer an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the Default Rate. In such event, each Revolving Lender's payment to the Administrative Agent for the account of the applicable L/C Issuer pursuant to Section 2.03(c)(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 2.03.

(iv) Until each Revolving Lender funds its Revolving Loan or L/C Advance pursuant to this Section 2.03(c) to reimburse the applicable L/C Issuer for any amount drawn under any Letter of Credit issued by such L/C Issuer, interest in respect of such Lender's Applicable Percentage of such amount shall be solely for the account of such L/C Issuer.

(v) Each Revolving Lender's obligation to make Revolving Loans or L/C Advances to reimburse each L/C Issuer for amounts drawn under Letters of Credit issued by such L/C Issuer, as contemplated by this Section 2.03(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against an L/C Issuer, the Company, any Subsidiary or any other Person for any reason whatsoever; (B) the occurrence or continuance of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided, however, that each Revolving Lender's obligation to make Revolving Loans pursuant to this Section 2.03(c) is subject to the conditions set forth in Section 4.02 (other than delivery by the applicable

(vi) Borrower of a Loan Notice). No such making of an L/C Advance shall relieve or otherwise impair the obligation of the applicable Borrower to reimburse an L/C Issuer for the amount of any payment made by such L/C Issuer under any Letter of Credit, together with interest as provided herein. If any Revolving Lender fails to make available to the Administrative Agent for the account of an L/C Issuer any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.03(c) by the time specified in Section 2.03(c)(ii), then, without limiting the other provisions of this Agreement, such L/C Issuer shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to such L/C Issuer at a rate per annum equal to the applicable Overnight Rate from time to time in effect, plus any administrative, processing or similar fees customarily charged by such L/C Issuer in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Revolving Loan included in the relevant Borrowing or L/C Advance in respect of the relevant L/C Borrowing, as the case may be. A certificate of an L/C Issuer submitted to any Revolving Lender (through the Administrative Agent) with respect to any amounts owing under this clause (vi) shall be conclusive absent manifest error.

(d) Repayment of Participations.

(i) At any time after an L/C Issuer has made a payment under any Letter of Credit issued by such L/C Issuer and has received from any Revolving Lender such Lender's L/C Advance in respect of such payment in accordance with Section 2.03(c), if the Administrative Agent receives for the account of such L/C Issuer any payment in respect of the related Unreimbursed Amount or interest thereon (whether directly from the applicable Borrower or otherwise, including proceeds of Cash Collateral applied thereto by the Administrative Agent), the Administrative Agent will distribute to such Lender its Applicable Percentage thereof in Dollars and in the same funds as those received by the Administrative Agent.

(ii) If any payment received by the Administrative Agent for the account of an L/C Issuer pursuant to Section 2.03(c)(i) is required to be returned under any of the circumstances described in Section 10.05 (including pursuant to any settlement entered into by an L/C Issuer in its discretion), each Revolving Lender shall pay to the Administrative Agent for the account of such L/C Issuer its Applicable Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to the applicable Overnight Rate from time to time in effect. The obligations of the Revolving

Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) Obligations Absolute. The obligation of the applicable Borrower to reimburse each L/C Issuer for each drawing under each Letter of Credit issued by such L/C Issuer and to repay each L/C Borrowing shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

(i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other Loan Document; the existence of any claim, counterclaim, setoff, defense or other right that the Company or any Subsidiary may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), the applicable L/C Issuer or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(ii) any draft, demand, endorsement, certificate or other document presented under or in connection with such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iii) waiver by such L/C Issuer of any requirement that exists for such L/C Issuer's protection and not the protection of any Borrower or any waiver by such L/C Issuer which does not in fact materially prejudice such Borrower;

(iv) honor of a demand for payment presented electronically even if such Letter of Credit requires that demand be in the form of a draft;

(v) any payment made by such L/C Issuer in respect of an otherwise complying item presented after the date specified as the expiration date of, or the date by which documents must be received under, such Letter of Credit if presentation after such date is authorized by the UCC, the ISP or the UCP, as applicable;

(vi) any payment by such L/C Issuer under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by such L/C Issuer under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law;

(vii) any adverse change in the relevant exchange rates or in the availability of the relevant Alternative Currency to the Company or any Subsidiary or in the relevant currency markets generally; or

(viii) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Company or any Subsidiary.

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The applicable Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the applicable Borrower's instructions or other irregularity, such Borrower will immediately notify the applicable L/C Issuer. The applicable Borrower shall be conclusively deemed to have waived any such claim against such L/C Issuer and its correspondents unless such notice is given as aforesaid.

(f) Role of L/C Issuer. Each Lender and the Borrowers agree that, in paying any drawing under a Letter of Credit, the applicable L/C Issuer shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. None of the L/C Issuers, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of any L/C Issuer shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Lenders, the Required Pro Rata Facilities Lenders, the Required Revolving Lenders or the Required Lenders, as applicable; (ii) any action taken or omitted in the absence of bad faith, gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Issuer Document. The applicable Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; provided, however, that this assumption is not intended to, and shall not, preclude such Borrower's pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. None of the L/C Issuers, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of any L/C Issuer shall be liable or responsible for any of the matters described in clauses (i) through (viii) of Section 2.03(e); provided, however, that anything in such clauses to the contrary notwithstanding, the applicable Borrower may have a claim against an L/C Issuer, and an L/C Issuer may be liable to such Borrower, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by such Borrower which such Borrower proves, as determined by a final non-appealable judgment of a court of competent jurisdiction, were caused by such L/C Issuer's bad faith, willful misconduct or gross negligence or such L/C Issuer's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight or time draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, an L/C Issuer may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and such L/C Issuer shall not be responsible for the validity or sufficiency of any instrument transferring, endorsing or assigning or purporting to transfer, endorse or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason. The L/C Issuers may send a Letter of Credit or conduct any communication to or from the beneficiary via the Society for Worldwide Interbank Financial Telecommunication ("SWIFT") message or overnight courier, or any other commercially reasonable means of communicating with a beneficiary.

(g) Applicability of ISP and UCP; Limitation of Liability. Unless otherwise expressly agreed by the applicable L/C Issuer and the applicable Borrower when a Letter of Credit is issued (including any such agreement applicable to an Existing Letter of Credit), (i) the rules of the ISP shall apply to each standby Letter of Credit and (ii) the rules of the UCP shall apply to each commercial Letter of Credit. Notwithstanding the foregoing, no L/C Issuer shall be responsible to any Borrower for, and no L/C Issuer's rights and remedies against any Borrower shall be impaired by, any action or inaction of such L/C Issuer required or permitted under any Law, order, or practice that is required or permitted to be applied to any Letter of Credit or this Agreement, including the Law or any order of a jurisdiction where such L/C Issuer or the beneficiary is located, the practice

stated in the ISP or UCP, as applicable, or in the decisions, opinions, practice statements, or official commentary of the ICC Banking Commission, the Bankers Association for Finance and Trade - International Financial Services Association (BAFT-IFSA), or the Institute of International Banking Law & Practice, whether or not any Letter of Credit chooses such Law or practice.

(h) Letter of Credit Fees. The Company shall pay to the Administrative Agent for the account of each Revolving Lender in accordance, subject to adjustment as provided in Section 2.18, with its Applicable Percentage, in Dollars, a Letter of Credit fee (the "Letter of Credit Fee") (A) for each commercial Letter of Credit equal to one-half (½) of one percent (1.00%) per annum times the Dollar Equivalent of the daily amount available to be drawn under such Letter of Credit, and (B) for each standby Letter of Credit equal to the Applicable Rate for Letter of Credit Fees times the Dollar Equivalent of the daily amount available to be drawn under such Letter of Credit. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.09. Letter of Credit Fees shall be (x) due and payable on the first (1st) Business Day after the end of each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Expiration Date and thereafter on demand and (y) computed on a quarterly basis in arrears. If there is any change in the Applicable Rate during any quarter, the daily amount available to be drawn under each Letter of Credit shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect. Notwithstanding anything to the contrary contained herein, upon the request of the Required Revolving Lenders, while any Event of Default exists, all Letter of Credit Fees shall accrue at the Default Rate.

(i) Fronting Fee and Documentary and Processing Charges Payable to L/C Issuer. The applicable Borrower shall pay directly to each L/C Issuer for its own account, in Dollars, a fronting fee (i) with respect to each commercial Letter of Credit issued by such L/C Issuer, at the rate specified in the Fee Letters or otherwise agreed in writing by the applicable L/C Issuer and the applicable Borrower, as applicable, in each case computed on the Dollar Equivalent of the amount of such Letter of Credit and due and payable upon the issuance thereof, (ii) with respect to any amendment of a commercial Letter of Credit issued by such L/C Issuer increasing the amount of such Letter of Credit, at a rate separately agreed between the applicable Borrower and such L/C Issuer, computed on the Dollar Equivalent of the amount of such increase, and due and payable upon the effectiveness of such amendment, and (iii) with respect to each standby Letter of Credit issued by such L/C Issuer, at the rate per annum specified in the Fee Letters or otherwise agreed in writing by such L/C Issuer and the applicable Borrower, as applicable, in each case computed on the Dollar Equivalent of the daily amount available to be drawn under such Letter of Credit on a quarterly basis in arrears and due and payable on the first (1st) Business Day after the end of each March, June, September and December in respect of the most recently-ended quarterly period (or portion thereof, in the case of the first payment), commencing with the first such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Expiration Date and thereafter on demand. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.09. In addition, the applicable Borrower shall pay directly to each L/C Issuer for its own respective account, in Dollars, the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of such L/C Issuer relating to letters of credit as from time to time in effect. Such customary fees and standard costs and charges are due and payable on demand and are nonrefundable.

(j) Letters of Credit Issued for Subsidiaries. Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of, a

Subsidiary, the Borrowers shall be jointly and severally obligated to reimburse, indemnify and compensate the applicable L/C Issuer hereunder for any and all drawings under such Letter of Credit as if such Letter of Credit had been issued solely for the account of the Company. Each Borrower irrevocably waives any and all defenses that might otherwise be available to it as a guarantor or surety of any or all of the obligations of such Subsidiary in respect of such Letter of Credit. Each Borrower hereby acknowledges that the issuance of Letters of Credit for the account of Subsidiaries inures to the benefit of such Borrower, and that such Borrower's business derives substantial benefits from the businesses of such Subsidiaries.

(k) Reporting of Letter of Credit Information. At any time that any Lender other than the Person serving as the Administrative Agent is an L/C Issuer, then (i) on the last Business Day of each calendar month, (ii) on each date that a Letter of Credit is amended, terminated or otherwise expires, (iii) on each date that an L/C Credit Extension occurs with respect to any Letter of Credit, and (iv) upon the request of the Administrative Agent, each L/C Issuer (or, in the case of clause (ii), (iii) or (iv), the applicable L/C Issuer) shall deliver to the Administrative Agent a report setting forth in form and detail reasonably satisfactory to the Administrative Agent information (including, without limitation, any reimbursement, Cash Collateral, or termination in respect of Letters of Credit issued by such L/C Issuer) with respect to each Letter of Credit issued by such L/C Issuer that is outstanding hereunder. No failure on the part of any L/C Issuer to provide such information pursuant to this Section 2.03(k) shall limit the obligation of the Borrowers or any applicable Lender hereunder with respect to its reimbursement and participation obligations, respectively, pursuant to this Section 2.03.

(l) Conflict with Issuer Documents. In the event of any conflict between the terms hereof and the terms of any Issuer Document, the terms hereof shall control.

2.04 [Reserved].

2.05 Swing Line Loans.

(a) Swing Line Facility. Subject to the terms and conditions set forth herein, the Swing Line Lender, in reliance upon the agreements of the other Revolving Lenders set forth in this Section 2.05, may in its sole discretion make loans in (A) Dollars (each such loan, a "U.S. Dollar Swing Line Loan") to the Borrowers or any of them from time to time on any Business Day during the Availability Period in an aggregate amount not to exceed at any time outstanding the amount of the U.S. Dollar Swing Line Sublimit, notwithstanding the fact that such U.S. Dollar Swing Line Loans, when aggregated with the Applicable Percentage of the Outstanding Amount of Revolving Loans and L/C Obligations of the Revolving Lender acting as Swing Line Lender, may exceed the amount of such Lender's Revolving Commitment; provided, however, that (x) after giving effect to any U.S. Dollar Swing Line Loan, (i) the Total Revolving Outstandings shall not exceed the Aggregate Revolving Commitments, and (ii) the Revolving Credit Exposure of any Lender shall not exceed such Lender's Revolving Commitment, (y) no Borrower shall use the proceeds of any U.S. Swing Line Loan to refinance any outstanding Swing Line Loan, and (z) the Swing Line Lender shall not be under any obligation to make any U.S. Dollar Swing Line Loan if it shall determine (which determination shall be conclusive and binding absent manifest error) that it has, or by such Credit Extension may have, Fronting Exposure or (B) Euros (each such loan, a "Euro Swing Line Loan" and together with the U.S. Dollar Swing Line Loans, the "Swing Line Loans") to the Borrowers or any of them from time to time on any Business Day during the Availability Period in an aggregate amount not to exceed at any time outstanding the amount of the Euro Swing Line Sublimit, notwithstanding the fact that such Euro Swing Line Loans, when aggregated with the Applicable Percentage of the Outstanding Amount of Revolving Loans and

L/C Obligations of the Revolving Lender acting as Swing Line Lender, may exceed the amount of such Lender's Revolving Commitment; provided, however, that (x) after giving effect to any Euro Swing Line Loan, (i) the Total Revolving Outstandings shall not exceed the Aggregate Revolving Commitments, and (ii) the Revolving Credit Exposure of any Lender shall not exceed such Lender's Revolving Commitment, (y) no Borrower shall use the proceeds of any Euro Swing Line Loan to refinance any outstanding Swing Line Loan, and (z) the Swing Line Lender shall not be under any obligation to make any Euro Swing Line Loan if it shall determine (which determination shall be conclusive and binding absent manifest error) that it has, or by such Credit Extension may have, Fronting Exposure. Within the foregoing limits, and subject to the other terms and conditions hereof, each Borrower may borrow under this Section 2.05, prepay under Section 2.06, and reborrow under this Section 2.05. Each U.S. Dollar Swing Line Loan shall be a Base Rate Loan and each Euro Swing Line Loan shall be a Euro Swing Line Rate Loan. Immediately upon the making of a Swing Line Loan, each Revolving Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the Swing Line Lender a risk participation in such Swing Line Loan in an amount equal to the product of such Lender's Applicable Percentage times the amount of such Swing Line Loan.

(b) Borrowing Procedures. Each Swing Line Borrowing shall be made upon the applicable Borrower's irrevocable notice to the Swing Line Lender and the Administrative Agent, which may be given by (A) telephone or (B) by a Swing Line Loan Notice; provided that any telephonic notice must be confirmed promptly by delivery to the Swing line Lender and the Administrative Agent of a Swing Line Loan Notice. Each such Swing Line Loan Notice must be received by the Swing Line Lender and the Administrative Agent (A) not later than 1:00 p.m. on the requested borrowing date (which shall be a Business Day) for a U.S. Dollar Swing Line Loan in the United States, (B) not later than 5:00 p.m. London time on the Business Day prior to the requested borrowing date (which shall be a Business Day) for a U.S. Dollar Swing Line Loan outside of the United States and (C) not later than 11:00 a.m. London Time on the Business Day prior to the requested borrowing date (which shall be a Business Day) for a Euro Swing Line Loan, and shall, in each case, specify (i) the amount to be borrowed, which shall be a minimum principal amount of $100,000 and increments thereof, and (ii) the requested borrowing date, which shall be a Business Day. Promptly after receipt by the Swing Line Lender of any telephonic Swing Line Loan Notice, the Swing Line Lender will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has also received such Swing Line Loan Notice and, if not, the Swing Line Lender will notify the Administrative Agent of the contents thereof. Unless the Swing Line Lender has received notice (by telephone or in writing) from the Administrative Agent (including at the request of any Revolving Lender) prior to 2:00 p.m. on the date of the proposed Swing Line Borrowing (A) directing the Swing Line Lender not to make such Swing Line Loan as a result of the limitations set forth in the first proviso to the first sentence of Section 2.05(a), or (B) that one or more of the applicable conditions specified in Article IV is not then satisfied, then, subject to the terms and conditions hereof, the Swing Line Lender will, not later than 3:00 p.m. on the borrowing date specified in such Swing Line Loan Notice, make the amount of its Swing Line Loan available to the applicable Borrower.

(c) Refinancing of Swing Line Loans.

(i) The Swing Line Lender at any time in its sole discretion may request, on behalf of the applicable Borrower (and each Borrower hereby irrevocably authorizes the Swing Line Lender to so request on its behalf), that each Revolving Lender make a Base Rate Loan in an amount equal to such Lender's Applicable Percentage of the amount of Swing Line Loans then outstanding (in the case of Euro Swing Line Loans, the amount of such Base Rate Loan shall be the Dollar Equivalent thereof). Such request shall be made

in writing (which written request shall be deemed to be a Loan Notice for purposes hereof) and in accordance with the requirements of Section 2.02, without regard to the minimum and multiples specified therein for the principal amount of Revolving Loans that are Base Rate Loans, but subject to the unutilized portion of the Aggregate Revolving Commitments and the conditions set forth in Section 4.02. The Swing Line Lender shall furnish the Company with a copy of the applicable Loan Notice promptly after delivering such notice to the Administrative Agent. Each Revolving Lender shall make an amount equal to its Applicable Percentage of the amount specified in such Loan Notice available to the Administrative Agent in Same Day Funds (and the Administrative Agent may apply Cash Collateral available with respect to the applicable Swing Line Loan) for the account of the Swing Line Lender at the Administrative Agent's Office for Dollar-denominated payments not later than 1:00 p.m. on the day specified in such Loan Notice, whereupon, subject to Section 2.05(c)(ii), each Revolving Lender that so makes funds available shall be deemed to have made a Revolving Loan that is a Base Rate Loan to the applicable Borrower in such amount. The Administrative Agent shall remit the funds so received to the Swing Line Lender.

(ii) If for any reason any Swing Line Loan cannot be refinanced by such a Borrowing of Revolving Loans in accordance with Section 2.05(c)(i), the request for Revolving Loans that are Base Rate Loans submitted by the Swing Line Lender as set forth herein shall be deemed to be a request by the Swing Line Lender that each of the Revolving Lenders fund its risk participation in the relevant Swing Line Loan and each Revolving Lender's payment to the Administrative Agent for the account of the Swing Line Lender pursuant to Section 2.05(c)(i) shall be deemed payment in respect of such participation.

(iii) If any Revolving Lender fails to make available to the Administrative Agent for the account of the Swing Line Lender any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.05(c) by the time specified in Section 2.05(c)(i), the Swing Line Lender shall be entitled to recover from such Revolving Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the Swing Line Lender at a rate per annum equal to the applicable Overnight Rate from time to time in effect, plus any administrative, processing or similar fees customarily charged by the Swing Line Lender in connection with the foregoing. If such Revolving Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Revolving Lender's Loan included in the relevant Borrowing or funded participation in the relevant Swing Line Loan, as the case may be. A certificate of the Swing Line Lender submitted to any Revolving Lender (through the Administrative Agent) with respect to any amounts owing under this clause (iii) shall be conclusive absent manifest error.

(iv) Each Revolving Lender's obligation to make Revolving Loans or to purchase and fund risk participations in Swing Line Loans pursuant to this Section 2.05(c) shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Revolving Lender may have against the Swing Line Lender, any Borrower or any other Person for any reason whatsoever, (B) the occurrence or continuance of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided, however, that each Revolving Lender's obligation to make Loans pursuant to this Section 2.05(c) is subject to the conditions set forth in Section 4.02. No such funding

of risk participations shall relieve or otherwise impair the obligation of each Borrower to repay Swing Line Loans made to such Borrower, together with interest as provided herein.

(d) Repayment of Participations.

(i) At any time after any Revolving Lender has purchased and funded a risk participation in a Swing Line Loan, if the Swing Line Lender receives any payment on account of such Swing Line Loan, the Swing Line Lender will distribute to such Revolving Lender its Applicable Percentage thereof in the same funds as those received by the Swing Line Lender.

(ii) If any payment received by the Swing Line Lender in respect of principal or interest on any Swing Line Loan is required to be returned by the Swing Line Lender under any of the circumstances described in Section 10.05 (including pursuant to any settlement entered into by the Swing Line Lender in its discretion), each Revolving Lender shall pay to the Swing Line Lender its Applicable Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned, at a rate per annum equal to the applicable Overnight Rate. The Administrative Agent will make such demand upon the request of the Swing Line Lender. The obligations of the Revolving Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) Interest for Account of Swing Line Lender. The Swing Line Lender shall be responsible for invoicing each Borrower for interest on the Swing Line Loans made to such Borrower. Until each Revolving Lender funds its Revolving Loans that are Base Rate Loan or risk participation pursuant to this Section 2.05 to refinance such Lender's Applicable Percentage of any Swing Line Loan, interest in respect of such Applicable Percentage shall be solely for the account of the Swing Line Lender.

(f) Payments Directly to Swing Line Lender. Each Borrower shall make all payments of principal and interest in respect of the Swing Line Loans made to such Borrower directly to the Swing Line Lender.

(g) Reallocation of Swing Line Sublimit. The Company may, upon notice to the Administrative Agent, reallocate the Swing Line Sublimit as between the U.S. Dollar Swing Line Sublimit and the Euro Swing Line Sublimit; provided that (i) any such notice shall be received by the Administrative Agent not later than 11:00 a.m. five (5) Business Days prior to the date of such reallocation, (ii) after giving effect to any such reallocation, the outstanding U.S. Dollar Swing Line Loans shall not exceed the amount of the U.S. Dollar Swing Line Sublimit then in effect and the outstanding Euro Swing Line Loans shall not exceed the amount of the Euro Swing Line Sublimit and (iii) after giving effect to any such reallocation, the aggregate Outstanding Amount of all Revolving Loans, all U.S. Dollar Swing Line Loans and all L/C Obligations shall not exceed the Aggregate Revolving Commitments less the Euro Swing Line Sublimit (as in effect after such reallocation); provided that any increase in the Euro Swing Line Sublimit shall be subject to confirmation by the Administrative Agent of compliance with the foregoing clause (iii).

2.06 Prepayments.

(a) Voluntary Prepayments of Loans.

(i) Revolving Loans and Term Loans. Any Borrower may, upon delivery of a Notice of Loan Prepayment to the Administrative Agent, at any time or from time to time voluntarily prepay Revolving Loans and Term Loans in whole or in part without premium or penalty except as set forth in Section 2.06(c); provided that, unless otherwise agreed by the Administrative Agent, (A) such notice must be received by the Administrative Agent not later than 12:00 noon (x) three (3) Business Days prior to any date of prepayment of Eurocurrency Rate Loans, (y) four (4) Business Days (or five (5) Business Days in the case of a prepayment of Loans denominated in Special Notice Currencies) prior to any date of prepayment of Alternative Currency Loans and (z) on the date of prepayment of Base Rate Loans; (B) any such prepayment of Eurocurrency Rate Loans or Alternative Currency Loans shall be in a principal amount of the Dollar Equivalent of $1,000,000 or a whole multiple of the Dollar Equivalent of $500,000 in excess thereof (or, if less, the entire principal amount thereof then outstanding); (C) any prepayment of Base Rate Loans shall be in a principal amount of $1,000,000 or a whole multiple of $500,000 in excess thereof (or, if less, the entire principal amount thereof then outstanding); and (D) any prepayment of any of the Term Loans shall be applied to such tranche of the Term Loans as the applicable Borrower making such prepayment shall direct in its sole discretion; provided that, absent such direction any prepayment shall be applied ratably to the Term Loans then outstanding (and to the principal installments thereof in direct order of maturity). Each such notice shall specify the date and amount of such prepayment and the Type(s) of Loans to be prepaid and, if Eurocurrency Rate Loans or Alternative Currency Term Rate Loans are to be prepaid, the Interest Period(s) of such Loans. The Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's Applicable Percentage of such prepayment; provided that any such notice delivered by a Borrower may be conditioned upon the effectiveness of other transactions, in which case such notice may be revoked or its effectiveness deferred by such Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied, subject to the payment of breakage costs in accordance with Section 3.05. If such notice is given by a Borrower, such Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of a Loan shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 2.06(c) and, in the case of Eurocurrency Rate Loans and Alternative Currency Loans, Section 3.05. Subject to Section 2.18, each such prepayment shall be applied to the Loans of the Lenders in accordance with their respective Applicable Percentages.

(ii) Swing Line Loans. Any Borrower may, upon delivery of a Notice of Loan Prepayment to the Swing Line Lender (with a copy to the Administrative Agent), at any time or from time to time, voluntarily prepay Swing Line Loans in whole or in part without premium or penalty; provided that, unless otherwise agreed to by the Swing Line Lender, (A) such notice must be received by the Swing Line Lender and the Administrative Agent not later than 2:00 p.m. on the date of the prepayment, and (B) any such prepayment shall be in a minimum principal amount of $100,000 or a whole multiple of $100,000 in excess thereof (or, if less, the entire principal thereof then outstanding). Each such notice shall specify the date and amount of such prepayment. If such notice is given by a Borrower, such Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein.

(b) Mandatory Prepayments of Loans.

(i) Revolving Commitments.

(A) If for any reason the Total Revolving Outstandings at any time exceed the Aggregate Revolving Commitments then in effect, the Borrowers shall promptly prepay Revolving Loans and/or Swing Line Loans and/or Cash Collateralize the L/C Obligations in an aggregate amount equal to such excess; provided, however, that the Borrowers shall not be required to Cash Collateralize the L/C Obligations pursuant to this Section 2.06(b)(i) unless after the prepayment in full of the Revolving Loans and Swing Line Loans the Total Revolving Outstandings exceed the Aggregate Revolving Commitments then in effect.

(B) If the Administrative Agent notifies the Company at any time that the Total Revolving Outstandings exceed an amount equal to 105% of the Aggregate Revolving Commitments then in effect, then within two (2) Business Days after receipt of such notice, the Borrowers shall prepay Revolving Loans and/or Cash Collateralize Letters of Credit in an aggregate amount sufficient to reduce such Outstanding Amount as of such date of payment to an amount not to exceed 100% of the Aggregate Revolving Commitments then in effect, as applicable.

(ii) Dispositions and Recovery Events. The Borrowers shall prepay the Loans and/or Cash Collateralize the L/C Obligations as hereafter provided in an aggregate amount equal to one hundred percent (100%) of the Net Cash Proceeds in excess of $30,000,000 during any fiscal year, in either case received by the Company or any Subsidiary from any Disposition (other than, in each case, Dispositions permitted by any of Sections 7.05(a) through (i), Section 7.05(k), Section 7.05(m) through (r) or Sections 7.05(t) through (v)) or Recovery Event to the extent such Net Cash Proceeds in excess of the foregoing thresholds are not reinvested in assets (excluding current assets as classified by GAAP) that are useful or usable in the business of the Company and its Subsidiaries within three hundred sixty-five (365) days of the date of such Disposition or Recovery Event; provided, however, if any portion of such Net Cash Proceeds are not so reinvested within such 365-day period but within such 365-day period are contractually committed to be reinvested, then upon the termination of such contract or if such Net Cash Proceeds are not so reinvested within five hundred forty-five (545) days of initial receipt, such remaining portion shall constitute Net Cash Proceeds as of the date of such termination or expiry and shall be immediately applied to the prepayment of the Term Loans as set forth in this Section 2.06(b)(ii). Any prepayment pursuant to this clause (ii) shall be applied as set forth in clause (v) below.

(iii) Consolidated Excess Cash Flow. Within ten (10) Business Days after the date that the annual consolidated financial statements of the Company and its Subsidiaries are required to be delivered pursuant to Section 6.01(a) after the end of each fiscal year ending after the Closing Date (the "Consolidated Excess Cash Flow Prepayment Date"), commencing with the fiscal year ending December 31, 2022, the Company shall prepay (or cause to be prepaid) the Term Loans (other than the Term A Loan) as hereafter provided in an aggregate amount equal to the difference of (A) the product of Consolidated Excess Cash Flow for such year times (I) fifty percent (50%), if the Consolidated Secured Leverage Ratio as of the end of such fiscal year is equal to or greater than 3.50:1.00 or (II) twenty-five percent (25%), if the Consolidated Secured Leverage Ratio as of the end of such fiscal year is less than 3.50:1.00 but greater than or equal to 3.00:1.00, minus (B) the aggregate amount of optional principal prepayments of Term Loans and optional prepayments of Revolving Loans (to the extent accompanied by a permanent reduction in the Aggregate Revolving Commitments) in each case made pursuant to Section 2.06(a) (1) during such fiscal year (other than any optional prepayments made prior to the

Consolidated Excess Cash Flow Prepayment Date for such fiscal year to the extent such optional prepayments were applied to reduce the Consolidated Excess Cash Flow prepayment required under this clause (iii) for the prior fiscal year) or (2) following the end of such fiscal year but prior to the Consolidated Excess Cash Flow Prepayment Date for such fiscal year and, upon the election of the Company by written notice delivered to the Administrative Agent prior to the Consolidated Excess Cash Flow Prepayment Date for such period, applied to reduce the Consolidated Excess Cash Flow prepayment required under this clause (iii), in each case, except to the extent financed with long-term, non-revolving Indebtedness; provided, however, that if the Consolidated Secured Leverage Ratio as of the last day of such fiscal year is less than 3.00:1.00, then the Company shall not be required to make any prepayment pursuant to this clause (iii) for such fiscal year. Any prepayment pursuant to this clause (iii) shall be applied as set forth in clause (v) below.

(iv) Debt Issuances. Within one (1) Business Day of receipt by the Company or any Subsidiary of the Net Cash Proceeds of any (A) any Permitted Credit Agreement Refinancing Indebtedness or (B) any Debt Issuance, the Company shall prepay the Loans and/or Cash Collateralize the L/C Obligations as hereafter provided in an aggregate amount equal to one hundred percent (100%) of such Net Cash Proceeds. Any prepayment pursuant to this clause (iv) shall be applied as set forth in clause (v) below.

(v) Application of Mandatory Prepayments. All amounts required to be paid pursuant to this Section 2.06(b) shall be applied as follows:

(A) with respect to all amounts prepaid pursuant to Section 2.06(b)(i), first, ratably to the L/C Borrowings and the Swing Line Loans, second, to the outstanding Revolving Loans, and, third, to Cash Collateralize the remaining L/C Obligations;

(B) with respect to all amounts prepaid pursuant to Sections 2.06(b)(ii), (iii) and (iv) (other than Permitted Credit Agreement Refinancing Indebtedness), first ratably to the Term Loans (and to the remaining amortization payments in direct order of maturity), second, ratably to the L/C Borrowings and the Swing Line Loans, third, to the outstanding Revolving Loans, and fourth, to Cash Collateralize the remaining L/C Obligations (but in each case without a reduction of the Aggregate Revolving Commitments), provided that no prepayment of the Term A Loan shall be required pursuant to Section 2.06(b)(iii); and

(C) with respect to all amounts prepaid pursuant to Section 2.05(b)(iv) in respect of any Permitted Credit Agreement Refinancing Indebtedness, such prepayment shall be applied solely to those applicable Class of Term Loans or Revolving Loans (or unused Revolving Commitments) with respect to which such Permitted Credit Agreement Refinancing Indebtedness is being incurred.

Within the parameters of the applications set forth above, prepayments shall be applied first ratably to Base Rate Loans and Alternative Currency Daily Rate Loans and second to Eurocurrency Rate Loans and Alternative Currency Term Rate Loans in direct order of Interest Period maturities. All prepayments under this Section 2.06(b) shall be subject to Section 3.05, but otherwise without premium or penalty except as set forth in Section 2.06(c) (solely to the extent applicable), and shall be accompanied by interest on the principal amount prepaid

through the date of prepayment and any additional amounts required pursuant to Section 2.06(c) (solely to the extent applicable).

(c) Prepayment Premium.

(i) Prepayment Premium Event. In the event that any Prepayment Premium Event occurs prior to the Maturity Date with respect to the Term B Loan, in addition to the payment of the subject principal amount and all unpaid accrued interest thereon, the Company shall be required to pay to the Administrative Agent, for the benefit of the applicable Lenders, a prepayment premium (as liquidated damages and compensation for the costs of the Lenders being prepared to make funds available hereunder with respect to the Term B Loan) in an amount equal to: (x) if such Prepayment Premium Event is made on or before the first anniversary of the Closing Date, the Make-Whole Amount with respect to the principal amount of Term B Loan subject to such Prepayment Premium Event, (y) if such Prepayment Premium Event is made after the first anniversary of the Closing Date but on or before the second anniversary of the Closing Date, an amount equal to 2.00% of the principal amount subject to such Prepayment Premium Event and (z) if such Prepayment Premium Event is made after the second anniversary of the Closing Date but on or before the third anniversary of the Closing Date, an amount equal to 1.00% of the principal amount subject to such Prepayment Premium Event. No Prepayment Premium shall be applicable to any Prepayment Premium Event made after the third anniversary of the Closing Date.

(ii) Nature of Prepayment Premium. The parties hereto acknowledge and agree that (x) in light of the impracticality and extreme difficulty of ascertaining actual damages, the applicable Prepayment Premium is intended to be a reasonable calculation of the actual damages that would be suffered by the Lenders as a result of any such prepayment, repayment, redemption, payment or termination, (y) the Administrative Agent and the Lenders would not have entered into this Agreement, and the Lenders would not have provided the Term B Loan, without the Loan Parties agreeing to pay the applicable Prepayment Premium in the aforementioned instances and (z) the applicable Prepayment Premium is not intended to act as a penalty or to punish the Company or any other Loan Party for any such prepayment, repayment, redemption or payment.

2.07 Termination or Reduction of Commitments. The Company may, upon notice to the Administrative Agent, terminate the Aggregate Revolving Commitments, or from time to time permanently reduce the Aggregate Revolving Commitments; provided that (i) any such notice shall be received by the Administrative Agent not later than 11:00 a.m. five (5) Business Days prior to the date of termination or reduction, (ii) any such partial reduction shall be in an aggregate amount of $10,000,000 or any whole multiple of $1,000,000 in excess thereof, (iii) the Company shall not terminate or reduce the Aggregate Revolving Commitments if, after giving effect thereto and to any concurrent prepayments hereunder, the Total Revolving Outstandings would exceed the Aggregate Revolving Commitments, and (iv) if, after giving effect to any reduction of the Aggregate Revolving Commitments, the Letter of Credit Sublimit or the Swing Line Sublimit exceeds the amount of the Aggregate Revolving Commitments, such sublimit shall be automatically reduced by the amount of such excess (and the Company and the Administrative Agent shall agree to the size of the U.S. Dollar Swing Line Sublimit and the Euro Swing Line Sublimit so that the sum thereof equals the as-reduced Swing Line Sublimit). The Administrative Agent will promptly notify the Lenders of any such notice of termination or reduction of the Aggregate Revolving Commitments. Subject to clause (iv) of the proviso to the first sentence in this Section 2.07, the amount of any such Aggregate Revolving Commitment reduction shall not be applied to the Letter of Credit Sublimit or the Swing Line Sublimit unless otherwise specified by the Company (and if so specified with respect to the

Swing Line Sublimit, the Company shall notify the Administrative Agent of the post-reduction size of each of the U.S. Dollar Swing Line Sublimit and the Euro Swing Line Sublimit). Any reduction of the Aggregate Revolving Commitments shall be applied to the Commitment of each Lender according to its Applicable Percentage. All fees accrued until the effective date of any termination of the Aggregate Revolving Commitments shall be paid on the effective date of such termination.

2.08 Repayment of Loans.

(a) Revolving Loans. Each Borrower shall repay to the Lenders on the Maturity Date for Revolving Loans the aggregate principal amount of all Revolving Loans made to such Borrower outstanding on such date.

(b) Swing Line Loans. The Company shall repay each Swing Line Loan on the earlier to occur of (i) the date ten (10) Business Days after such Loan is made and (ii) the Maturity Date for Swing Line Loans.

(c) Term A Loan. The Company shall repay the outstanding principal amount of the Term A Loan in quarterly installments of $3,281,250 commencing on March 31, 2022 and on each June 30, September 30, December 31 and March 31 thereafter, with the remaining outstanding balance due and payable on the Maturity Date of the Term A Loan (as such installments may hereafter be adjusted as a result of prepayments made pursuant to Section 2.06 and increases with respect to any increase to the Term A Loan pursuant to Section 2.16), unless accelerated sooner pursuant to Section 8.02.

(d) Term B Loan. The Company shall repay the outstanding principal amount of the Term B Loan in quarterly installments of $9,375,000 commencing on March 31, 2022 and on each June 30, September 30, December 31 and March 31 thereafter, with the remaining outstanding balance due and payable on the Maturity Date of the Term B Loan (as such installments may hereafter be adjusted as a result of prepayments made pursuant to Section 2.06 and increases with respect to any increase to the Term B Loan pursuant to Section 2.16), unless accelerated sooner pursuant to Section 8.02.

(e) Incremental Term Loans. The applicable Borrower(s) shall repay any Incremental Term Loan in accordance with the terms of the Incremental Facility Amendment establishing such Incremental Term Loan, in each case subject to the provisions of Section 2.16(i) or Section 2.16(j), as applicable.

2.09 Interest.

(a) Subject to the provisions of clause (b) below, (i) each Eurocurrency Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Eurocurrency Rate for such Interest Period plus the Applicable Rate for such Loan; (ii) each Base Rate Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate for such Loan; (iii) each Alternative Currency Daily Rate Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Alternative Currency Daily Rate plus the Applicable Rate for such Loan; (iv) each Alternative Currency Term Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Alternative Currency Term Rate for such Interest Period plus the Applicable Rate for such Loan, (v) each U.S. Dollar Swing Line Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate

per annum equal to the Base Rate plus the Applicable Rate for the Revolving Facility and (vi) each Euro Swing Line Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to Basic ESTR plus the Applicable Rate for Euro Swing Line Loans.

(b)

(i) Upon the occurrence and during the continuance of an Event of Default specified in Section 8.01(a), 8.01(f) or 8.01(g), the Borrowers shall pay interest on all outstanding Obligations hereunder at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(ii) Upon the request of the Required Lenders while any Event of Default arising as a result of a breach of Section 7.11 exists, the Borrowers shall pay interest on the principal amount of all outstanding Obligations hereunder at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(iii) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(c) Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

(d) For the purposes of the Interest Act (Canada), (i) whenever a rate of interest or fee rate hereunder is calculated on the basis of a year (the "deemed year") that contains fewer days than the actual number of days in the calendar year of calculation, such rate of interest or fee rate shall be expressed as a yearly rate by multiplying such rate of interest or fee rate by the actual number of days in the calendar year of calculation and dividing it by the number of days in the deemed year, (ii) the principle of deemed reinvestment of interest shall not apply to any interest calculation hereunder and (iii) the rates of interest stipulated herein are intended to be nominal rates and not effective rates or yields. Each Loan Party hereby irrevocably agrees not to plead or assert, whether by way of defense or otherwise, in any proceeding relating to this Agreement and the other Loan Documents, that the interest payable under this Agreement and the calculation thereof has not been adequately disclosed to it, whether pursuant to section 4 of the Interest Act (Canada) or any other applicable law or legal principle.

2.10 Fees. In addition to certain fees described in subsections (h) and (i) of Section 2.03:

(a) Commitment Fee. The Company shall pay to the Administrative Agent, for the account of each Revolving Lender in accordance with its Applicable Percentage, (1) from the Closing Date until the date on which the Company is required to deliver financial statements pursuant to Section 6.01, (i) 0.50% times (ii) the actual daily amount by which the Aggregate Revolving Commitments exceed the sum of (A) the Outstanding Amount of all Revolving Loans plus (B) the Outstanding Amount of all L/C Obligations and (2) thereafter, a commitment fee in Dollars equal to the product of (i) the Applicable Rate times (ii) the actual daily amount by which the Aggregate Revolving Commitments exceed the sum of (A) the Outstanding Amount of all Revolving Loans plus (B) the Outstanding Amount of all L/C Obligations (such fee, the "Commitment Fee"), subject to adjustment as provided in Section 2.18. The Commitment Fee shall

accrue at all times during the Availability Period (and thereafter so long as any Revolving Loans, Swing Line Loans or L/C Obligations remain outstanding), including at any time during which one or more of the conditions in Article IV is not met, and shall be due and payable quarterly in arrears on the last Business Day of each March, June, September and December, commencing with the first such date to occur after the Closing Date, and on the last day of the Availability Period. The Commitment Fee shall be calculated quarterly in arrears, and if there is any change in the Applicable Rate during any quarter, the actual daily amount shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect. For purposes of clarification, Swing Line Loans shall not be considered outstanding for purposes of determining the unused portion of the Aggregate Revolving Commitments.

(b) Other Fees.

(i) The Company shall pay to the Arrangers and the Administrative Agent for their own respective accounts, in Dollars, fees in the amounts and at the times specified in the Fee Letters. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

(ii) The Company shall pay to the Lenders, in Dollars, such fees as shall have been separately agreed upon in writing in the amounts and at the times so specified. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

2.11 Computation of Interest and Fees.

(a) All computations of interest for Base Rate Loans (including Base Rate Loans determined by reference to the Eurocurrency Rate) and for Loans denominated in Alternative Currencies shall be made on the basis of a year of three hundred sixty-five (365) or three hundred sixty-six (366) days, as the case may be, and actual days elapsed, or, in the case of interest in respect of Loans denominated in Alternative Currencies as to which market practice differs from the foregoing, in accordance with such market practice. All other computations of fees and interest shall be made on the basis of a three hundred sixty (360) day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a three hundred sixty-five (365) day year). Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid, provided that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.13(a), bear interest for one day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

(b) If, as a result of any restatement of or other adjustment to the financial statements of the Company or for any other reason, the Company or the Lenders determine that (i) the Consolidated Total Leverage Ratio as calculated by the Company as of any applicable date was inaccurate and (ii) a proper calculation of the Consolidated Total Leverage Ratio would have resulted in higher pricing for such period, each Borrower shall immediately and retroactively be obligated to pay to the Administrative Agent for the account of the applicable Lenders or the applicable L/C Issuer, as the case may be, promptly on demand by the Administrative Agent (or, after the occurrence of an actual or deemed entry of an order for relief with respect to any Borrower under the Bankruptcy Code (or any similar provision in any other Debtor Relief Laws), automatically and without further action by the Administrative Agent, any Lender or any L/C Issuer), an amount equal to the excess of the amount of interest and fees that should have been paid for such period over the amount of interest and fees actually paid for such period. This paragraph

shall not limit the rights of the Administrative Agent, any Lender or any L/C Issuer, as the case may be, under Section 2.03(c)(iii), 2.03(h) or 2.09(b) or under Article VIII. The Borrowers' obligations under this paragraph shall survive the termination of the Aggregate Commitments and the repayment of all other Obligations hereunder.

2.12 Evidence of Debt.

(a) The Credit Extensions made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and by the Administrative Agent in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be conclusive absent manifest error of the amount of the Credit Extensions made by the Lenders to the Borrowers and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrowers hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error. Upon the request of any Lender to a Borrower made through the Administrative Agent, such Borrower shall execute and deliver to such Lender (through the Administrative Agent) a promissory note, which shall evidence such Lender's Loans to such Borrower in addition to such accounts or records. Each such promissory note shall be in the form of Exhibit D (a "Note"). Each Lender may attach schedules to a Note and endorse thereon the date, Type (if applicable), amount, currency and maturity of its Loans and payments with respect thereto.

(b) In addition to the accounts and records referred to in subsection (a) above, each Revolving Lender and the Administrative Agent shall maintain in accordance with its usual practice accounts or records evidencing the purchases and sales by such Revolving Lender of participations in Letters of Credit and Swing Line Loans. In the event of any conflict between the accounts and records maintained by the Administrative Agent and the accounts and records of any Revolving Lender in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error.

2.13 Payments Generally; Administrative Agent's Clawback.

(a) General. All payments to be made by a Borrower shall be made free and clear of and without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein and except with respect to principal of and interest on Loans denominated in an Alternative Currency, all payments by a Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the Administrative Agent's Office in Dollars and in Same Day Funds not later than 2:00 p.m. on the date specified herein. Except as otherwise expressly provided herein, all payments by a Borrower hereunder with respect to principal and interest on Loans denominated in an Alternative Currency shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the applicable Administrative Agent's Office in such Alternative Currency and in Same Day Funds not later than the Applicable Time specified by the Administrative Agent on the dates specified herein. If, for any reason, any Borrower is prohibited by any Law from making any required payment hereunder in an Alternative Currency, such Borrower shall make such payment in Dollars in the Dollar Equivalent of the Alternative Currency payment amount. The Administrative Agent will promptly distribute to each applicable Lender its Applicable Percentage (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent (i) after 2:00 p.m., in the case of payments in Dollars, or (ii) after the Applicable Time specified by the Administrative

Agent in the case of payments in an Alternative Currency, shall in each case be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. If any payment to be made by any Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(b) Funding by Lenders; Presumption by Administrative Agent. Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing of Eurocurrency Rate Loans or Alternative Currency Term Rate Loans (or, in the case of any Borrowing of Base Rate Loans, prior to 12:00 noon on the date of such Borrowing) that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with Section 2.02 (or, in the case of a Borrowing of Base Rate Loans, that such Lender has made such share available in accordance with and at the time required by Section 2.02) and may, in reliance upon such assumption, make available to the applicable Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the applicable Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount in Same Day Funds with interest thereon, for each day from and including the date such amount is made available to such Borrower to but excluding the date of payment to the Administrative Agent, at (A) in the case of a payment to be made by such Lender, the Overnight Rate, plus any administrative, processing or similar fees customarily charged by the Administrative Agent in connection with the foregoing, and (B) in the case of a payment to be made by such Borrower, the interest rate applicable to Base Rate Loans or in the case of Alternative Currencies in accordance with such market practice, in each case, as applicable. If such Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to such Borrower the amount of such interest paid by such Borrower for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's Loan included in such Borrowing. Any payment by such Borrower shall be without prejudice to any claim such Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

(i) Payments by Borrowers; Presumptions by Administrative Agent. With respect to any payment that is due to the Administrative Agent for the account of the Lenders or an L/C Issuer hereunder, the Administrative Agent may assume that the Borrowers have made the payment on the date that the payment is due and may, in reliance upon such assumption, distribute to the Lenders or such L/C Issuer, as the case may be, the amount due.

With respect to any payment that the Administrative Agent makes for the account of the Lenders or an L/C Issuer hereunder as to which the Administrative Agent determines (which determination shall be conclusive absent manifest error) that any of the following applies (such payment referred to as the "Rescindable Amount"): (1) the Borrowers have not in fact made such payment; (2) the Administrative Agent has made a payment in excess of the amount so paid by the Borrowers (whether or not then owed); or (3) the Administrative Agent has for any reason otherwise erroneously made such payment; then each of the Lenders or the applicable L/C Issuer, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the Rescindable Amount so distributed to such Lender or such L/C Issuer, in Same Day Funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(ii) Unless the Administrative Agent shall have received notice from a Borrower prior to the time at which any payment is due by such Borrower to the Administrative Agent for the account of the Lenders or an L/C Issuer hereunder that such Borrower will not make such payment, the Administrative Agent may assume that such Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or such L/C Issuer, as the case may be, the amount due. In such event, if such Borrower has not in fact made such payment, then each of the Lenders or such L/C Issuer, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or such L/C Issuer, in Same Day Funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the Overnight Rate.

A notice of the Administrative Agent to any Lender or Borrower with respect to any amount owing under this subsection (b) shall be conclusive, absent manifest error.

(c) Failure to Satisfy Conditions Precedent. If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender to any Borrower as provided in the foregoing provisions of this Article II, and such funds are not made available to such Borrower by the Administrative Agent because the conditions to the applicable Credit Extension set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(d) Obligations of Lenders Several. The obligations of the Lenders hereunder to make Loans, to fund participations in Letters of Credit and Swing Line Loans and to make payments pursuant to Section 10.04(c) are several and not joint. The failure of any Lender to make any Loan, to fund any such participation or to make any payment under Section 10.04(c) on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan, to purchase its participation or to make its payment under Section 10.04(c).

(e) Funding Source. Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

(f) Insufficient Funds. If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, L/C Borrowings, interest and fees then due hereunder, such funds shall be applied (i) first, toward payment of interest and fees then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties, and (ii) second, toward payment of principal and L/C Borrowings then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal and L/C Borrowings then due to such parties.

2.14 Sharing of Payments by Lenders. If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of the Loans made by it, or the participations in L/C Obligations or in Swing Line Loans held by it resulting in such Lender's receiving payment of a proportion of the aggregate amount of such Loans or participations and accrued interest thereon greater than its *pro rata* share thereof as provided herein, then the Lender receiving such greater proportion shall (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at face value) participations in the Loans and subparticipations in L/C Obligations and Swing Line Loans of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such

payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans and other amounts owing them, provided that:

(i) if any such participations or subparticipations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations or subparticipations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(ii) the provisions of this Section shall not be construed to apply to (x) any payment made by or on behalf of any Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender or Disqualified Institution or the provisions of Section 2.21), (y) the application of Cash Collateral provided for in Section 2.17, or (z) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or subparticipations in L/C Obligations or Swing Line Loans to any assignee or participant, other than an assignment to the Company or any Subsidiary thereof (as to which the provisions of this Section shall apply).

Each Loan Party consents to the foregoing and agrees, to the extent it may effectively do so under applicable Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Loan Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Loan Party in the amount of such participation.

2.15 Designated Borrowers.

(a) The Company may at any time after the Closing Date, upon not less than fifteen (15) Business Days' notice from the Company to the Administrative Agent (or such shorter period as may be agreed by the Administrative Agent in its sole discretion), designate any Subsidiary of the Company (an "Applicant Borrower") as a Designated Borrower to receive Loans hereunder by delivering to the Administrative Agent (which shall promptly deliver counterparts thereof to each Lender) a duly executed notice and agreement in substantially the form of Exhibit G (a "Designated Borrower Request and Assumption Agreement"). The parties hereto acknowledge and agree that prior to any Applicant Borrower becoming entitled to utilize the credit facilities provided for herein (i) the Administrative Agent and the Lenders that are to provide Commitments or Loans in favor of an Applicant Borrower must each agree to such Applicant Borrower becoming a Designated Borrower and (ii) the Administrative Agent and such Lenders shall have received such supporting resolutions, incumbency certificates, opinions of counsel and other documents or information (including information that the Administrative Agent or such Lenders determine is required by regulatory authorities under applicable Law, including without limitation the PATRIOT Act, the Beneficial Ownership Regulation, the Canadian AML Acts and applicable U.S. and Canadian law regarding anti-money laundering, anti-terrorist financing and "know your customer" matters), in form, content and scope reasonably satisfactory to the Administrative Agent and the Lenders that are to provide Commitments or Loans in favor of an Applicant Borrower, as may be required by the Administrative Agent, and Notes signed by such new Borrowers to the extent any Lender so requires (the requirements in clauses (i) and (ii) hereof, the "Designated Borrower Requirements"). If the Designated Borrower Requirements are met, the Administrative Agent shall send a notice in substantially the form of Exhibit H (a "Designated Borrower Notice") to the Company and the Lenders specifying the effective date upon which the Applicant Borrower shall constitute a Designated Borrower for purposes hereof, whereupon each of the Lenders agrees to permit such Designated Borrower to receive Loans hereunder, on the terms and conditions set forth herein, and each of the parties agrees that such Designated Borrower otherwise shall be a Borrower for all

purposes of this Agreement; provided that no Loan Notice or Letter of Credit Application may be submitted by or on behalf of such Designated Borrower until the date five (5) Business Days after such effective date (or such shorter period as agreed by the Administrative Agent in its sole discretion).

(b) Each Subsidiary of the Company that becomes a "Designated Borrower" pursuant to this Section 2.15 hereby irrevocably appoints the Company as its agent for all purposes relevant to this Agreement and each of the other Loan Documents, including (i) the giving and receipt of notices, (ii) the execution and delivery of all documents, instruments and certificates contemplated herein and all modifications hereto, and (iii) the receipt of the proceeds of any Loans made by the Lenders to any such Designated Borrower hereunder. Any acknowledgment, consent, direction, certification or other action which might otherwise be valid or effective only if given or taken by all Borrowers, or by each Borrower acting singly, shall be valid and effective if given or taken only by the Company, whether or not any such other Borrower joins therein. Any notice, demand, consent, acknowledgement, direction, certification or other communication delivered to the Company in accordance with the terms of this Agreement shall be deemed to have been delivered to each Designated Borrower.

(c) The Company may from time to time, upon not less than fifteen (15) Business Days' notice from the Company to the Administrative Agent (or such shorter period as may be agreed by the Administrative Agent in its sole discretion), terminate a Designated Borrower's status as such, provided that there are no outstanding Loans payable by such Designated Borrower, or other amounts payable by such Designated Borrower on account of any Loans made to it, as of the effective date of such termination. The Administrative Agent will promptly notify the Lenders of any such termination of a Designated Borrower's status.

2.16 Increase in Commitments.

The Borrowers may from time to time add one or more tranches of term loans or increase outstanding tranches of term loans (each an "Incremental Term Facility") or increase commitments under any Revolving Facility (each such increase, an "Incremental Revolving Increase"; each Incremental Term Facility and each Incremental Revolving Increase are collectively referred to as "Incremental Facilities") to this Agreement at the option of the Company by an agreement in writing entered into by the Borrowers, the Administrative Agent and each Person (including any existing Lender) that agrees to provide a portion of such Incremental Facility (and, for the avoidance of doubt, shall not require the consent of any other Lender) (each an "Incremental Facility Amendment"); provided that:

(a) the aggregate principal amount of all Incremental Facilities established under this Section 2.16 shall not exceed the sum of:

(i) the greater of (A) $80,000,000 and (B) 50% of Consolidated EBITDA of the Company and its Subsidiaries for the four (4) fiscal quarters most recently ended for which financial statements have been delivered pursuant to Section 6.01 immediately prior to the establishment of such Incremental Facility; plus

(ii) an unlimited amount so long as, in the case of this clause (ii), after giving effect to the relevant Incremental Facility on a Pro Forma Basis, the Consolidated Secured Leverage Ratio does not exceed 4.00:1.00 (assuming the full amount of such Incremental Facility is fully drawn and without "netting" the cash proceeds of such Incremental Facility or any other simultaneous incurrence of debt on the consolidated balance sheet of the Company, but giving effect on a Pro Forma Basis to any repayment of Indebtedness);

provided that (A) the amounts under clause (a)(ii) shall be deemed to have been utilized prior to utilization of amounts under clause (a)(i) and (B) the proceeds from any such incurrence under such clauses may be utilized in a single transaction by first calculating the incurrence under clause (a)(ii) above and then calculating the incurrence under clause (a)(i) above;

(b) no Default or Event of Default shall exist on the effective date of any Incremental Facility or would exist after giving effect to any Incremental Facility;

(c) no existing Lender shall be under any obligation to provide any Incremental Facility Commitment and any such decision whether to provide an Incremental Facility Commitment shall be in such Lender's sole and absolute discretion;

(d) each Incremental Facility shall be in an aggregate principal amount of at least $10,000,000 and each Incremental Facility Commitment shall be in a minimum principal amount of at least $1,000,000, in the case of an Incremental Revolving Increase, and at least $1,000,000 in the case of an Incremental Term Facility (or, in each case, such lesser amounts as the Administrative Agent may agree);

(e) each Person providing an Incremental Facility Commitment shall qualify as an Eligible Assignee;

(f) the Borrowers shall deliver to the Administrative Agent:

(i) a certificate of each Loan Party dated as of the date of such increase signed by a Responsible Officer of such Loan Party (A) certifying and attaching resolutions adopted by the board of directors or equivalent governing body of such Loan Party approving such Incremental Facility (which, with respect to any such Loan Party, may, if applicable, be the resolutions entered into by such Loan Party in connection with the incurrence of the Obligations on the Closing Date) and (B) in the case of the Company, certifying that, before and after giving effect to such increase, (1) the representations and warranties of each Loan Party contained in Article V or any other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct in all material respects (or, if qualified by materiality or reference to Material Adverse Effect, in all respects) on and as of the date of such increase, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects (or, if qualified by materiality or reference to Material Adverse Effect, in all respects) as of such earlier date, (2) no Default or Event of Default exists and (3) such Incremental Facility or Incremental Facilities have been incurred in compliance with this Agreement;

(ii) such amendments to or confirmations of the Collateral Documents as the Administrative Agent may reasonably request to cause the Collateral Documents to secure the Obligations after giving effect to such Incremental Facility; and

(iii) customary opinions of legal counsel to the Loan Parties, addressed to the Administrative Agent and each Lender (including each Person providing an Incremental Facility Commitment), dated as of the effective date of such Incremental Facility;

(g) the Administrative Agent shall have received documentation from each Person providing a commitment in respect of such requested Incremental Facility or Incremental Facilities

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(each such commitment, an "Incremental Facility Commitment") evidencing its Incremental Facility Commitment and its obligations under this Agreement in form and substance reasonably acceptable to the Administrative Agent;

(h) in the case of an Incremental Term Facility, the Administrative Agent shall have determined in its reasonable discretion whether such Incremental Term Facility consists of a tranche A term loan (an "Incremental Tranche A Term Facility") or a tranche B term loan (an "Incremental Tranche B Term Facility");

(i) in the case of an Incremental Term Facility that is an Incremental Tranche A Term Facility:

(i) the interest rate, interest rate margins, fees, discount, prepayment premiums, amortization and final maturity date for such Incremental Term Facility shall be as agreed by the Loan Parties and the Lenders providing such Incremental Term Facility; provided that:

(A) the final maturity of such Incremental Term Facility shall not be earlier than the latest Maturity Date with respect to any Term Loan; and

(B) the Weighted Average Life of such Incremental Term Facility shall not be shorter than the then longest remaining Weighted Average Life of any Term Loan;

provided that the foregoing clauses (A) and (B) shall not apply to any Incremental Tranche A Term Facility that (x) constitutes Permitted Bridge Indebtedness or (y) is incurred under Section 2.16(a)(i) above (in which case, the references in clauses (A) and (B) shall be to the Term A Loan and any other Incremental Tranche Term A Facility) or;

(ii) the proceeds of such Incremental Term Facility shall be used for the purposes described in the definitive documentation for such Incremental Term Facility;

(iii) such Incremental Term Facility shall share ratably in any prepayments of the Term A Loan pursuant to Section 2.06 (or otherwise provide for more favorable prepayment treatment for the then-outstanding Term Facilities) and shall have ratable voting rights as the other Term Facilities (or otherwise provide for more favorable voting rights for the then-outstanding Term Facilities); and

(iv) if such Incremental Term Facility consists of one or more new tranches of term loans, the other terms and documentation in respect thereof, if not consistent with the terms applicable to the Term A Loan, shall be reasonably acceptable to the Administrative Agent; provided that such terms and documentation shall be deemed reasonably acceptable to the Administrative Agent if the covenants, defaults and similar non-economic provisions applicable to any Incremental Term Loan Facility, taken as a whole, (x) are not more restrictive in any material respect than the corresponding terms set forth in or made applicable to the then-existing Loan Documents (except to the extent only applicable after the latest Maturity Date of the other tranches of Term Loans then in effect) and (y) do not give rise to a breach of any covenant set forth in the then-existing Loan Documents;

(j) in the case of an Incremental Term Facility that is an Incremental Tranche B Term Facility:

(i) the interest rate, interest rate margins, fees, discount, prepayment premiums, amortization and final maturity date for such Incremental Term Facility shall be as agreed by the Loan Parties and the Lenders providing such Incremental Term Facility; provided that:

(A) the final maturity of such Incremental Term Facility shall not be earlier than the latest Maturity Date with respect to any Term Loan; and

(B) the Weighted Average Life of such Incremental Term Facility shall not be shorter than the then longest remaining Weighted Average Life of any Term Loan;

(C) if the All-In-Yield on such Incremental Term Facility exceeds the All-In-Yield on the Term B Loan or any then-outstanding Incremental Tranche B Term Facility by more than ½ of one percent (1.00%) per annum, then the Applicable Rate or fees payable by the Borrowers with respect to the Term B Loan and each then-outstanding Incremental Tranche B Term Facility shall on the effective date of such Incremental Term Facility be increased to the extent necessary to cause the All-In-Yield on the Term B Loan and each then-outstanding Incremental Tranche B Term Facility to be not more than ½ of one percent (1.00%) less than the All-In-Yield on such Incremental Term Facility (such increase to be allocated as reasonably determined by the Administrative Agent in consultation with the Borrowers); provided, that the provisions of this clause (C) shall not apply to any Incremental Term Facility provided after the first twelve (12) months following the Closing Date;

provided that the foregoing clauses (A) and (B) shall not apply to any Incremental Tranche B Term Facility that constitutes Permitted Bridge Indebtedness.

(ii) the proceeds of such Incremental Term Facility shall be used for the purposes described in the definitive documentation for such Incremental Term Facility;

(iii) such Incremental Term Facility shall share ratably in any prepayments of the Term B Loan and any then-outstanding Incremental Tranche B Term Loan pursuant to Section 2.06 (or otherwise provide for more favorable prepayment treatment for the then-outstanding Term Facilities) and shall have ratable voting rights as the other Term Facilities (or otherwise provide for more favorable voting rights for the then-outstanding Term Facilities); and

(iv) if such Incremental Term Facility consists of one or more new tranches of term loans, the other terms and documentation in respect thereof, if not consistent with the terms applicable to the Term B Loan, shall be reasonably acceptable to the Administrative Agent; provided that such terms and documentation shall be deemed reasonably acceptable to the Administrative Agent if the covenants, defaults and similar non-economic provisions applicable to any Incremental Term Loan Facility, taken as a whole, (x) are not more restrictive in any material respect than the corresponding terms set forth in or made applicable to the then-existing Loan Documents (except to the extent only applicable after

the latest Maturity Date of the other tranches of Term Loans then in effect) and (y) do not give rise to a breach of any covenant set forth in the then-existing Loan Documents;

(k) in the case of any Incremental Revolving Increase with respect to the Revolving Facility:

(i) such Incremental Revolving Increase shall have the same terms (including interest rate and interest rate margins, provided that, subject to clause (ii) below, such Incremental Revolving Increase may be issued with a utilization fee and/or additional unused fee payable solely to the Lenders under such Incremental Revolving Increase) applicable to the Revolving Facility; and

(ii) the existing Lenders under the Revolving Facility shall on the effective date of such Incremental Revolving Increase make such assignments (which assignments shall not be subject to the requirements set forth in Section 10.06(b)) of the outstanding Revolving Loans and participation interests in Letters of Credit and Swing Line Loans under the Revolving Facility to the Lenders providing such Incremental Revolving Increase and the Administrative Agent may make such adjustments to the Register as are necessary so that, after giving effect to such assignments and adjustments, each Lender under the Revolving Facility (including the Lenders providing such Incremental Revolving Increase) will hold revolving loans and participation interests in Letters of Credit and Swing Line Loans under the Revolving Facility equal to its *pro rata* share thereof; and

(l) the Company shall have delivered to the Administrative Agent a Pro Forma Compliance Certificate demonstrating that after giving effect to the incurrence of such Incremental Facility on a Pro Forma Basis (assuming the full amount of such Incremental Facility is fully drawn and without "netting" the cash proceeds of such Incremental Facility or any other simultaneous incurrence of debt on the consolidated balance sheet of the Company, but giving effect on a Pro Forma Basis to any repayment of Indebtedness) the Loan Parties would be in Pro Forma Compliance;

provided, further, that the conditions set forth in the foregoing proviso shall be subject to the provisions of Section 1.10 in the case of any Incremental Term Facility used to finance a Limited Condition Acquisition.

The Incremental Facility Commitments and credit extensions thereunder shall constitute Commitments and Credit Extensions under, and shall be entitled to all the benefits afforded by, this Agreement and the other Loan Documents, and shall, without limiting the foregoing, benefit equally and ratably from the Guarantees and security interests created by the Collateral Documents. The Lenders hereby authorize the Administrative Agent to enter into, and the Lenders agree that this Agreement and the other Loan Documents shall be amended by, such Incremental Facility Amendments to the extent (and only to the extent) the Administrative Agent deems necessary in order to establish Incremental Facilities on terms consistent with and/or to effect the provisions of this Section 2.16. This Section 2.16 shall supersede any provisions in Section 10.01 to the contrary. The Administrative Agent shall promptly notify each Lender as to the effectiveness of each Incremental Facility Amendment.

2.17 Cash Collateral.

(a) Certain Credit Support Events. If (i) an L/C Issuer has honored any full or partial drawing request under any Letter of Credit and such drawing has resulted in an L/C Borrowing, (ii) as of the Letter of Credit Expiration Date, any L/C Obligation for any reason remains

outstanding, (iii) the Company shall be required to provide Cash Collateral pursuant to Section 2.06 or Section 8.02, or (iv) there shall exist a Defaulting Lender, the Company shall immediately (in the case of clause (iii) above) or within one (1) Business Day (in all other cases) following any request by the Administrative Agent or an L/C Issuer, provide Cash Collateral in an amount not less than the applicable Minimum Collateral Amount (determined in the case of Cash Collateral provided pursuant to clause (iv) above, after giving effect to Section 2.18(a)(iv) and any Cash Collateral provided by the Defaulting Lender). Additionally, if the Administrative Agent notifies the Company at any time that the Outstanding Amount of all L/C Obligations at such time exceeds the Letter of Credit Sublimit then in effect, then, within two (2) Business Days after receipt of such notice, the Company shall provide Cash Collateral for the Outstanding Amount of the L/C Obligations in an amount not less than the amount by which the Outstanding Amount of all L/C Obligations exceeds the Letter of Credit Sublimit.

(b) Grant of Security Interest. The Company, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to (and subjects to the control of) the Administrative Agent, for the benefit of the Administrative Agent, each L/C Issuer and the Lenders, and agrees to maintain, a first priority security interest in all such cash, deposit accounts and all balances therein, and all other property so provided as collateral pursuant hereto, and in all proceeds of the foregoing, all as security for the obligations to which such Cash Collateral may be applied pursuant to Section 2.17(c). If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent or an L/C Issuer as herein provided, or that the total amount of such Cash Collateral is less than the Minimum Collateral Amount, the Company will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency. All Cash Collateral (other than credit support not constituting funds subject to deposit) shall be maintained in one or more Controlled Accounts at Bank of America or, with respect to Cash Collateral with respect to Letters of Credit, with the applicable L/C Issuer. The Company shall pay on demand therefor from time to time all customary account opening, activity and other administrative fees and charges in connection with the maintenance and disbursement of Cash Collateral.

(c) Application. Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under any of this Section 2.17 or Sections 2.03, 2.06, 2.18 or 8.02 in respect of Letters of Credit shall be held and applied to the satisfaction of the specific L/C Obligations, obligations to fund participations therein (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) and other obligations for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein.

(d) Release. Cash Collateral (or the appropriate portion thereof) provided to reduce Fronting Exposure or to secure other obligations shall be released to the Person providing such Cash Collateral promptly following (i) the elimination of the applicable Fronting Exposure or other obligations giving rise thereto (including by the termination of Defaulting Lender status of the applicable Lender (or, as appropriate, its assignee following compliance with Section 10.06(b)(vi))) or (ii) the determination by the Administrative Agent and the L/C Issuers that there exists excess Cash Collateral; provided, however, (x) any such release shall be without prejudice to, and any disbursement or other transfer of Cash Collateral shall be and remain subject to, any other Lien conferred under the Loan Documents and the other applicable provisions of the Loan Documents, and (y) the Person providing Cash Collateral and the L/C Issuers may agree that Cash Collateral shall not be released but instead held to support future anticipated Fronting Exposure or other obligations.

2.18 Defaulting Lenders.

(a) Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by applicable Law:

(i) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of "Required Lenders", "Required Pro Rata Facilities Lenders", "Required Revolving Lenders" and Section 10.01.

(ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VIII or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 10.08 shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; second, to the payment on a *pro rata* basis of any amounts owing by such Defaulting Lender to the L/C Issuers or Swing Line Lender hereunder; third, to Cash Collateralize the L/C Issuers' Fronting Exposure with respect to such Defaulting Lender in accordance with Section 2.17; fourth, as the Company may request (so long as no Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; fifth, if so determined by the Administrative Agent and the Company, to be held in a deposit account and released *pro rata* in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) Cash Collateralize the L/C Issuers' future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with Section 2.17; sixth, to the payment of any amounts owing to the Lenders, the L/C Issuers or Swing Line Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender, any L/C Issuer or the Swing Line Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; seventh, so long as no Default exists, to the payment of any amounts owing to the Company as a result of any judgment of a court of competent jurisdiction obtained by the Company against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and eighth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans or L/C Borrowings in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 4.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and L/C Obligations owed to, all Non-Defaulting Lenders on a *pro rata* basis prior to being applied to the payment of any Loans of, or L/C Obligations owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in L/C Obligations and Swing Line Loans are held by the Lenders *pro rata* in accordance with the Commitments hereunder without giving effect to Section 2.18(a)(iv). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.18(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees.

(A) No Defaulting Lender shall be entitled to receive any fee payable under Section 2.10(a) for any period during which that Lender is a Defaulting Lender (and the Company shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).

(B) Each Defaulting Lender shall be entitled to receive Letter of Credit Fees for any period during which that Lender is a Defaulting Lender only to the extent allocable to its Applicable Percentage of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant to Section 2.17.

(C) With respect to any Letter of Credit Fee not required to be paid to any Defaulting Lender pursuant to clause (A) or (B) above, the Company shall (x) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in L/C Obligations that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (y) pay to an L/C Issuer the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such L/C Issuer's Fronting Exposure to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such fee.

(iv) Reallocation of Applicable Percentages to Reduce Fronting Exposure. All or any part of such Defaulting Lender's participation in L/C Obligations and Swing Line Loans shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Applicable Percentages (calculated without regard to such Defaulting Lender's Commitment) but only to the extent that such reallocation does not cause the aggregate Revolving Credit Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Revolving Commitment. Subject to Section 10.21, no reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(v) Cash Collateral, Repayment of Swing Line Loans. If the reallocation described in clause (a)(iv) above cannot, or can only partially, be effected, the Company shall, without prejudice to any right or remedy available to it hereunder or under applicable Law, (x) first, prepay Swing Line Loans in an amount equal to the Swing Line Lenders' Fronting Exposure and (y) second, Cash Collateralize the L/C Issuers' Fronting Exposure in accordance with the procedures set forth in Section 2.17.

(b) Defaulting Lender Cure. If the Company, the Administrative Agent, Swing Line Lender and the L/C Issuers agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit and Swing Line Loans to be held on a *pro rata* basis by the Lenders in accordance with their Applicable Percentages (without giving effect to Section 2.18(a)(iv)), whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be

made retroactively with respect to fees accrued or payments made by or on behalf of the Company while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

(c) New Swing Line Loans/Letters of Credit. So long as any Revolving Credit Lender is a Defaulting Lender, (i) the Swing Line Lender shall not be required to fund any Swing Line Loans unless it is satisfied that it will have no Fronting Exposure after giving effect to such Swing Line Loan and (ii) the L/C Issuers shall not be required to issue, extend, increase, reinstate or renew any Letter of Credit unless it is satisfied that it will have no Fronting Exposure after giving effect thereto.

2.19 Designated Lenders. Each of the Administrative Agent, each L/C Issuer, the Swing Line Lender and each Lender at its option may make any Credit Extension or otherwise perform its obligations hereunder through any Lending Office (each, a "Designated Lender"); provided that any exercise of such option shall not affect the obligation of such Borrower to repay any Credit Extension in accordance with the terms of this Agreement. Any Designated Lender shall be considered a Lender; provided that in the case of an Affiliate or branch of a Lender, such provisions that would be applicable with respect to Credit Extensions actually provided by such Affiliate or branch of such Lender shall apply to such Affiliate or branch of such Lender to the same extent as such Lender; provided that for the purposes only of voting in connection with any Loan Document, any participation by any Designated Lender in any outstanding Credit Extension shall be deemed a participation of such Lender.

2.20 Joint and Several Liability. Each Borrower shall be jointly and severally liable for the Obligations regardless of which Borrower actually receives Credit Extensions hereunder or the amount of such Credit Extensions received or the manner in which the Administrative Agent, any L/C Issuer or any Lender accounts for such Credit Extensions on its books and records, provided that the obligations of each such Borrower under the Loan Documents shall be limited to an aggregate amount equal to the largest amount that would not render such obligations subject to avoidance under the Debtor Relief Laws.

2.21 Permitted Refinancing Amendment.

(a) Permitted Refinancing Amendment. At any time after the Closing Date, the Company may obtain, from any Lender or any Permitted Refinancing Lender, Permitted Credit Agreement Refinancing Indebtedness permitted by Section 7.03(y) in respect of all or any portion of the Loans or Commitments then outstanding under this Agreement, in the form of Permitted Refinancing Loans or Permitted Refinancing Commitments, in each case pursuant to a Permitted Refinancing Amendment; provided, notwithstanding anything to the contrary in this Section 2.21 or otherwise, (i) the borrowing and repayment (except for (A) payments of interest and fees at different rates on Permitted Refinancing Revolving Commitments (and related outstandings), (B) repayments required upon the maturity date of the Permitted Refinancing Revolving Commitments and (C) repayment made in connection with a permanent repayment and termination of commitments (subject to clause (iii) below)) of Loans with respect to Permitted Refinancing Revolving Commitments after the date of obtaining any Permitted Refinancing Revolving Commitments shall be made on a pro rata basis with all Revolving Commitments outstanding at such time, (ii) all Swing Line Loans and Letters of Credit shall be participated on a pro rata basis by all Lenders with Commitments in accordance with their percentage of the Revolving Credit Commitments, (iii) assignments and participations of Permitted Refinancing Revolving Commitments and Permitted Refinancing Revolving Loans shall be governed by the same assignment and participation provisions applicable to Revolving Credit Commitments and

Revolving Credit Loans and (iv) the Permitted Refinancing Term Loans may participate on a pro rata basis or less than pro rata basis (but not on a greater than pro rata basis) in any voluntary or mandatory prepayments of Term Loans hereunder, as specified in the applicable Permitted Refinancing Amendment.

(b) Terms, Etc. The terms, provisions and documentation of any Permitted Refinancing Loans and Permitted Refinancing Commitments shall be subject to the limitations set forth in the definition of "Permitted Credit Agreement Refinancing Indebtedness" and related definitions.

(c) Minimum Amounts. Each issuance of Permitted Credit Agreement Refinancing Indebtedness under Section 2.21(a) shall be in an aggregate principal amount that is not less than $10,000,000, and an integral multiple of $1,000,000 in excess thereof (or the entire amount of the Indebtedness being refinanced, if less).

(d) Conditions Precedent. The effectiveness of any Permitted Refinancing Amendment shall be subject to the satisfaction or waiver on the date thereof of each of the conditions set forth in Section 4.02 and, to the extent reasonably requested by the Administrative Agent, receipt by the Administrative Agent of (i) board resolutions and officers' certificates consistent with those delivered on the Closing Date under Section 4.01, (ii) customary legal opinions reasonably acceptable to the Administrative Agent and (iii) reaffirmation agreements or such amendments to the Collateral Documents as may be reasonably requested by the Administrative Agent in order to ensure that such Permitted Credit Agreement Refinancing Indebtedness is provided with the benefit of the applicable Loan Documents.

(e) Effectiveness. The Administrative Agent shall promptly notify each Lender as to the effectiveness of each Permitted Refinancing Amendment. Each of the parties hereto hereby agrees that, upon the effectiveness of any Permitted Refinancing Amendment, this Agreement shall be deemed amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Permitted Credit Agreement Refinancing Indebtedness incurred pursuant thereto (including any amendments necessary to treat the Loans and Commitments subject thereto as Permitted Refinancing Loans or Permitted Refinancing Commitments).

(f) Necessary Amendments. Any Permitted Refinancing Amendment may, without the consent of any other Lender, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrower, to effect the provisions of this Section 2.21 and each of the parties hereto hereby consents to the transactions contemplated by this Section 2.21 (including, for the avoidance of doubt, payment of interest, fees or premium in respect of any Permitted Credit Agreement Refinancing Indebtedness on such terms as may be set forth in the relevant Permitted Refinancing Amendment in accordance with this Section 2.21).

(g) Conflicting Provisions. This Section 2.21 shall supersede any provisions in Section 2.14 or 10.01 to the contrary.

ARTICLE III.

TAXES, YIELD PROTECTION AND ILLEGALITY

3.01 Taxes.

(a) Payments Free of Taxes; Obligation to Withhold; Payments on Account of Taxes.

(i) Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable Laws. If any applicable Laws (as determined in the good faith discretion of the Administrative Agent or any Loan Party) require the deduction or withholding of any Tax from any such payment by the Administrative Agent or a Loan Party, then the Administrative Agent or such Loan Party shall be entitled to make such deduction or withholding, upon the basis of the information and documentation to be delivered pursuant to clause (e) below.

(ii) If any Loan Party or the Administrative Agent shall be required by the Code to withhold or deduct any Taxes from any payment, then (A) such Loan Party or the Administrative Agent shall withhold or make such deductions as are determined by such Loan Party or the Administrative Agent to be required based upon the information and documentation it has received pursuant to clause (e) below, (B) such Loan Party or the Administrative Agent shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with applicable Laws, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the applicable Loan Party shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section 3.01) the applicable Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(iii) If any Loan Party or the Administrative Agent shall be required by any applicable Laws other than the Code to withhold or deduct any Taxes from any payment, then (A) such Loan Party or the Administrative Agent, as required by such Laws, shall withhold or make such deductions as are determined by it to be required based upon the information and documentation it has received pursuant to clause (e) below, (B) such Loan Party or the Administrative Agent, to the extent required by such Laws, shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with such Laws, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the applicable Loan Party shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section 3.01) the applicable Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(b) Payment of Other Taxes by the Loan Parties. Without limiting the provisions of clause (a) above, the Loan Parties shall timely pay to the relevant Governmental Authority in accordance with applicable Law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(c) Tax Indemnifications.

(i) Each of the Loan Parties shall, and does hereby, jointly and severally indemnify each Recipient, and shall make payment in respect thereof within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 3.01) payable or paid by such Recipient or required to be withheld or deducted from a payment

to such Recipient, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Company by a Lender or an L/C Issuer (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender or an L/C Issuer, shall be conclusive absent manifest error. Each of the Loan Parties shall, and does hereby, jointly and severally indemnify the Administrative Agent, and shall make payment in respect thereof within ten (10) days after demand therefor, for any amount which a Lender or an L/C Issuer for any reason fails to pay indefeasibly to the Administrative Agent as required pursuant to Section 3.01(c)(ii) below; provided, however, that no Loan Party shall have any obligation to indemnify any party hereunder for Indemnified Taxes, Other Taxes or any other liability that arises from such party's own gross negligence or willful misconduct. To the extent that a Loan Party pays an amount to the Administrative Agent pursuant to the preceding sentence (a "Back-Up Indemnity Payment"), then upon request of the Company, the Administrative Agent shall use commercially reasonable efforts to exercise its set-off rights described in the last sentence of clause (c)(ii) below (on behalf of itself or the Loan Parties) to collect the applicable Back-Up Indemnity Payment amount from the applicable Lender or L/C Issuer and shall pay the amount so collected to the Company net of any reasonable expenses incurred by the Administrative Agent in its efforts to collect (through set-off or otherwise) from such Lender or L/C Issuer with respect to clause (c)(ii), below.

(ii) Each Lender and each L/C Issuer shall, and does hereby, severally indemnify, and shall make payment in respect thereof within ten (10) days after demand therefor, (A) the Administrative Agent against any Indemnified Taxes attributable to such Lender or such L/C Issuer (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Party to do so), (B) the Administrative Agent and the Loan Party, as applicable, against any Taxes attributable to such Lender's failure to comply with the provisions of Section 10.06(d) relating to the maintenance of a Participant Register and (C) the Administrative Agent and the Loan Party, as applicable, against any Excluded Taxes attributable to such Lender or such L/C Issuer, in each case, that are payable or paid by the Administrative Agent or a Loan Party in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender and each L/C Issuer hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender or such L/C Issuer, as the case may be, under this Agreement or any other Loan Document against any amount due to the Administrative Agent under this clause (ii).

(d) Evidence of Payments. As soon as practicable after any payment of Taxes by any Loan Party to a Governmental Authority as provided in this Section 3.01, the Company shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of any return required by Laws to report such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(e) Status of Lenders; Tax Documentation.

(i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Company and the Administrative Agent, at the time or times reasonably requested by the Company or the Administrative Agent, such properly completed and executed documentation prescribed by applicable Law or the taxing authorities of a jurisdiction pursuant to such applicable Law or reasonably requested by the Company or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Company or the Administrative Agent, shall deliver such other documentation prescribed by applicable Law or reasonably requested by the Company or the Administrative Agent as will enable the Company or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation either (A) set forth in Section 3.01(e)(ii)(A), (ii)(B) and (ii)(D) below or (B) required by applicable law other than the Code or the taxing authorities of the jurisdiction pursuant to such applicable law to comply with the requirements for exemption or reduction of withholding tax in that jurisdiction) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing, in the event that any Borrower is a U.S. Person,

(A) any Lender that is a U.S. Person shall deliver to the Company, such Borrower(s), and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Company, any such Borrower, or the Administrative Agent), executed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Non-U.S. Lender shall, to the extent it is legally entitled to do so, deliver to the Company, such Borrower(s), and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Non-U.S. Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Company, any such Borrower, or the Administrative Agent), whichever of the following is applicable:

(1) in the case of a Non-U.S. Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, executed copies of IRS Form W-8BEN-E (or W-8BEN, as applicable) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN-E (or W-8BEN, as applicable) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(2) executed copies of IRS Form W-8ECI;

(3) in the case of a Non-U.S. Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit I-1 to the effect that such Non-U.S. Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the Company within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code (a "U.S. Tax Compliance Certificate") and (y) executed copies of IRS Form W-8BEN-E (or W-8BEN, as applicable); or

(4) to the extent a Non-U.S. Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN-E (or W-8BEN, as applicable), a U.S. Tax Compliance Certificate substantially in the form of Exhibit I-2 or Exhibit I-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Non-U.S. Lender is a partnership and one or more direct or indirect partners of such Non-U.S. Lender are claiming the portfolio interest exemption, such Non-U.S. Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit I-4 on behalf of each such direct and indirect partner;

(C) any Non-U.S. Lender shall, to the extent it is legally entitled to do so, deliver to the Company, such Borrower(s) and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Non-U.S. Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Company, any such Borrower or the Administrative Agent), executed copies of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit the Company, such Borrower(s) or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Company, such Borrower(s) and the Administrative Agent at the time or times prescribed by Law and at such time or times reasonably requested by the Company or the Administrative Agent such documentation prescribed by applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Company, any such Borrower or the Administrative Agent as may be necessary for the Company, such Borrower(s) and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(iii) Each Lender agrees that if any form or certification it previously delivered pursuant to this Section 3.01 expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Company, such Borrower(s) and the Administrative Agent in writing of its legal inability to do so.

(f) Treatment of Certain Refunds. Unless required by applicable Laws, at no time shall the Administrative Agent have any obligation to file for or otherwise pursue on behalf of a Lender or an L/C Issuer, or have any obligation to pay to any Lender or any L/C Issuer, any refund of Taxes withheld or deducted from funds paid for the account of such Lender or such L/C Issuer, as the case may be. If any Recipient determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified by any Loan Party or with respect to which any Loan Party has paid additional amounts pursuant to this Section 3.01, it shall pay to such Loan Party an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by a Loan Party under this Section 3.01 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) incurred by such Recipient, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that each Loan Party, upon the request of the Recipient, agrees to repay the amount paid over to such Loan Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Recipient in the event the Recipient is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this subsection, in no event will the applicable Recipient be required to pay any amount to such Loan Party pursuant to this subsection the payment of which would place the Recipient in a less favorable net after-Tax position than such Recipient would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This subsection shall not be construed to require any Recipient to make available its tax returns (or any other information relating to its taxes that it deems confidential) to any Loan Party or any other Person.

(g) Survival. Each party's obligations under this Section 3.01 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender or an L/C Issuer, the termination of the Commitments and the repayment, satisfaction or discharge of all other Obligations.

3.02 Illegality.

(a) If any Lender determines in good faith that any Change in Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to perform any of its obligations hereunder or make, maintain or fund or charge interest with respect to any Credit Extension or to determine or charge interest rates based upon the Eurocurrency Rate, any Alternative Currency Daily Rate or any Alternative Currency Term Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars or any Alternative Currency in the applicable interbank market, then, on notice thereof by such Lender to the Company through the Administrative Agent, (i) any obligation of such Lender to issue, make, maintain, fund or charge interest with respect to any such Credit Extension or to make or continue Eurocurrency Rate Loans or Alternative Currency Loans in the affected currency or currencies or, in the case of Eurocurrency Rate Loans in Dollars, to convert Base Rate Loans to Eurocurrency Rate Loans, shall be suspended, and (ii) if such notice asserts the illegality of such Lender making or maintaining Base Rate Loans the interest rate on which is determined by reference to the Eurocurrency Rate component of the Base Rate, the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid

such illegality, be determined by the Administrative Agent without reference to the Eurocurrency Rate component of the Base Rate, in each case until such Lender notifies the Administrative Agent and the Company that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (x) the Borrowers shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay all Eurocurrency Rate Loans or Alternative Currency Loans, as applicable, in the affected currency or currencies or, if applicable and such Loans are denominated in Dollars, convert all Eurocurrency Rate Loans of such Lender to Base Rate Loans (the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Eurocurrency Rate component of the Base Rate), in each case, immediately, or, in the case of Eurocurrency Rate Loans or Alternative Currency Term Rate Loans, on the last day of the Interest Period therefor if such Lender may lawfully continue to maintain such Eurocurrency Rate Loans or Alternative Currency Term Rate Loans to such day and (y) if such notice asserts the illegality of such Lender determining or charging interest rates based upon the Eurocurrency Rate, the Administrative Agent shall during the period of such suspension compute the Base Rate applicable to such Lender without reference to the Eurocurrency Rate component thereof until the Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon the Eurocurrency Rate. Upon any such prepayment or conversion, the Borrowers shall also pay accrued interest on the amount so prepaid or converted.

(b) If, in any applicable jurisdiction, the Administrative Agent, any L/C Issuer or any Lender or any Designated Lender determines in good faith that any Change in Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for the Administrative Agent, any L/C Issuer or any Lender or its applicable Designated Lender to (i) perform any of its obligations hereunder or under any other Loan Document, (ii) to fund or maintain its participation in any Loan or Letter of Credit or (iii) issue, make, maintain, fund or charge interest or fees with respect to any Credit Extension to a Non-U.S. Borrower, such Person shall promptly notify the Administrative Agent, then, upon the Administrative Agent notifying the Company, and until such notice by such Person is revoked, any obligation of such Person to issue, make, maintain, fund or charge interest or fees with respect to any such Credit Extension shall be suspended, and to the extent required by applicable Law, cancelled. Upon receipt of such notice, the Loan Parties shall, (A) repay that Person's participation in the Loans or other applicable Obligations on the last day of the Interest Period for each Loan or other Obligation occurring after the Administrative Agent has notified the Company or, if earlier, the date specified by such Person in the notice delivered to the Administrative Agent (being no earlier than the last day of any applicable grace period permitted by applicable Law), (B) to the extent applicable to an L/C Issuer, Cash Collateralize that portion of applicable L/C Obligations comprised of the aggregate undrawn amount of Letters of Credit to the extent not otherwise Cash Collateralized and (C) take all reasonable actions requested by such Person to mitigate or avoid such illegality.

3.03 Inability to Determine Rates.

(a) If in connection with any request for a Eurocurrency Rate Loan or a conversion to or continuation thereof, (i) the Administrative Agent determines in good faith that (A) Dollar deposits are not being offered to banks in the London interbank market for the applicable amount and Interest Period of such Eurocurrency Rate Loan, or (B) adequate and reasonable means do not exist for determining the Eurocurrency Rate for any requested Interest Period with respect to a proposed Eurocurrency Rate Loan or in connection with an existing or proposed Base Rate Loan (in each case with respect to this clause (i), "Impacted Loans"), or (ii) the Administrative Agent or the Required Lenders determine that for any reason the Eurocurrency Rate for any requested Interest Period with respect to a proposed Eurocurrency Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Eurocurrency Rate

Loan, the Administrative Agent will promptly so notify the Company and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain Eurocurrency Rate Loans shall be suspended, (to the extent of the affected Eurocurrency Rate Loans or Interest Periods), and (y) in the event of a determination described in the preceding sentence with respect to the Eurocurrency Rate component of the Base Rate, the utilization of the Eurocurrency Rate component in determining the Base Rate shall be suspended, in each case until the Administrative Agent (or, in the case of a determination by the Required Lenders described in clause (ii) of Section 3.03(a), until the Administrative Agent upon instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, the Borrowers may revoke any pending request for a Borrowing of, conversion to or continuation of Eurocurrency Rate Loans (to the extent of the affected Eurocurrency Rate Loans or Interest Periods) or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Loans in the amount specified therein.

(b) Notwithstanding the foregoing, if the Administrative Agent has made the determination described in clause (i) of Section 3.03(a), the Administrative Agent, in consultation with the Company and Required Lenders, may establish an alternative interest rate for the Impacted Loans (which in no event shall be less than (x) zero with respect to the Revolving Facility or the Term A Loan or (y) 0.5% with respect to the Term B Loan), in which case, such alternative rate of interest shall apply with respect to the Impacted Loans until (i) the Administrative Agent revokes the notice delivered with respect to the Impacted Loans under clause (i) of the first sentence of Section 3.03(a), (ii) the Administrative Agent or the Required Lenders notify the Administrative Agent and the Company that such alternative interest rate does not adequately and fairly reflect the cost to such Lenders of funding the Impacted Loans, or (iii) any Lender determines in good faith that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for such Lender or its applicable Lending Office to make, maintain or fund Loans whose interest is determined by reference to such alternative rate of interest or to determine or charge interest rates based upon such rate or any Governmental Authority has imposed material restrictions on the authority of such Lender to do any of the foregoing and provides the Administrative Agent and the Company written notice thereof.

(c) Notwithstanding anything to the contrary in this Agreement or any other Loan Documents, including the preceding Sections 3.03(a) and (b), with respect to Eurocurrency Rate Loans in U.S. Dollars:

(i) On March 5, 2021 the Financial Conduct Authority ("FCA"), the regulatory supervisor of LIBOR's administrator ("IBA"), announced in a public statement the future cessation or loss of representativeness of overnight/Spot Next, 1-week, 1-month, 2-month, 3-month, 6-month and 12- month U.S. Dollar LIBOR tenor settings. On the earliest of (A) the date that all Available Tenors of U.S. Dollar LIBOR have permanently or indefinitely ceased to be provided by IBA or have been announced by the FCA pursuant to public statement or publication of information to be no longer representative, (B) June 30, 2023 and (C) the Early Opt-in Effective Date in respect of a SOFR Early Opt-In, if the then-current Benchmark is LIBOR, the Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of any setting of such Benchmark on such day and all subsequent settings without any amendment to, or further action or consent of any other party to this Agreement or any other Loan Document. If the Benchmark Replacement is Daily Simple SOFR, all interest payments will be payable on a quarterly basis.

(ii) (x) Upon (A) the occurrence of a Benchmark Transition Event or (B) a determination by the Administrative Agent that neither of the alternatives under clause (1) of the definition of "Benchmark Replacement" are available, the Benchmark Replacement will replace the then-current Benchmark for all purposes hereunder and under any Loan Document in respect of any Benchmark setting at or after 5:00 p.m. on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the

Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document so long as the Administrative Agent has not received, by such time, written notice of objection to such Benchmark Replacement from Lenders comprising the Required Lenders (and any such objection shall be conclusive and binding absent manifest error); provided that solely in the event that the then-current Benchmark at the time of such Benchmark Transition Event is not a SOFR-based rate, the Benchmark Replacement therefor shall be determined in accordance with clause (1) of the definition of "Benchmark Replacement" unless the Administrative Agent determines that neither of such alternative rates is available.

(y) On the Early Opt-in Effective Date in respect of an Other Rate Early Opt-In, the Benchmark Replacement will replace LIBOR for all purposes hereunder and under any Loan Document in respect of any setting of such Benchmark on such day and all subsequent settings without any amendment to, or further action or consent of any other party to this Agreement or any other Loan Document.

(iii) At any time that the administrator of the then-current Benchmark has permanently or indefinitely ceased to provide such Benchmark or such Benchmark has been announced by the regulatory supervisor for the administrator of such Benchmark pursuant to public statement or publication of information to be no longer representative of the underlying market and economic reality that such Benchmark is intended to measure and that representativeness will not be restored, the applicable Borrower may revoke any request for a borrowing of, conversion to or continuation of Loans to be made, converted or continued that would bear interest by reference to such Benchmark until the Borrower's receipt of notice from the Administrative Agent that a Benchmark Replacement has replaced such Benchmark, and, failing that, the applicable Borrower will be deemed to have converted any such request into a request for a borrowing of or conversion to Base Rate Loans. During the period referenced in the foregoing sentence, the component of Base Rate based upon the Benchmark will not be used in any determination of the Base Rate.

(iv) In connection with the implementation and administration of a Benchmark Replacement, the Administrative Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement.

(v) The Administrative Agent will promptly notify the Company and the Lenders of (A) the implementation of any Benchmark Replacement and (B) the effectiveness of any Conforming Changes. Any determination, decision or election that may be made by the Administrative Agent pursuant to this Section 3.03(c), including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action, will be conclusive and binding absent manifest error and may be made in its sole discretion and without consent from any other party hereto, except, in each case, as expressly required pursuant to this Section 3.03(c).

(vi) At any time (including in connection with the implementation of a Benchmark Replacement), (A) if the then-current Benchmark is a term rate (including Term SOFR or LIBOR), then the Administrative Agent may remove any tenor of such Benchmark that is unavailable or non-representative for Benchmark (including Benchmark Replacement) settings and (B) the Administrative Agent may reinstate any such previously removed tenor for Benchmark (including Benchmark Replacement) settings.

(d) If in connection with any request for an Alternative Currency Loan or a continuation of any of such Loans, as applicable, (i) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that (A) no Successor Rate for the Relevant Rate for the applicable Alternative Currency has been determined in accordance with Section 3.03(e) and the circumstances under clause (i) of Section 3.03(e) or the Alternative Currency Scheduled Unavailability Date has occurred with respect to such Relevant Rate, as applicable, or (B) adequate and reasonable means do not otherwise exist for determining the Relevant Rate for the applicable Alternative Currency for any determination date(s) or requested Interest Period, as applicable, with respect to an Alternative Currency Loan, or (ii) the Administrative Agent or the Required Lenders determine that for any reason that the Relevant Rate with respect to a proposed Loan denominated in an Alternative Currency for any requested Interest Period or determination date(s) does not adequately and fairly reflect the cost to such Lenders of funding such Loan, the Administrative Agent will promptly so notify the Company and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain Loans in the affected currency or currencies, as applicable, shall be suspended in each case to the extent of the affected Alternative Currency Loans or Interest Period or determination date(s), as applicable, until the Administrative Agent (or, in the case of a determination by the Required Lenders described in clause (ii) of this Section 3.03(d), until the Administrative Agent upon instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, (i) the applicable Borrower may revoke any pending request for a Borrowing of, or continuation of Alternative Currency Loans to the extent of the affected Alternative Currency Loans or Interest Period or determination date(s), as applicable or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Loans denominated in Dollars in the Dollar Equivalent of the amount specified therein and (ii) any outstanding affected Alternative Currency Loans, at the Company's election, shall either (1) be converted into a Borrowing of Base Rate Loans denominated in Dollars in the Dollar Equivalent of the amount of such outstanding Alternative Currency Loan immediately, in the case of an Alternative Currency Daily Rate Loan or at the end of the applicable Interest Period, in the case of an Alternative Currency Term Rate Loan or (2) be prepaid in full immediately, in the case of an Alternative Currency Daily Rate Loan, or at the end of the applicable Interest Period, in the case of an Alternative Currency Term Rate Loan; provided that if no election is made by the Company (x) in the case of an Alternative Currency Daily Rate Loan, by the date that is three Business Days after receipt by the Company of such notice or (y) in the case of an Alternative Currency Term Rate Loan, by the last day of the current Interest Period for the applicable Alternative Currency Term Rate Loan, the Company shall be deemed to have elected clause (1) above.

(e) Notwithstanding anything to the contrary in this Agreement or any other Loan Documents, including the preceding Section 3.03(d), in connection with any Alternative Currency Loans, if the Administrative Agent determines (which determination shall be conclusive absent manifest error), or the Company or Required Lenders notify the Administrative Agent (with, in the case of the Required Lenders, a copy to the Company) that the Company or Required Lenders (as applicable) have determined, that:

(i) adequate and reasonable means do not exist for ascertaining the Relevant Rate for an Alternative Currency because none of the tenors of such Relevant Rate (including any forward-looking term rate thereof) is available or published on a current basis and such circumstances are unlikely to be temporary; or

(ii) the Applicable Authority has made a public statement identifying a specific date after which all tenors of the Relevant Rate for an Alternative Currency (including any forward-looking term rate thereof) shall or will no longer be representative or made available, or used for determining the interest rate of loans denominated in such Alternative Currency, or shall or will otherwise cease, provided that, in each case, at the time of such statement, there is no successor administrator that is satisfactory to the Administrative Agent that will continue to provide such representative tenor(s) of the Relevant Rate for such Alternative Currency (the latest date on which

all tenors of the Relevant Rate for such Alternative Currency (including any forward-looking term rate thereof) are no longer representative or available permanently or indefinitely, the "Alternative Currency Scheduled Unavailability Date"); or

(iii) syndicated loans currently being executed and agented in the U.S., are being executed or amended (as applicable) to incorporate or adopt a new benchmark interest rate to replace the Relevant Rate for an Alternative Currency;

or if the events or circumstances of the type described in Section 3.03(e)(i), (ii) or (iii) have occurred with respect to the Successor Rate then in effect, then, the Administrative Agent and the Company may amend this Agreement solely for the purpose of replacing the Relevant Rate for an Alternative Currency or any then current Successor Rate for an Alternative Currency in accordance with this Section 3.03 with an alternative benchmark rate giving due consideration to any evolving or then existing convention for similar credit facilities syndicated and agented in the U.S. and denominated in such Alternative Currency for such alternative benchmarks, and, in each case, including any mathematical or other adjustments to such benchmark giving due consideration to any evolving or then existing convention for similar credit facilities syndicated and agented in the U.S. and denominated in such Alternative Currency for such benchmarks, which adjustment or method for calculating such adjustment shall be published on an information service as selected by the Administrative Agent from time to time in its reasonable discretion and may be periodically updated (and any such proposed rate, including for the avoidance of doubt, any adjustment thereto, a "Alternative Currency Successor Rate"), and any such amendment shall become effective at 5:00 p.m. on the fifth Business Day after the Administrative Agent shall have posted such proposed amendment to all Lenders and the Company unless, prior to such time, Lenders comprising the Required Lenders have delivered to the Administrative Agent written notice that such Required Lenders object to such amendment.

(f) The Administrative Agent will promptly (in one or more notices) notify the Company and each Lender of the implementation of any Successor Rate.

(g) Any Successor Rate shall be applied in a manner consistent with market practice; provided that to the extent such market practice is not administratively feasible for the Administrative Agent, such Successor Rate shall be applied in a manner as otherwise reasonably determined by the Administrative Agent.

(h) Notwithstanding anything else herein, if at any time any Successor Rate as so determined would otherwise be less than (i) with respect to the Revolving Facility and the Term A Loan, zero, such rate shall be deemed zero for purposes of this Agreement and (ii) with respect to the Term B Loan, 0.50%, such rate shall be deemed 0.50% for purposes of this Agreement.

(i) In connection with the implementation of a Successor Rate, the Administrative Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement; provided that, with respect to any such amendment effected, the Administrative Agent shall post each such amendment implementing such Conforming Changes to the Company and the Lenders reasonably promptly after such amendment becomes effective.

3.04 Increased Costs; Reserves on Eurocurrency Rate Loans.

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except any reserve requirement contemplated by Section 3.04(e)) or any L/C Issuer;

(ii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Lender or any L/C Issuer or the applicable interbank market any other condition, cost or expense affecting this Agreement, Eurocurrency Rate Loans or Alternative Currency Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making, converting to, continuing or maintaining any Loan (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender or such L/C Issuer of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender or such L/C Issuer hereunder (whether of principal, interest or any other amount) then, upon request of such Lender or such L/C Issuer, in each case in an amount deemed by such Lender or such L/C Issuer to be material, the Company will pay (or cause the applicable Borrower to pay) to such Lender or such L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or such L/C Issuer, as the case may be, for such additional costs incurred or reduction suffered, provided that the Borrowers shall not be required to compensate a Lender or the L/C Issuer pursuant to this Section 3.04(a) for any additional amounts incurred more than ninety (90) days prior to the date that such Lender or the L/C Issuer notifies the Borrowers of the Change in Law giving rise to such additional amounts and of such Lender's or the L/C Issuer's intention to claim compensation therefor; provided that, if the Change in Law giving rise to such additional amounts is retroactive, then such 90-day period referred to above shall be extended to include the period of retroactive effect thereof.

(b) Capital Requirements. If any Lender or any L/C Issuer determines that any Change in Law affecting such Lender or such L/C Issuer or any Lending Office of such Lender or such Lender's or such L/C Issuer's holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or such L/C Issuer's capital or on the capital of such Lender's or such L/C Issuer's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by, or participations in Letters of Credit or Swing Line Loans held by, such Lender, or the Letters of Credit issued by such L/C Issuer, to a level below that which such Lender or such L/C Issuer or such Lender's or such L/C Issuer's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or such L/C Issuer's policies and the policies of such Lender's or such L/C Issuer's holding company with respect to capital adequacy), in each case in an amount deemed by such Lender or such L/C Issuer to be material, then from time to time the Company will pay (or cause the applicable Borrower to pay) to such Lender or such L/C Issuer, as

the case may be, such additional amount or amounts as will compensate such Lender or such L/C Issuer or such Lender's or such L/C Issuer's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender or an L/C Issuer (i) setting forth in reasonable detail the amount or amounts necessary to compensate such Lender or such L/C Issuer or its holding company, as the case may be, as specified in clauses (a) or (b) of this Section 3.04 and (ii) setting forth in reasonable detail the manner in which such amount was deferred, which shall be conclusive absent manifest error, and shall be delivered to the Company. The Company shall pay (or cause the applicable Borrower to pay) such Lender or such L/C Issuer, as the case may be, the amount shown as due on any such certificate within ten (10) days after receipt thereof. Notwithstanding anything contained in this Article III to the contrary, a Lender shall not be entitled to any compensation pursuant to Section 3.04 to the extent such Lender is not generally imposing such charges or requesting such compensation from other similarly situated borrowers under similar circumstances.

(d) Delay in Requests. Failure or delay on the part of any Lender or any L/C Issuer to demand compensation pursuant to the foregoing provisions of this Section 3.04 shall not constitute a waiver of such Lender's or such L/C Issuer's right to demand such compensation, provided that no Borrower shall be required to compensate a Lender or an L/C Issuer pursuant to the foregoing provisions of this Section 3.04 for any increased costs incurred or reductions suffered more than nine (9) months prior to the date that such Lender or such L/C Issuer, as the case may be, notifies the Company of the Change in Law giving rise to such increased costs or reductions and of such Lender's or such L/C Issuer's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

(e) Additional Reserve Requirements. The Company shall pay (or cause the applicable Borrower to pay) to each Lender, (i) as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency funds or deposits (currently known as "Eurocurrency liabilities"), additional interest on the unpaid principal amount of each Eurocurrency Rate Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive), and (ii) as long as such Lender shall be required to comply with any reserve ratio requirement or analogous requirement of any central banking or financial regulatory authority imposed in respect of the maintenance of the Commitments or the funding of the Eurocurrency Rate Loans, such additional costs (expressed as a percentage per annum and rounded upwards, if necessary, to the nearest five decimal places) equal to the actual costs allocated to such Commitment or Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive), which shall be due and payable on each date on which interest is payable on such Loan, provided the Company shall have received at least ten (10) days' prior notice (with a copy to the Administrative Agent) of such additional interest or costs from such Lender. If a Lender fails to give notice ten (10) days prior to the relevant Interest Payment Date, such additional interest or costs shall be due and payable ten (10) days from receipt of such notice.

3.05 Compensation for Losses. The Company shall compensate (or cause the applicable Borrower to compensate) such Lender for, and hold such Lender harmless from, any loss, cost or expense incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan on a day other than the last day of any Interest Period, relevant interest payment

date or payment period, as applicable, for such Loan, if applicable (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(b) any failure by any Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan other than a Base Rate Loan on the date or in the amount notified by the applicable Borrower;

(c) any failure by any Borrower to make payment of any Loan or drawing under any Letter of Credit (or interest due thereon) denominated in an Alternative Currency on its scheduled due date or any payment thereof in a different currency; or

(d) any assignment of a Eurocurrency Rate Loan or Alternative Currency Term Rate Loan on a day other than the last day of the Interest Period therefor as a result of a request by the applicable Borrower pursuant to Section 10.13;

including any foreign exchange losses and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan, from fees payable to terminate the deposits from which such funds were obtained or from the performance of any foreign exchange contract, but in any event, excluding loss of anticipated profit. The Company will (or will cause the applicable Borrower to), within ten (10) Business Days after the Company's (or applicable Borrower's) receipt of a certificate of the type described in Section 3.04(c), pay such Lender such additional amounts as will compensate such Lender for such losses, costs and expenses.

For purposes of calculating amounts payable by the Company (or the applicable Borrower) to the Lenders under this Section 3.05, each Lender shall be deemed to have funded each Eurocurrency Rate Loan or Alternative Currency Term Rate Loan made by it at the Eurocurrency Rate or Alternative Currency Term Rate for such Loan by a matching deposit or other borrowing in the interbank market for such currency for a comparable amount and for a comparable period, whether or not such Eurocurrency Rate Loan or Alternative Currency Term Rate Loan was in fact so funded.

3.06 Mitigation Obligations; Replacement of Lenders.

(a) Designation of a Different Lending Office. If any Lender requests compensation under Section 3.04, or requires any Borrower to pay any Indemnified Taxes or additional amounts to any Lender, any L/C Issuer, or any Governmental Authority for the account of any Lender or any L/C Issuer pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then at the request of the Company such Lender or such L/C Issuer shall, as applicable, use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender or such L/C Issuer, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender or such L/C Issuer, as the case may be, to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender or such L/C Issuer, as the case may be. The Company hereby agrees to pay (or cause the applicable Borrower to pay) all reasonable costs and expenses incurred by any Lender or any L/C Issuer in connection with any such designation or assignment.

(b) Replacement of Lenders. If any Lender requests compensation under Section 3.04, or if any Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01 and, in each

case, such Lender has declined or is unable to designate a different lending office in accordance with Section 3.06(a), the Company may replace such Lender in accordance with Section 10.13.

3.07 Survival. All obligations of the Loan Parties under this Article III shall survive termination of the Aggregate Commitments, repayment of all other Obligations hereunder and resignation of the Administrative Agent.

ARTICLE IV.

CONDITIONS PRECEDENT TO CREDIT EXTENSIONS

4.01 Conditions of Initial Credit Extension. The obligation of each L/C Issuer and each Lender to make its initial Credit Extension hereunder is subject to the satisfaction (or waiver in accordance with Section 10.01) of the following conditions precedent:

(a) The Administrative Agent's receipt of the following, each of which shall be originals or telecopies (followed promptly by originals, unless otherwise agreed by the Administrative Agent) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party, each dated the Closing Date (or, in the case of certificates of governmental officials, a recent date before the Closing Date) and each in form and substance reasonably satisfactory to the Administrative Agent and each of the Lenders:

(i) executed counterparts of this Agreement and each other Loan Document (other than the Dutch Share Pledges, which shall be executed immediately following the release of signature pages to the other Loan Documents);

(ii) as to each Borrower, a Note executed by such Borrower in favor of each Lender requesting Notes;

(iii) searches of filings made under the UCC, the PPSA, the RPMRR (Quebec), the Bank Act (Canada) or other applicable Law, in each case in the jurisdiction of formation of each Loan Party and each other jurisdiction reasonably deemed appropriate by the Administrative Agent;

(iv) such UCC and PPSA financing statements, RPMRR (Quebec) registrations, or similar documents required under any other applicable Law in the name of each Loan Party for each appropriate jurisdiction as is necessary, in the Administrative Agent's reasonable discretion, to perfect the Administrative Agent's security interest in the Collateral;

(v) all certificates evidencing any certificated Equity Interests, or updated shareholder registers, pledged to the Administrative Agent pursuant to the Security Agreements, together with duly executed in blank, undated stock powers attached thereto (unless, with respect to the pledged Equity Interests of any Non-U.S. Subsidiary, such stock powers or updated shareholder registers are deemed unnecessary by the Administrative Agent in its reasonable discretion under the law of the jurisdiction of organization of such Person);

(vi) searches of ownership of, and Liens on, United States, Canadian and Dutch intellectual property registrations and applications of each Loan Party in the appropriate governmental offices;

(vii) duly executed notices of grant of security interest in the form required by the Security Agreements as are necessary, in the Administrative Agent's reasonable discretion, to perfect the Administrative Agent's security interest in the United States, Dutch and Canadian intellectual property registrations and applications of the Loan Parties;

(viii) such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party as the Administrative Agent may reasonably require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party;

(ix) such documents and certifications as the Administrative Agent may reasonably require to evidence that each Loan Party is duly organized or formed and validly existing and in good standing (to the extent applicable) in its jurisdiction of organization or formation;

(x) a favorable customary opinion of each of (A) Akin Gump Strauss Hauer & Feld LLP, New York and Delaware counsel to the Loan Parties, (B) Stewart McKelvey, Nova Scotia counsel to the Loan Parties, (C) Blake, Cassels & Graydon LLP, Ontario counsel to the Loan Parties, (E) Kennedy Van der Laan, Dutch counsel to the Loan Parties, (D) Hogan Lovells (Luxembourg) LLP, Luxembourg counsel to the Loan Parties and (F) NautaDutilh Avocats Luxembourg S.à r.l., Luxembourg counsel to the Administrative Agent, as to such matters concerning the Loan Parties and the Loan Documents as the Administrative Agent may reasonably request;

(xi) a certificate signed by a Responsible Officer of the Company certifying (A) that the conditions specified in Sections 4.01(b), (c), (d), (h), (i) and (j), Section 4.02(a) and Section 4.02(b) have been satisfied and (B) that there has been no event or circumstance since December 31, 2020 that has had or could be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect;

(xii) a certificate signed by the chief financial officer of the Company certifying that (A) the Company and its Subsidiaries are Solvent on a consolidated basis after giving effect to the Credit Extensions to be made hereunder on the Closing Date, (B) the SEC has declared the Form 10 effective, that no stop orders relating to the Spinoff or other restrictions that would otherwise prohibit or enjoin the occurrence of the Spinoff shall be in existence and that there is no impediment known to the Company that would impair the consummation of the Spinoff and (C) the Company reasonably expects the Spinoff and all related Form 10 Transactions to have been consummated in full not later than the date that is two (2) Business Days after the Closing Date;

(xiii) a perfection certificate in form and substance reasonably satisfactory to the Administrative Agent and signed by a Responsible Officer of the Company (the "Perfection Certificate");

(xiv) evidence reasonably satisfactory to the Administrative Agent that all insurance required to be maintained pursuant to the Loan Documents has been obtained and is in effect;

(xv) copies of (A) if the Closing Date is on or after the date that is forty-five (45) days after the effectiveness date of the Form 10, any unaudited combined financial

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statements of the Company and its Subsidiaries for each fiscal quarter ending after June 30, 2021 and at least forty-five (45) days prior to the Closing Date, including balance sheets and statements of income or operations, shareholders' equity and cash flows and (B) annual projections for the Company and its Subsidiaries for the four (4) full fiscal years ending after the Closing Date;

(xvi) a certificate signed by a person that would (if ADS were a Loan Party) be a Responsible Officer of ADS certifying that attached thereto is a true and correct copy of the resolutions of ADS approved and entered into with respect to the approval of the Spinoff, and stating that such resolutions have not been amended, altered or otherwise modified since the date thereof (or attaching any such amendment, alternation or other modification);

(xvii) evidence that any action required to comply with the Works Councils Act of the Netherlands (*Wet op de ondernemingsraden*) has been taken;

(xviii) the Form 10 and the Form 10 Transaction Documents, along with any amendments or additions thereto, or modifications thereof, in each case effectuated prior to the Closing Date, which shall include the Audited Financial Statements and the Interim Financial Statements, as well as any financial statements required by Section 4.01(a)(xv)(A) above or any other financial statements required to be provided by the SEC in connection with declaring the Form 10 effective; and

(xix) as to each Luxembourg Obligor:

(A) a true complete and up-to-date copy of its constitutional documents;

(B) a copy of the resolutions of the board of managers of such Luxembourg Obligor (i) approving the Loan Documents to which it is a party and (ii) authorizing a specified person or persons, on its behalf, to sign and/or dispatch all documents and notices to be signed and/or dispatched by it in connection with the Loan Documents to which it is a party;

(C) specimen signatures for the person(s) authorized in the resolutions referred to above;

(D) a true, complete and up-to-date copy of an excerpt (*extrait*) and a negative certificate (*certificat de non-inscription d'une décision judiciaire*) each issued by the Luxembourg Trade and Companies Register pertaining to such Luxembourg Obligor and dated as of the date of this Agreement; and

(E) a certificate from such Luxembourg Obligor, signed by an authorized signatory, (i) attaching each copy document specified in (A) to (D) above, (ii) certifying that such documents are correct, complete and in full force and effect and have not been amended or superseded at a date no earlier than the date of such certificate, (iii) confirming that, borrowing, securing or guaranteeing (as appropriate) pursuant to the Loan Document to which it is a party would not cause any borrowing, security, guarantee or other similar limit binding on it to be exceeded; (iv) confirming that the relevant entity is in compliance with the amended Luxembourg Act dated 31 May 1999 on the domiciliation of companies,

as amended (and the relevant regulations); (v) confirming that the relevant entity is not subject to bankruptcy (*faillite*), voluntary or judicial liquidation (*liquidation volontaire ou judiciaire*), composition with creditors (*concordat préventif de la faillite*), suspension of payments (*sursis de paiement*), controlled management (*gestion contrôlée*), general settlement with creditors, reorganisation or similar legal provisions affecting the rights of creditors generally in Luxembourg or abroad, or any analogous procedure in any jurisdiction, nor subject to any proceedings under the European Insolvency Regulation; (vi) confirming that the managers of the relevant entity, have not made, and no other person entitled has taken any corporate action, legal proceedings or other procedure or step in connection with, nor have been notified of, bankrupty (*faillite*) voluntary or judicial liquidation (*liquidation volontaire ou judiciaire*), composition with creditors (*concordat préventif de la faillite*), suspension of payments (*sursis de paiement*), controlled management (*gestion contrôlée*), fraudulent conveyance (actio pauliana), general settlement with creditors, reorganisation or similar legal provisions affecting the rights of creditors generally in Luxembourg or abroad, or any analogous procedure in any jurisdiction, nor subject to any proceedings under the European Insolvency Regulation, and (vii) confirming that no application has been made by the relevant entity for a voluntary or judicial winding-up or liquidation.

(b) Substantially concurrently herewith, all obligations under the Existing Credit Agreement shall have been repaid in full (other than contingent indemnification obligations for which no claim or demand has yet been made), all commitments thereunder shall have been terminated and all Liens securing the same shall have been released (or arrangements satisfactory to the Administrative Agent for such release shall have been made).

(c) The Administrative Agent and the Lenders shall have received satisfactory evidence that as of the Closing Date the Company is a wholly-owned subsidiary of ADS (unless the Spinoff has occurred or is occurring substantially simultaneously therewith).

(d) There shall not exist any action, suit, investigation or proceeding pending or, to the knowledge of the Company or any other Loan Party, threatened in writing in any court or before any arbitrator or governmental authority that would reasonably be expected to have a Material Adverse Effect.

(e) The Administrative Agent and the Lenders shall have completed due diligence of the Loan Parties and their respective Subsidiaries in scope, and with results, reasonably satisfactory to the Administrative Agent and the Lenders, including OFAC, FCPA and Corruption of Foreign Public Officials Act (Canada).

(f) At least three (3) Business Days prior to the Closing Date, the Administrative Agent and the Lenders shall have received all documentation and other information with respect to each Loan Party requested in writing at least seven (7) Business Days prior to the Closing Date by the Administrative Agent that any Lender determines is required by regulatory authorities under applicable Law, including without limitation the PATRIOT Act, the Canadian AML Acts and applicable U.S. and Canadian law regarding anti-money laundering, anti-terrorist financing, and “know your customer” matters.

(g) At least three (3) Business Days prior to the Closing Date, any Borrower that qualifies as a “legal entity customer” under the Beneficial Ownership Regulation shall have

delivered to each Lender that so requests in writing at least seven (7) Business Days prior to the Closing Date a Beneficial Ownership Certification in relation to such Borrower.

(h) The Spinoff shall have been initiated prior to, or substantially simultaneously with, the Closing Date.

(i) Prior to, or substantially simultaneously with, the Closing Date, the Spin Payment shall have been made, and the Company shall (directly or indirectly through its Subsidiaries) own substantially all assets and operations of the "LoyaltyOne" business of ADS, other than assets having a fair market value less than $5,000,000 in the aggregate to be conveyed to the Company post-closing as contemplated by the Separation and Distribution Agreements described in clause (a) of the definition of Form 10 Transaction Documents.

(j) On the Closing Date, after giving effect to the Spinoff and all related Form 10 Transactions (whether or not fully consummated on such date) and the borrowing of the Term A Loan and the Term B Loan, the Company and its Subsidiaries will have not less than $50,000,000 of unrestricted cash on the balance sheet.

(k) Unless waived by the Administrative Agent (other than with respect to fees owing to the Lenders), the Company shall have paid (i) all fees and expenses required to be paid on the Closing Date pursuant to the Fee Letters or other writing between or among the Company and any lender(s) and/or the Administrative Agent or BofA Securities and (ii) all fees, charges and disbursements of counsel to the Administrative Agent (directly to such counsel if requested by the Administrative Agent) to the extent invoiced at least three (3) Business Days prior to the Closing Date, plus such additional amounts of such fees, charges and disbursements as shall constitute its reasonable estimate of such fees, charges and disbursements incurred or to be incurred by it through the closing proceedings and as shall be identified in the invoice provided at least three (3) Business Days prior to the Closing Date (provided that such estimate shall not thereafter preclude a final settling of accounts between the Company and the Administrative Agent).

(l) On the Closing Date, after giving effect to all Credit Extensions made on the Closing Date, the aggregate Outstanding Amount under the Revolving Facility shall not exceed $0.

Without limiting the generality of the provisions of the last paragraph of Section 9.03, for purposes of determining compliance with the conditions specified in this Section 4.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

4.02 Conditions to all Credit Extensions. The obligation of each Lender to honor any Request for Credit Extension (including a Request for Credit Extension relating to an advance under an Incremental Facility but excluding a Loan Notice requesting only a conversion of Loans to the other Type or a continuation of Eurocurrency Rate Loans or Alternative Currency Term Rate Loans) is subject to the satisfaction (or waiver in accordance with Section 10.01) of the following conditions precedent:

(a) The representations and warranties of (i) the Borrowers contained in Article V and (ii) each Loan Party contained in each other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct in all material respects (or, if qualified by materiality or reference to Material Adverse Effect, in all respects) on and as of the date of such Credit Extension, except to the extent that such

representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects (or, if qualified by materiality or reference to Material Adverse Effect, in all respects) as of such earlier date, and except that for purposes of this Section 4.02, the representations and warranties contained in clauses (a) and (b) of Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to clauses (a) and (b), respectively, of Section 6.01.

(b) No Default or Event of Default shall exist, or would result from such proposed Credit Extension or from the application of the proceeds thereof.

(c) The Administrative Agent and, if applicable, the applicable L/C Issuer(s) or the Swing Line Lender shall have received a Request for Credit Extension in accordance with the requirements hereof.

(d) If the applicable Borrower is a Designated Borrower, then the conditions of Section 2.15 to the designation of such Borrower as a Designated Borrower shall have been met to the satisfaction of the Administrative Agent.

(e) In the case of a Credit Extension to be denominated in an Alternative Currency, such currency remains an Eligible Currency.

(f) There shall be no restriction, limitation, prohibition or material impediment imposed under Law or by any Governmental Authority as to the proposed Credit Extension or the repayment thereof or as to rights created under any Loan Document or as to application of the proceeds of the realization of any such rights.

Notwithstanding anything to the contrary contained in this Agreement, the conditions set forth in clauses (a) and (b) of this Section 4.02 shall be subject to the provisions of Section 1.10 in the case of any Incremental Term Facility used to finance a Limited Condition Acquisition.

Each Request for Credit Extension (other than a Loan Notice requesting only a conversion of Loans to the other Type or a continuation of Eurocurrency Rate Loans or Alternative Currency Term Rate Loans) submitted by any Borrower shall be deemed to be a representation and warranty that the conditions specified in Sections 4.02(a) and (b) have been satisfied on and as of the date of the applicable Credit Extension.

ARTICLE V.

REPRESENTATIONS AND WARRANTIES

Each Loan Party jointly and severally represents and warrants to the Administrative Agent and the Lenders that:

5.01 Existence, Qualification and Power. Each Loan Party and each Subsidiary (a) is (i) duly incorporated, organized or formed, (ii) validly existing and (iii) in good standing (to the extent applicable) under the Laws of the jurisdiction of its incorporation or organization, (b) has all requisite power and authority and all requisite governmental licenses, authorizations, consents and approvals to (i) own or lease its assets and carry on its business and (ii) execute, deliver and perform its obligations under the Loan Documents to which it is a party, and (c) is duly qualified and is licensed and (to the extent applicable) in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license; except in each case referred to in clause

(b)(i) or (c), to the extent that failure to do so would not reasonably be expected to have a Material Adverse Effect.

5.02 Authorization; No Contravention. The execution, delivery and performance by each Loan Party of each Loan Document to which such Person is party, (a) have been duly authorized by all necessary corporate or other organizational action, and (b) do not and will not (i) contravene the terms of any of such Person's Organization Documents; (ii) conflict with or result in any breach or contravention of, or the creation of any Lien (other than Liens under the Loan Documents) under, or require any payment to be made under (A) any Material Contract to which such Person is a party or affecting such Person or the properties of such Person or any Subsidiary or (B) any material order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; or (iii) violate any material Law.

5.03 Governmental Authorization; Other Consents. No material approval, consent, exemption, authorization, or other material action by, or material notice to, or material filing with, any Governmental Authority or any other Person is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document other than (a) those that have already been obtained and are in full force and effect, (b) filings to perfect the Liens created by the Collateral Documents and (c) any filing required to release Liens securing the Existing Credit Agreement.

5.04 Binding Effect. This Agreement has been, and each other Loan Document, when delivered hereunder, will have been, duly executed and delivered by each Loan Party that is party thereto. This Agreement constitutes, and each other Loan Document when so delivered will constitute, a legal, valid and binding obligation of such Loan Party, enforceable against each Loan Party that is party thereto in accordance with its terms, except to the extent that the enforceability thereof may be limited by applicable Debtor Relief Laws or by general principles of equity (regardless of whether enforceability is considered in a proceeding in equity or at law).

5.05 Financial Statements; No Material Adverse Effect.

(a) The Audited Financial Statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; (ii) fairly present in all material respects the financial condition of the Company and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; and (iii) show all material indebtedness and other liabilities, direct or contingent, of a type required to be shown on the Audited Financial Statements prepared in accordance with GAAP of the Company and its Subsidiaries as of the date thereof, including liabilities for taxes, material commitments and Indebtedness.

(b) The Interim Financial Statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, and (ii) fairly present in all material respects the financial condition of the Company and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby, subject, in the case of clauses (i) and (ii), to the absence of footnotes and to normal year-end audit adjustments and (iii) show all material indebtedness and other liabilities, direct or contingent, of the Company and its consolidated Subsidiaries as of the date of such financial statements, including liabilities for taxes, material commitments and Indebtedness.

(c) Since December 31, 2020, there has been no event or circumstance, either individually or in the aggregate, that has had or would reasonably be expected to have a Material Adverse Effect.

5.06 Litigation. There are not any actions, suits or proceedings at law or in equity or by or before any Governmental Authority now pending or, to the knowledge of the Company, threatened (and reasonably likely to be commenced) in writing against the Company or any of its Subsidiaries or any property or rights of the Company or any of its Subsidiaries as to which there is a reasonable likelihood of an adverse determination and which, if adversely determined, would individually or in the aggregate result in a Material Adverse Effect.

5.07 No Default. Neither any Loan Party nor any Subsidiary thereof is in default under or with respect to any Contractual Obligation that could, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. No Default has occurred and is continuing or would result from the consummation of the transactions contemplated by this Agreement or any other Loan Document.

5.08 Ownership of Property; Liens. Each Loan Party and each Subsidiary has good record and marketable title in fee simple (or similar concept under the Law of any applicable jurisdiction) to, or valid leasehold interests (or similar concept under the Law of any applicable jurisdiction) in, all real property necessary or used in the ordinary conduct of its business, except for such defects in title as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The property of the Loan Parties and the Subsidiaries is subject to no Liens, other than Permitted Liens. As of the Closing Date, the value of all tangible personal property of LoyaltyOne, Co. located in the Province of Quebec does not exceed $275,000.

5.09 Environmental Compliance. Each Loan Party and each Subsidiary is in compliance in all material respects with the requirements of all applicable Environmental Laws and Environmental Permits, except in such instances in which (a) such requirement is being contested in good faith by appropriate proceedings diligently conducted or (b) the failure to comply therewith, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

5.10 Insurance. The properties of the Company and the Subsidiaries are insured with financially sound and reputable insurance companies not Affiliates of the Company, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the applicable Loan Party operates.

5.11 Taxes. The Company and the Subsidiaries have filed all federal, state, provincial and territorial income tax returns (including non-U.S. tax returns) and other tax returns and reports required to be filed, except where such failure to file would not reasonably be likely to have a Material Adverse Effect, and have paid all federal, state, provincial and territorial income and other taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except those which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP or in respect of which such failure to pay would not reasonably be likely to have a Material Adverse Effect. To the knowledge of the Company and its Subsidiaries, there is no proposed Tax assessment against the Company or any Subsidiary that would, if made, have a Material Adverse Effect. Neither the Company nor any Subsidiary is party to any tax sharing agreement other than the "Tax Matters Agreement" as part of the Form 10 Transaction Documents.

5.12 ERISA and Canadian Pension Plan Compliance.

(a) Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other federal or state laws. Each Plan that is intended to be a qualified plan under Section 401(a) of the Code (i) has received a favorable determination letter from the IRS to the effect that the form of such Plan is qualified under Section 401(a) of the Code and the trust related thereto has been determined by the IRS to be exempt from federal income tax under Section 501(a) of the Code, or an application for such a letter is currently being processed by the IRS or (ii) is substantially similar to an "employee benefit plan" as defined in Section 3(3) of ERISA that is, or was, sponsored, maintained, or contributed to by a former ERISA Affiliate that received such a favorable determination letter from the IRS prior to the Spinoff. To the best knowledge of the Company, nothing has occurred that would prevent or cause the loss of such tax-qualified status.

(b) There are no pending or, to the best knowledge of the Company, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan that would reasonably be expected to have a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that has resulted or would reasonably be expected to result in a Material Adverse Effect.

(c) (i) Other than as would not reasonably be expected, whether individually or taken in the aggregate, to result in a Material Adverse Effect, (i) no ERISA Event has occurred, and neither the Company nor, to the knowledge of the Borrowers, any ERISA Affiliate is aware of any fact, event or circumstance that would reasonably be expected to constitute or result in an ERISA Event with respect to any Pension Plan or Multiemployer Plan; (ii) the Company and, to the knowledge of the Borrowers, each ERISA Affiliate has met all applicable requirements under the Pension Funding Rules in respect of each Pension Plan or Multiemployer Plan, and no waiver of the minimum funding standards under the Pension Funding Rules has been applied for or obtained; (iii) as of the most recent valuation date for any Pension Plan, the funding target attainment percentage (as defined in Section 430(d)(2) of the Code) is sixty percent (60%) or higher and neither the Company nor, to the knowledge of the Borrowers, any ERISA Affiliate knows of any facts or circumstances that would reasonably be expected to cause the funding target attainment percentage for any such plan to drop below sixty percent (60%) as of the most recent valuation date; (iv) neither the Company nor, to the knowledge of the Borrowers any ERISA Affiliate has incurred any liability to the PBGC other than for the payment of premiums, and there are no premium payments which have become due that are unpaid; (v) neither the Company nor, to the knowledge of the Borrowers, any ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or Section 4212(c) of ERISA; and (vi) no Pension Plan has been terminated by the plan administrator thereof nor by the PBGC, and no event or circumstance has occurred or exists that would reasonably be expected to cause the PBGC to institute proceedings under Title IV of ERISA to terminate any Pension Plan.

(d) As of the Closing Date none of the Borrowers is or will be using "plan assets" (within the meaning of 29 CFR § 2510.3-101, as modified by Section 3(42) of ERISA) of one or more Benefit Plans in connection with the Loans, the Letters of Credit or the Commitments.

(e) (i) Each Canadian Pension Plan is in compliance in all material respects with the applicable provisions of all applicable Laws and (ii) each Canadian Pension Plan has received a confirmation of registration from the Canada Revenue Agency and, to the best knowledge of the Company, nothing has occurred which would prevent, or cause the loss of, such registration. Other than as would not reasonably be expected to have a Material Adverse Effect, each Loan Party and each Subsidiary has made all required contributions to each Canadian Pension Plan.

(f) There are no pending or, to the best knowledge of the Company, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Canadian Pension Plan that could reasonably be expected to have a Material Adverse Effect. There has been no violation of fiduciary duty with respect to any Canadian Pension Plan that has resulted or would reasonably be expected to result in a Material Adverse Effect.

(g) No Loan Party or Subsidiary maintains, contributes to, or has any liability or contingent liability with respect to, a Canadian Defined Benefit Pension Plan.

5.13 Subsidiaries; Equity Interests. Set forth on Schedule 5.13 is a complete and accurate list as of the Closing Date of each Subsidiary, together with (a) such Subsidiary's jurisdiction of organization or incorporation (as the case may be), (b) the number of shares of each class of Equity Interests of such Subsidiary outstanding, (c) the number and percentage of each class of outstanding shares of such Subsidiary owned (directly or indirectly) by the Company or any Subsidiary, and (d) an indication as to whether such Subsidiary is a Loan Party or an Excluded Subsidiary (and, if so, the type (e.g., an Immaterial Subsidiary) of such Excluded Subsidiary). The outstanding Equity Interests of each Subsidiary are validly issued, fully paid and non-assessable (to the extent applicable) and are owned by a Loan Party in the amounts specified on Schedule 5.13 free and clear of all Liens other than the Liens created pursuant to the applicable Collateral Documents and inchoate and other non-consensual Permitted Liens.

5.14 Margin Regulations; Investment Company Act.

(a) No Loan Party is engaged or will engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying margin stock and the Credit Extensions hereunder will not be used to purchase or carry margin stock in violation of Regulation U or to extend credit to others for the purpose of purchasing or carrying margin stock or for any purpose that would violate the provisions of Regulation X issued by the FRB, as in effect from time to time.

(b) None of the Company, any Person Controlling the Company, or any Subsidiary is or is required to be registered as an "investment company" under the Investment Company Act of 1940.

5.15 Disclosure. No report, financial statement, certificate or other written information (including, without limitation, the Perfection Certificate, but other than projected financial information and information of a general economic or industry-specific nature) furnished by or on behalf of any Loan Party to the Administrative Agent or any Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or under any other Loan Document (in each case, as modified or supplemented by other information so furnished), when taken as a whole, contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein not materially misleading in light of the circumstances under which they were made. With respect to projected financial information, such projected financial information was prepared in good faith based upon assumptions believed to be reasonable at the time and estimates as of the date of preparation (it being understood and agreed that such projections are as to future events and are not to be viewed as facts and are subject to significant uncertainties and contingencies, many of which are beyond the control of the Company and its Subsidiaries, that no assurance can be given that any particular projection will be realized, that actual results during the period or periods covered by any such projected financial information may differ significantly from the projected results and such differences may be material, and that such projected financial information are not a representation by the Company or any of its Subsidiaries that such

projections will be achieved. As of the Closing Date, to the knowledge of the Company the information included in the Beneficial Ownership Certification, if applicable, is true and correct in all respects.

5.16 Compliance with Laws. Each Loan Party and each Subsidiary is in compliance in all material respects with the requirements of all applicable Laws and all orders, writs, injunctions and decrees applicable to it or to its properties, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (b) the failure to comply therewith, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

5.17 Taxpayer Identification Number; Other Identifying Information. The true and correct U.S. taxpayer identification number of the Company and each Borrower that is a U.S. Subsidiary and a party hereto on the Closing Date is set forth on Schedule 10.02. The true and correct unique corporate or other identification number of each Borrower that is a Non-U.S. Subsidiary and a party hereto on the Closing Date that has been issued by its jurisdiction of organization and the name of such jurisdiction are set forth on Schedule 5.17.

5.18 Casualty, Etc. As of the Closing Date, neither the businesses nor the properties of any Loan Party or any of its Subsidiaries are affected by any fire, explosion, accident, strike, lockout or other labor dispute, drought, storm, hail, earthquake, embargo, act of God or of the public enemy or other casualty (whether or not covered by insurance) that, either individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect.

5.19 Solvency. The Company and its Subsidiaries, on a consolidated basis, are Solvent.

5.20 Intellectual Property; Licenses, Etc. The Company and its Subsidiaries own, or possess the right to use, all of the trademarks, service marks, trade names, copyrights, patents, patent rights, franchises, licenses and other intellectual property rights (collectively, "IP Rights") that are reasonably necessary for the operation of their respective businesses except where and to the extent any lack of ownership or possession would not reasonably be expected to have a Material Adverse Effect, without conflict with the rights of any other Person except where and to the extent any such conflict would not reasonably be expected to have a Material Adverse Effect. To the knowledge of the Company, no slogan or other advertising device, product, process, method, substance, part or other material now employed, or now contemplated to be employed, by the Company or any Loan Party infringes upon any rights held by any other Person that would reasonably be expected to have a Material Adverse Effect. No claim or litigation regarding any of the foregoing is pending or, to the knowledge of the Borrowers, threatened in writing (and reasonably likely to be commenced), which, either individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect.

5.21 Labor Matters. Except as set forth on Schedule 5.21, there are no collective bargaining agreements or Multiemployer Plans covering the employees of the Company or any Subsidiary as of the Closing Date and neither the Company nor any Subsidiary has suffered any material strikes, walkouts, work stoppages or other labor difficulty in the three (3) years preceding the Closing Date.

5.22 OFAC. Neither the Company, nor any of its Subsidiaries, nor, to the knowledge of the Company and its Subsidiaries, any director, officer, or employee thereof, is an individual or entity that is (i) currently the subject or target of any Sanctions, (ii) included on OFAC's List of Specially Designated Nationals and Blocked Persons, the Canadian Sanctions List, HMT's Consolidated List of Financial Sanctions Targets and the Investment Ban List, or any similar list enforced by any other relevant Sanctions authority, (iii) located, organized or resident in a Designated Jurisdiction or (iv) owned or controlled by any individual or entity described under clause(s) (i)-(iii) such that such owned or controlled entity is itself

subject to the same prohibitions or restrictions as the individual or entity described under clause(s) (i)-(iii). The Loan Parties have instituted and maintained policies and procedures designed to promote and achieve compliance with Sanctions.

5.23 Anti-Corruption Laws.

To the extent applicable, the Company and its Subsidiaries have conducted their businesses in compliance in all material respects with the United States Foreign Corrupt Practices Act of 1977, the Corruption of Foreign Public Officials Act (Canada), the UK Bribery Act 2010, and, to the extent applicable, other similar anti-corruption legislation in other jurisdictions and have instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

5.24 Collateral Documents.

The Collateral Documents create valid security interests in, and Liens on, the Collateral purported to be covered thereby, which security interests and Liens are currently (or, upon delivery of Collateral to the Administrative Agent and/or when the appropriate filings or other actions required by the applicable Collateral Document or by applicable law have been filed or taken, will be) perfected security interests and Liens (to the extent such security interests and Liens are required to be perfected under the terms of the Collateral Documents) to the extent such security interests and Liens can be perfected by such delivery, filings and actions, prior to all other Liens other than Permitted Liens.

5.25 Representations as to Non-U.S. Obligors.

Each of the Company and each Non-U.S. Obligor represents and warrants to the Administrative Agent and the Lenders that:

(a) Such Non-U.S. Obligor is subject to civil and commercial Laws with respect to its obligations under this Agreement and the other Loan Documents to which it is a party (collectively as to such Non-U.S. Obligor, the "Applicable Non-U.S. Obligor Documents"), and the execution, delivery and performance by such Non-U.S. Obligor of the Applicable Non-U.S. Obligor Documents constitute and will constitute private and commercial acts and not public or governmental acts. Neither such Non-U.S. Obligor nor any of its property has any immunity from jurisdiction of any court or from any legal process (whether through service or notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise) under the laws of the jurisdiction in which such Non-U.S. Obligor is organized or incorporated (as the case may be) and existing in respect of its obligations under the Applicable Non-U.S. Obligor Documents.

(b) The Applicable Non-U.S. Obligor Documents are in proper legal form under the Laws of the jurisdiction in which such Non-U.S. Obligor is organized or incorporated (as the case may be) and existing for the enforcement thereof against such Non-U.S. Obligor under the Laws of such jurisdiction, and to ensure the legality, validity, enforceability, priority or admissibility in evidence of the Applicable Non-U.S. Obligor Documents. It is not necessary to ensure the legality, validity, enforceability, priority or admissibility in evidence of the Applicable Non-U.S. Obligor Documents that the Applicable Non-U.S. Obligor Documents be filed, registered or recorded with, or executed or notarized before, any court or other authority in the jurisdiction in which such Non-U.S. Obligor is organized or incorporated (as the case may be) and existing or that any registration charge or stamp or similar tax be paid on or in respect of the Applicable Non-U.S. Obligor Documents or any other document, except for (i) any such filing, registration, recording, execution or notarization as has been or will promptly be made or is not required to be made until the

Applicable Non-U.S. Obligor Document or any other document is sought to be enforced and (ii) any charge or tax as has been or will be timely paid.

(c) There is no tax, levy, impost, duty, fee, assessment or other governmental charge, or any deduction or withholding, imposed by any Governmental Authority in or of the jurisdiction in which such Non-U.S. Obligor is organized or incorporated (as the case may be) and existing either (i) on or by virtue of the execution or delivery of the Applicable Non-U.S. Obligor Documents or (ii) on any payment to be made by such Non-U.S. Obligor pursuant to the Applicable Non-U.S. Obligor Documents, except as has been disclosed to the Administrative Agent and except for the registration of the Applicable Non-U.S. Obligor Documents with the Administration de l'Enregistrement, des Domaines et de la TVA in Luxembourg that may be required if such Applicable Non-U.S. Obligor Documents are either (i) attached as an annex to an act (annexés à un acte) that itself is subject to mandatory registration or (ii) deposited in the minutes of a notary (déposés au rang des minutes d'un notaire). In such cases, as well as in case of a voluntary registration, the Applicable Non-U.S. Obligor Documents will be subject to registration duties payable by the party registering, or being ordered to register, the Applicable Non-U.S. Obligor Documents which may be, depending on the nature of the Applicable Non-U.S. Obligor Documents, at a fixed rate of €12 or an ad valorem rate.

(d) The execution, delivery and performance of the Applicable Non-U.S. Obligor Documents executed by such Non-U.S. Obligor are, under applicable foreign exchange control regulations of the jurisdiction in which such Non-U.S. Obligor is organized or incorporated (as the case may be) and existing, not subject to any notification or authorization except (i) such as have been made or obtained or (ii) such as cannot be made or obtained until a later date (provided that any notification or authorization described in clause (ii) shall be made or obtained as soon as is reasonably practicable).

5.26 Affected Financial Institutions; Covered Entities. No Loan Party is an Affected Financial Institution. No Loan Party is a Covered Entity.

5.27 Luxembourg Specific Representations.

(a) The centre of main interests (as that term is used in Article 3(1) of the European Insolvency Regulation) of each Luxembourg Obligor is situated in Luxembourg and such Luxembourg Obligor has no "establishment" (as that term is used in Article 2(10) of the European Insolvency Regulation) in any other jurisdiction and each Luxembourg Obligor keeps its shareholder register (*registre des associés*) at its registered office in Luxembourg.

(b) Each Luxembourg Obligor is in full compliance with the Luxembourg Act dated 31 May 1999 on the domiciliation of companies, as amended (and the relevant regulations).

5.28 DAC6. No transaction contemplated by the Loan Documents nor any transaction to be carried out in connection with any transaction contemplated by the Loan Documents meets any hallmark set out in Annex IV of the Council Directive of 25 May 2018 (2018/822/EU) amending Directive 2011/16/EU ("DAC6").

5.29 Centre of Main Interest and Establishment. For the purpose of the European Insolvency Regulation the centre of main interest (as that term is used in Article 3(1) of the European Insolvency Regulation) for each Dutch Loan Party is in the Netherlands and it has no establishment (as that term is used in Article 2 (10) of the European Insolvency Regulation) in any other jurisdiction.

ARTICLE VI.

AFFIRMATIVE COVENANTS

Each Loan Party hereby covenants and agrees that such Loan Party shall, and shall cause each of its Subsidiaries to:

6.01 Financial Statements. Deliver to the Administrative Agent (who will promptly make such documents available to each Lender), in form and detail reasonably satisfactory to the Administrative Agent and the Required Lenders:

(a) as soon as available, but in any event within ninety (90) days after the end of each fiscal year of the Company (commencing with the fiscal year ending December 31, 2021) a consolidated balance sheet of the Company and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of operations, comprehensive income, changes in shareholders' equity, and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and prepared in accordance with GAAP, audited and accompanied by a report and opinion of an independent certified public accountant of nationally recognized standing reasonably acceptable to the Required Lenders, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification or exception (other than any qualification or exception due solely to the impending maturity of the Loans and Commitments hereunder or any potential inability to satisfy a financial covenant on a future date or in a future period) or any qualification or exception as to the scope of such audit;

(b) as soon as available, but in any event within forty-five (45) days after the end of each of the first three (3) fiscal quarters of each fiscal year of the Company (or within forty-five (45) days following the effective date of the Form 10 for the fiscal quarter ended September 30, 2021, unless such financial statements are otherwise included in the Form 10), a consolidated balance sheet of the Company and its Subsidiaries as at the end of such fiscal quarter, the related consolidated statements of operations, comprehensive income, shareholders' equity and cash flows for such fiscal quarter and for the portion of the Company's fiscal year then ended, in each case setting forth in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail, certified by a Responsible Officer of the Company as fairly presenting the financial condition, results of operations, shareholders' equity and cash flows of the Company and its Subsidiaries in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes; and

(c) as soon as available, but in any event not more than forty-five (45) days after the end of each fiscal year of the Company (or sixty (60) days for the fiscal year ending December 31, 2021), an annual business plan and budget of the Company and its Subsidiaries on a consolidated basis, including forecasts prepared by management of the Company, in form satisfactory to the Administrative Agent and the Required Lenders, of consolidated balance sheets and statements of income or operations and cash flows of the Company and its Subsidiaries on a monthly basis for the then-current fiscal year (including the fiscal year in which the Maturity Date for the Term B Loan occurs).

As to any information contained in materials furnished pursuant to Section 6.02(b), the Company shall not be separately required to furnish such information under subsection (a) or (b) above, but the foregoing shall not be in derogation of the obligation of the Company to

furnish the information and materials described in subsections (a) and (b) above at the times specified therein.

6.02 Certificates; Other Information. Deliver to the Administrative Agent (who will promptly make such documents available to each Lender), in form and detail reasonably satisfactory to the Administrative Agent and the Required Lenders:

(a) concurrently with the delivery of the financial statements referred to in Sections 6.01(a) and (b), (i) a duly completed Compliance Certificate signed by the chief executive officer, chief financial officer, treasurer or controller of the Company (which delivery may, unless the Administrative Agent or a Lender requests executed originals, be by electronic communication including fax or email and shall be deemed to be an original authentic counterpart thereof for all purposes), which Compliance Certificate shall set forth (A) all Subsidiaries that are (or are required to be, in accordance with the definition) Material Subsidiaries as of the last day of the period covered by such Compliance Certificate (or indicating that there has been no change to such report since the prior Compliance Certificate that provided such information) and (B) with respect to any Compliance Certificate delivered in connection with the financial statements referred to in Section 6.01(a), a schedule of any IP Rights of a Loan Party having an individual value of $250,000 or greater for which a perfected Lien thereon is effected either by filing of a UCC or a PPSA financing statement, an RPMRR (Quebec) registration or by appropriate evidence of such Lien being filed in the United States Copyright Office, the United States Patent and Trademark Office, the Canadian Intellectual Property Office or a comparable filing office in the Netherlands or Luxembourg (which, with respect to the Netherlands and Luxembourg, may include relevant supra-national intellectual property registers such as the European Union Intellectual Property Office, the European Patent Office and the World Intellectual Property Organization) that have not been previously disclosed to the Administrative Agent or with respect to which the Lien has not yet been effected by filing with the appropriate register, and (ii) a report signed by a Responsible Officer of the Company that supplements Schedule 5.13 such that, as supplemented, such Schedule would be accurate and complete in all material respects as of the last day of the period covered by the Compliance Certificate described in the foregoing clause (i) (provided that if no supplement is required to cause such Schedule to be accurate and complete in all material respects as of such date, then the Company shall not be required to deliver such a report);

(b) promptly after the same are available, copies of each annual report, proxy or financial statement or other report sent to the stockholders of the Company generally, and copies of all annual, regular, periodic and special reports and registration statements which the Company may file or be required to file with the SEC under Section 13 or 15(d) of the Securities Exchange Act of 1934, or under any other applicable securities Laws, and in any case not otherwise required to be delivered to the Administrative Agent pursuant hereto;

(c) promptly after any request by the Administrative Agent, copies of any detailed audit reports, management letters submitted to the board of directors (or the audit committee of the board of directors) of the Company by independent accountants in connection with the accounts or books of the Company or any Subsidiary, or any audit of any of them;

(d) promptly following any request therefor, provide information and documentation reasonably requested by the Administrative Agent or any Lender for purposes of compliance with applicable "know your customer" and anti-money-laundering rules and regulations, including, without limitation, the PATRIOT Act, the Beneficial Ownership Regulation and the Canadian AML Acts; and

(e) promptly, such additional information regarding the business, financial or corporate affairs of the Company or any Subsidiary, or compliance with the terms of the Loan Documents, as the Administrative Agent or any Lender may from time to time reasonably request.

Documents required to be delivered pursuant to Section 6.01(a) or (b) or Section 6.02(b) (to the extent any such documents are included in materials otherwise filed with the SEC or otherwise available pursuant to the succeeding subclauses (i) and (ii)) shall be deemed to have been delivered, and the requirements of Section 6.01(a) or (b) or Section 6.02(b), as applicable, shall be satisfied, on the date (i) on which the Company posts such documents, or provides a link thereto on the Company's website on the Internet at the website address listed on Schedule 10.02; or (ii) on which such documents (A) are available on the website of the SEC at http://www.sec.gov or (B) are posted on the Company's behalf on another Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that (x) in the case of documents that are not available on http://www.sec.gov, the Company shall deliver paper copies (which may include .pdf files) of such documents to the Administrative Agent or any Lender upon its request to the Company to deliver such paper copies until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender and (y) the Company shall notify (which may be by facsimile or electronic mail) the Administrative Agent (by facsimile or electronic mail) of the posting of any such documents. The Administrative Agent shall have no obligation to request the delivery of or to maintain paper copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Company with any such request by a Lender for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

Each Loan Party hereby acknowledges that (a) the Administrative Agent and/or each Arranger may, but shall not be obligated to, make available to the Lenders and any L/C Issuer materials and/or information provided by or on behalf of any Loan Party hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on IntraLinks, Syndtrak, ClearPar, or a substantially similar electronic transmission system (the "Platform") and (b) certain of the Lenders (each, a "Public Lender") may have personnel who do not wish to receive material non-public information with respect to the Company or its Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons' securities. Each Loan Party hereby agrees that (w) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," the Company and each Loan Party shall be deemed to have authorized the Administrative Agent, the Arranger, the L/C Issuers and the Lenders to treat such Borrower Materials as not containing any material non-public information with respect to the Company or its securities for purposes of United States federal and state securities laws (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 10.07); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Side Information;" and (z) the Administrative Agent and the Arrangers shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Side Information." Notwithstanding the foregoing, no Loan Party shall be under any obligation to mark any Borrower Materials "PUBLIC."

6.03 **Notices**. Promptly notify the Administrative Agent (who will promptly make such notice available to each Lender):

(a) of the occurrence of any Default;

(b) of any matter that has resulted or would reasonably be expected to result in a Material Adverse Effect;

(c) of the occurrence of any ERISA Event or any material failure by any Loan Party or any Subsidiary to perform its obligations under a Canadian Pension Plan or Dutch pension plan;

(d) of the acquisition, as a result of the consummation of a Permitted Acquisition, of any Canadian Defined Benefit Pension Plan and copies of all documentation relating thereto and, thereafter, promptly after any request by the Administrative Agent or any Lender, copies of all actuarial valuation reports in respect thereof;

(e) of any material change in accounting policies or financial reporting practices by the Company or any Subsidiary; and

(f) of any amendments, additions or modifications to the Form 10 effectuated on or after the Closing Date, or of any material notices from the SEC with respect thereto, including, without limitation, notice of the effectiveness of the Spinoff.

Each notice pursuant to this Section 6.03 shall be accompanied by a statement of a Responsible Officer of the Company setting forth details of the occurrence referred to therein and stating what action the Company has taken and proposes to take with respect thereto. Each notice pursuant to Section 6.03(a) shall describe with particularity any and all provisions of this Agreement and any other Loan Document that have been breached.

6.04 Payment of Obligations. Pay and discharge as the same shall become due and payable, all its material obligations and liabilities, including (a) all Tax liabilities, assessments and governmental charges or levies upon it or its properties or assets, unless the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP are being maintained by the Company or such Subsidiary or in respect of which such failure to pay would not reasonably be likely to have a Material Adverse Effect; and (b) all lawful claims which, if unpaid, would by law become a Lien upon its property (other than Permitted Liens).

6.05 Preservation of Existence, Etc.

(a) Preserve, renew and maintain in full force and effect its legal existence and good standing (to the extent applicable) under the Laws of the jurisdiction of its organization except in a transaction permitted by Sections 7.04 or 7.05;

(b) take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary or desirable in the normal conduct of its business, except to the extent that failure to do so would not reasonably be expected to have a Material Adverse Effect; and

(c) preserve or renew all of its registered patents, trademarks, trade names and service marks, the non-preservation of which would reasonably be expected to have a Material Adverse Effect.

6.06 Maintenance of Properties.

(a) Maintain, preserve and protect all of its material properties and equipment necessary in the normal operation of its business in good working order and condition, ordinary wear and tear and damage by casualty or condemnation excepted; and

(b) make all necessary repairs thereto and renewals and replacements thereof, except to the extent that (i) any of such properties or equipment are obsolete or are being replaced in the ordinary course of business, (ii) the Company or any of its Subsidiaries reasonably determine that the continued maintenance, repaid, renewal or replacement of any of its properties or equipment is no longer commercially practicable and is not in the best interests of the Company or any of its Subsidiaries, or (iii) where the failure to do so would not reasonably be expected to have a Material Adverse Effect.

6.07 Maintenance and Evidence of Insurance.

(a) Maintenance of Insurance. Maintain with financially sound and reputable insurance companies not Affiliates of the Company or any Subsidiary, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts as are customarily carried under similar circumstances by such other Persons, including, without limitation, liability, casualty and property insurance.

(b) Evidence of Insurance. Cause the Administrative Agent to be named as lenders' loss payable or loss payee (other than with respect to business interruption insurance), as its interest may appear, and/or additional insured with respect of any such insurance providing liability coverage or coverage in respect of any Collateral, and cause, unless otherwise agreed to by the Administrative Agent and, to the extent available and customarily agreed to by the relevant insurance provider, each provider of any such insurance to agree, by endorsement upon the policy or policies issued by it or by independent instruments furnished to the Administrative Agent that it will give the Administrative Agent thirty (30) days' prior written notice before any such policy or policies shall be altered or cancelled (or ten (10) days' prior notice in the case of cancellation due to the nonpayment of premiums or, with respect to insurance premiums issued by non-U.S. insurance companies, to the extent available, as substantially similar notice as is practicable). Annually, upon expiration of current insurance coverage, the Loan Parties shall provide, or cause to be provided, to the Administrative Agent, such evidence of insurance as required by the Administrative Agent, including, but not limited to: (i) evidence of such insurance policies, (ii) declaration pages for each insurance policy and (iii) to the extent available from the relevant insurance provider, lender's loss payable endorsement (or other evidence that the Administrative Agent has substantially the same or similar standing under any insurance policies issued by non-U.S. insurance companies). As requested by the Administrative Agent, the Loan Parties agree to deliver to the Administrative Agent an Authorization to Share Insurance Information.

6.08 Compliance with Laws. Comply in all material respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its business or property, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted; or (b) the failure to comply therewith would not reasonably be expected to have a Material Adverse Effect.

6.09 Books and Records. (a) Maintain proper books of record and account, in which full, materially true and correct entries in conformity with GAAP consistently applied shall be made of all material financial transactions and matters involving the assets and business of the Company or such Subsidiary, as the case may be, and (b) maintain such books of record and account in material conformity

with all applicable requirements of any Governmental Authority having regulatory jurisdiction over the Company or such Subsidiary, as the case may be.

6.10 Inspection Rights. Upon the request of the Administrative Agent on behalf of any Lender, permit representatives and independent contractors of the Administrative Agent (which may include representatives of Lenders) to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants (provided, that one or more representatives of the Company shall be invited (with reasonable advance notice) to attend any such meetings with such independent public accountants (provided that the failure of any such representatives of the Company to attend any such meeting shall not preclude such meeting from occurring), all at the expense of the Lenders when no Event of Default exists, and at such reasonable times during normal business hours, upon reasonable advance notice to the Company and no more than once per year; provided, however, that when an Event of Default exists, the Administrative Agent or any Lender (or any of their respective representatives or independent contractors) may do any of the foregoing at the expense of the Company at any time during normal business hours and without advance notice; provided, further that notwithstanding anything to the contrary herein, neither the Company nor any of its Subsidiaries shall be required to disclose, permit the inspection, examination or making of copies of or taking abstracts from, or discuss any document, information, or other matter (a) that constitutes non-financial trade secrets or non-financial proprietary information of the Company and its Subsidiaries and/or any of its customers and/or suppliers, (b) in respect of which disclosure to the Administrative Agent or any Lender (or any of their respective representatives or agents) is prohibited by applicable Law, (c) that is subject to attorney-client or similar privilege or constitutes attorney work product or (d) in respect of which the Company or any Subsidiary owes confidentiality obligations to any third party (it being understood that the Company or any of its Subsidiaries shall inform the Administrative Agent of the existence and nature of the confidential records, documents or other information not being provided and, following a reasonable request from the Administrative Agent, use commercially reasonable efforts to request consent from an applicable contractual counterparty to disclose such information (but shall not be required to incur any cost or expense or pay any consideration of any type to such party in order to obtain such consent)).

6.11 Use of Proceeds. Use the proceeds of the Credit Extensions (a) consisting of the Term A Loan and the Term B Loan to refinance Indebtedness outstanding under the Existing Credit Agreement, to pay professional fees and other expenses associated therewith and to finance a portion of the Spin Payment and the other Form 10 Transactions and (b) under the Revolving Facility and any Incremental Facility for general corporate purposes of the Company and its Subsidiaries (including for capital expenditures, Permitted Acquisitions, working capital needs, the payment of transaction fees and expenses, Investments, Restricted Payments and any other purpose not prohibited by the terms of the Loan Documents) not in contravention of any Law or of any Loan Document.

6.12 Compliance with Environmental Laws. Comply, except in any case, where the failure to do so, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect, with all applicable Environmental Laws and Environmental Permits and obtain and renew all Environmental Permits necessary for its operations and properties; provided, however, that neither the Company nor any of its Subsidiaries shall be required to undertake any action under any Environmental Laws and Environmental Permits to the extent that its obligation to do so is being contested in good faith and by proper proceedings and appropriate reserves are being maintained with respect to such circumstances in accordance with GAAP.

6.13 Maintenance of Ratings. Use commercially reasonable efforts (it being understood and agreed that "commercially reasonable efforts" shall in any event include the payment by the Company of customary rating agency fees and cooperation with information and data requests by Moody's and S&P in

connection with their ratings process) to obtain and maintain (a) a public corporate family rating of the Company and a rating of the credit facilities provided under this Agreement, in each case from Moody's, (b) a public corporate credit rating of the Company and a rating of the credit facilities provided under this Agreement, in each case from S&P and (c) a current, non-credit-enhanced, senior secured long-term debt rating with respect to the Term B Loan from each of S&P and Moody's; provided, that in no event shall the Company be required to maintain a specific rating with any such agency.

6.14 Covenant to Guarantee Obligations.

(a) Within forty-five (45) days (or such later date as the Administrative Agent may agree in its sole discretion) after (x) the acquisition or formation of any Material Subsidiary, (y) the date on which any Excluded Subsidiary ceases to be an Excluded Subsidiary and is or becomes a Material Subsidiary or (z) the date of delivery of a Compliance Certificate that demonstrates Material Subsidiaries that are not at such time Loan Parties, cause each such Material Subsidiary to (i) become a Guarantor, as applicable, by executing and delivering to the Administrative Agent a Joinder Agreement or such other documents as the Administrative Agent shall deem appropriate for such purpose and (ii) upon the request of the Administrative Agent in its reasonable discretion, deliver to the Administrative Agent such Organization Documents, resolutions and favorable opinions of counsel, all in form, content and scope reasonably satisfactory to the Administrative Agent.

(b) If any Subsidiary (including, to the extent permitted by applicable Law, any Excluded Subsidiary other than any Special Purpose Subsidiary or any other Subsidiary with respect to which the Administrative Agent and the Company reasonably agree that the burden or cost of such Person providing the Guaranty shall outweigh the benefits to be obtained by the Lenders therefrom) that is not a Guarantor provides a Guarantee in respect of any Additional Indebtedness issued by a Loan Party, cause such Subsidiary to, concurrently with providing such Guarantee in respect of such Additional Indebtedness (or at such later date that the Administrative Agent may agree in its sole discretion), (i) become a Guarantor, by executing and delivering to the Administrative Agent a Joinder Agreement or such other documents as the Administrative Agent shall deem reasonably appropriate for such purpose, (ii) upon the request of the Administrative Agent in its reasonable discretion, deliver to the Administrative Agent such Organization Documents, resolutions and favorable opinions of counsel, all in form, content and scope reasonably satisfactory to the Administrative Agent and (iii) upon the written request of any Lender or the Administrative Agent provide all documentation and other information with respect to such Subsidiary that the Administrative Agent or such Lender determines is required by regulatory authorities under applicable Law, including without limitation the PATRIOT Act, the Canadian AML Acts and applicable U.S. and Canadian law regarding anti-money laundering, anti-terrorist financing and "know your customer" matters.

Notwithstanding anything to the contrary contained herein, the Company may from time to time, upon notice to the Administrative Agent, elect to cause any Subsidiary that would otherwise be an Excluded Subsidiary to become a Guarantor.

6.15 Covenant to Give Security. Except with respect to Excluded Property:

(a) Cause each Loan Party (in each case, whether now or hereafter existing) to grant or cause to be granted a first priority perfected (or similar concept under any applicable non-U.S. Laws) security interest (subject to Permitted Liens) in the following (to the extent not constituting Excluded Property), in each case to secure the Obligations pursuant to the Security Agreements, in

each case on the Closing Date or, if acquired thereafter, within forty-five (45) days (or such later date as the Administrative Agent may agree in its sole discretion) of the acquisition thereof:

(i) one hundred percent (100%) of the issued and outstanding Equity Interests of any Subsidiary of such Loan Party;

(ii) all personal property of such Loan Party; and

(iii) all other property of such Loan Party that is included in the applicable Security Agreements provided by Loan Parties formed or incorporated (as the case may be) in the jurisdiction of such Security Agreement.

(b) At any time upon reasonable request of the Administrative Agent (but, for the avoidance of doubt, subject to any applicable time periods set forth in this Section 6.15), promptly execute and deliver any and all further instruments and documents and take all such other action (including promptly completing any registration or stamping of documents as may be applicable) as the Administrative Agent reasonably may deem necessary or desirable to maintain in favor of the Administrative Agent, for the benefit of the Secured Parties (or in its own name as creditor of Parallel Debt, as applicable), Liens and insurance rights on the Collateral that are duly perfected in accordance with the requirements of, or the obligations of the Loan Parties under, the Loan Documents and all applicable Laws.

6.16 Anti-Corruption Laws. Conduct its business in material compliance with the United States Foreign Corrupt Practices Act of 1977, the Corruption of Foreign Public Officials Act (Canada), the UK Bribery Act 2010, and other similar anti-corruption legislation in other jurisdictions applicable to the Company and its Subsidiaries and maintain procedures designed to promote and achieve compliance with such laws and Sanctions; provided that no Non-U.S. Subsidiary shall be required to comply with anti-corruption legislation of any jurisdiction other than the Laws applicable in its jurisdiction of organization if such compliance would cause such Person to violate the laws of its jurisdiction of organization.

6.17 Further Assurances. Promptly upon request by the Administrative Agent, or any Lender through the Administrative Agent, (a) correct any material defect or error that may be discovered in any Loan Document or in the execution, acknowledgment, filing or recordation thereof, and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments (including promptly completing any registration or stamping of documents as may be applicable) as the Administrative Agent, or any Lender through the Administrative Agent, may reasonably require from time to time in order to (i) carry out more effectively the purposes of the Loan Documents, (ii) to the fullest extent permitted by applicable Law, subject any Loan Party's or any of its Subsidiaries' properties, assets, rights or interests (other than, in each case, Excluded Property) to the Liens now or hereafter intended to be covered by any of the Collateral Documents, (iii) perfect and maintain the validity, effectiveness and priority of any of the Collateral Documents and any of the Liens intended to be created thereunder and (iv) assure, convey, grant, assign, transfer, preserve, protect and confirm more effectively unto the Secured Parties the rights granted or now or hereafter intended to be granted to the Secured Parties under any Loan Document or under any other instrument executed in connection with any Loan Document to which any Loan Party or any of its Subsidiaries is or is to be a party, and cause each of its Subsidiaries to do so. Notwithstanding anything to the contrary herein, a deed of hypothec between any Loan Party and the Administrative Agent, for the benefit of the Secured Parties, shall not be required until such time as such Loan Party owns tangible personal property located in Quebec with an aggregate fair market value of $750,000 or greater. In the event that a Loan Party determines (acting reasonably) that the fair market value of tangible personal property that it owns located in Quebec has an aggregate fair market value of $750,000 or greater, then,

within thirty (30) Business Days after such determination, such Loan Party shall (i) execute a deed of hypothec as required by the Administrative Agent, on the same terms as the then existing Canadian Security Agreements, (ii) cause all necessary registrations, recordings and filings of or with respect to such deed of hypothec, which in the opinion of counsel to the Administrative Agent are necessary to render effective and perfected, or to give notice of, the security intended to be created thereby, to be made, (iii) deliver documentation substantially similar to that contemplated by Section 4.01(a)(viii) in respect of such deed of hypothec, and (iv) cause the issuance of customary legal opinions reasonably acceptable to the Administrative Agent in respect of such deed of hypothec.

6.18 Pari Passu Ranking. Ensure that the payment obligations of the Loan Parties under the Loan Documents rank and continue to rank at least *pari passu* with the claims of all of the Loan Parties' other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by Law.

6.19 Post-Closing Obligations. Undertake all actions listed on Schedule 6.19, in each case as promptly as practicable and in any event within the time periods set forth on such Schedule (or such longer periods of time as may be agreed to by the Administrative Agent in its sole discretion).

6.20 Release of Guarantors. If as of the last day of any fiscal quarter, as demonstrated in the relevant Compliance Certificate, the amount of the aggregate Gross Assets, net of intercompany amounts, of the Loan Parties is greater than 80% of the amount of the consolidated Gross Assets of the Company and its Subsidiaries, at the request of the Company the Administrative Agent shall (and each of the Lenders agrees thereto) release such Subsidiaries (other than any Guarantor that is a Borrower, that is individually a Material Subsidiary without giving effect to the 80% aggregation test in the definition thereof or is a part of a "Dutch Fiscal Unity" with any Borrower or non-released Guarantor) from the Guaranty if, after giving effect to such release, the amount of the aggregate Gross Assets, net of intercompany amounts, of the Loan Parties is equal to or greater than 80% of the amount of the consolidated Gross Assets of the Company and its Subsidiaries; provided that the Company shall have delivered to the Administrative Agent a certificate of a Responsible Officer of the Company containing reasonably detailed calculations of the foregoing determination. Notwithstanding anything to the contrary in this Agreement or in any other Loan Document, if any Loan Party ceases to be wholly-owned, directly or indirectly, by the Company, such Subsidiary shall not be released from its Guarantee and no Liens created by the Loan Documents in the Collateral owned by such Loan Party shall be released unless either (x) such Loan Party is no longer a direct or indirect Subsidiary of the Company or (y) more than a *de minimis* portion of the Equity Interests of such Loan Party is disposed in a transaction not prohibited under this Agreement and the other Loan Documents to a Person that is not an Affiliate of a Loan Party for a bona fide business purpose (and not to evade the collateral and guarantee requirements under this Agreement or the other Loan Documents).

6.21 Material Contracts. Perform and observe all the terms and provisions of each Material Contract to be performed or observed by it, maintain each such Material Contract in full force and effect, enforce each such Material Contract in accordance with its terms, take all such action to such end as may be from time to time requested by the Administrative Agent and, upon request of the Administrative Agent, make to each other party to each such Material Contract such demands and requests for information and reports or for action as any Loan Party or any of its Subsidiaries is entitled to make under such Material Contract, and cause each of its Subsidiaries to do so, except, in any case, where the failure to do so, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

6.22 Approvals and Authorizations. Maintain all authorizations, consents, approvals and licenses from, exemptions of, and filings and registrations with, each Governmental Authority of the jurisdiction in which each Non-U.S. Obligor is organized and existing, and all approvals and consents of each other Person in such jurisdiction, in each case that are required in connection with the Loan Documents

except, in any case, where the failure to do so, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

6.23 Dutch Fiscal Unity. If, at any time, a Dutch Loan Party is part of a Dutch Fiscal Unity and such Dutch Fiscal Unity is, in respect of such Dutch Loan Party, terminated (*verbroken*) or disrupted (*beëindigd*) as a result of or in connection with the Administrative Agent or the collateral agent enforcing its rights under any Collateral Document, such Dutch Loan Party shall, at the request of the Administrative Agent or the collateral agent, together with the parent (*moedermaatschappij*) or deemed parent (*aangewezen moeder-maatschappij*) of the Dutch Fiscal Unity, for no consideration and as soon as reasonably practicable, lodge a request with the relevant Governmental Authority to allocate and surrender any tax losses as referred to in Article 20 of the Dutch Corporate Income Tax Act 1969 (*Wet op de vennootschapsbelasting 1969*) and any interest expenses available for carry forward as referred to in Article 15b(5) to the Dutch Loan Party leaving the Dutch Fiscal Unity, in each case to the extent such tax losses or interests are attributable (*toerekenbaar*) to the Dutch Loan Party leaving the Dutch Fiscal Unity.

6.24 Centre of Main Interest, Establishment. Each Dutch Loan Party shall maintain its centre of main interests in the Netherlands for the purposes of the European Insolvency Regulation.

ARTICLE VII.

NEGATIVE COVENANTS

Each Loan Party hereby covenants that no Loan Party shall, nor shall it permit any of its Subsidiaries to, directly or indirectly:

7.01 Liens. Create, incur, assume or suffer to exist any Lien upon any of its property or assets, whether now owned or hereafter acquired, other than the following:

(a) Liens pursuant to any Loan Document;

(b) Liens existing on the Closing Date and listed on Schedule 7.01 and any renewals or extensions thereof, provided that (i) the property covered thereby is not changed, (ii) the amount secured or benefited thereby is not increased except as contemplated by Section 7.03(b), (iii) the direct or any contingent obligor with respect thereto is not changed, and (iv) any renewal or extension of the obligations secured or benefited thereby is permitted by Section 7.03(b);

(c) Liens for Taxes that are (i) not yet delinquent for more than thirty (30) days or (ii) being contested in good faith and by appropriate proceedings diligently conducted and for which adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;

(d) carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business (i) which are not overdue for a period of more than thirty (30) days or (ii) which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person;

(e) Liens incurred in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation, other than any Lien imposed by ERISA or in respect of a Canadian Pension Plan;

(f) deposits, pledges and other Liens (i) to secure the performance of bids, trade contracts and leases (other than Indebtedness), tenders, statutory obligations, surety bonds (other than bonds related to judgments or litigation), leases, performance bonds, government contracts and other obligations of a like nature incurred in the ordinary course of business, (ii) to cover anticipated costs of future redemptions of awards under loyalty marketing programs but solely to the extent of deposits, pledges and other Liens made for the benefit of collectors in such loyalty marketing programs (it being understood that no assets shall be subject to a deposit, pledge or other Lien to cover such anticipated costs except (A) to the extent so required under such loyalty marketing programs (together with all investments thereof and all interest, dividends and other amounts earned or derived therefrom) and (B) deposits, pledges and other Liens not permitted under subclause (f)(ii)(A) on assets having a fair market value not to exceed $5,000,000 (which amount under this subclause (f)(ii)(B) shall count against the amount permitted under clause (gg) below), and (iii) required or requested by a Governmental Authority;

(g) easements, rights-of-way, restrictions and other similar encumbrances affecting real property which, in the aggregate, are not substantial in amount, and which do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable Person;

(h) Liens securing judgments for the payment of money (or appeal or other surety bonds relating to such judgments) not constituting an Event of Default under Section 8.01(h);

(i) Liens securing Indebtedness permitted under Section 7.03(e); provided that (i) such Liens do not at any time encumber any property other than the property financed by such Indebtedness and (ii) the Indebtedness secured thereby does not exceed the cost or fair market value, whichever is lower, of the property being acquired on the date of acquisition; and

(j) licenses (including licenses of intellectual property), sublicenses, leases or subleases granted to third parties in the ordinary course of business not interfering with the business of the Company or any Subsidiary in any material respect;

(k) Liens in favor of customs and revenue authorities arising as a matter of law which secure payment of customs duties in connection with the importation of goods;

(l) any interest of title of a lessor under, and Liens arising from UCC financing statements (or equivalent filings, registrations or agreements in foreign jurisdictions) relating to, leases permitted by this Agreement;

(m) normal and customary rights of setoff or bankers' liens upon deposits of cash in favor of banks or other depository institutions (unless waived under the terms of the relevant Security Agreements);

(n) Liens securing Acquired Indebtedness, provided that (i) such Liens do not at any time encumber any property other than the property financed by such Indebtedness and (ii) such Liens existed prior to the applicable Permitted Acquisition and were not incurred in connection with, or in anticipation or contemplation of, the applicable Permitted Acquisition;

(o) Liens securing Subordinated Indebtedness and Pari Passu Indebtedness, in each case, to the extent permitted under Section 7.03(h);

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(p) Liens on Securitized Assets and Equity Interests in Special Purpose Subsidiaries created or deemed to exist in connection with any Permitted Securitization Transaction;

(q) Liens pursuant to any Loan Document securing (x) Secured Cash Management Agreements and (y) Secured Swap Contracts;

(r) purported Liens evidenced by the filing of UCC financing statements or similar notifications in respect of consignment of goods;

(s) with respect to any real property occupied, owned or leased by any Borrower or any of their Subsidiaries, leases, subleases, tenancies, options, concession agreements, rental agreements occupancy agreements, franchise agreements, access agreements and any other agreements, whether or not of record and whether now in existence or hereafter entered into, of the real properties of any Loan Party or any Subsidiary granted by such Person to third parties, in each case entered into in the ordinary course of such Person's business and so long as, to the extent such real properties are subject to Liens, such Liens do not materially interfere with the ordinary conduct of business of the Loan Parties or their Subsidiaries, taken as a whole, and do not materially impair the use of such property for its intended purposes;

(t) Liens arising by operation of law under Article 4 of the Uniform Commercial Code in connection with collection of items provided for therein or under Article 2 of the Uniform Commercial Code in favor of a reclaiming seller of goods or buyer of goods, and, in each case, under corresponding laws in other jurisdictions;

(u) Liens attaching solely to (i) cash earnest money deposits in connection with any letter of intent or purchase agreement and (ii) proceeds of an asset disposition permitted hereunder that are held in escrow to secure obligations under the sale documentation relating to such disposition;

(v) any laws, regulations or ordinances now or hereafter in effect (including, but not limited to, zoning, building and environmental protection) as to the use, occupancy, subdivision or improvement of real property occupied, owned or leased by the Company or any of its Subsidiaries adopted or imposed by any Governmental Authority;

(w) Liens of landlords under leases where the Company or any of its Subsidiaries is the tenant, securing performance by the tenant under the lease arising by statute or under any lease or related contractual obligation entered into in the ordinary course of business;

(x) (i) Liens that are customary contractual rights of setoff or netting relating to (A) the establishment of depositary relations with banks not granted in connection with the issuance of Indebtedness, (B) pooled deposit or sweep accounts of the Company or any Subsidiary to permit satisfaction of overdraft or similar obligations or to secure negative cash balances in local accounts of Non-U.S. Subsidiaries incurred in the ordinary course of business of the Company or any Subsidiary, (C) purchase orders and other agreements entered into with customers and suppliers of the Company or any Subsidiary in the ordinary course of business and (D) commodity trading or other brokerage accounts incurred in the ordinary course of business, (ii) Liens encumbering reasonable customary initial deposits and margin deposits, (iii) Liens on the proceeds of any Indebtedness incurred in connection with any transaction permitted hereunder, which proceeds have been deposited into an escrow account on customary terms to secure such Indebtedness pending the application of proceeds to finance such transaction, (iv) Liens securing Indebtedness permitted under Section 7.03(l); provided, in the case of this clause (iv), that such Liens do not at

any time encumber any property other than the property described in such agreement and (v) Liens securing Indebtedness permitted under Section 7.03(u)(iii); provided, in the case of this clause (v), that such Liens do not at any time encumber any property other than such customer advances and deposits;

(y) Liens securing insurance premium financing arrangements; provided, that such Liens only encumber the insurance premiums, policies or dividends with respect to the policies that were financed with the funds advanced under such arrangements;

(z) Liens on cash or cash equivalents arising in connection with the defeasance, discharge or redemption of Indebtedness;

(aa) Liens arising out of conditional sale, title retention, consignment, bailment or similar arrangements for the purchase, sale or shipment of goods entered into in the ordinary course of business;

(bb) Liens (i) on cash advances or escrow deposits in favor of the seller of any property to be acquired by the Company or any Subsidiary to be applied against the purchase price therefor or otherwise in connection with any escrow arrangements with respect thereto or any disposition permitted under Section 7.05 and (ii) consisting of an agreement to dispose of any property in a disposition permitted under Section 7.05 solely to the extent such disposition, as the case may be, would have been permitted on the date of the creation of such Lien;

(cc) Liens on securities which are the subject of repurchase agreements referred to in the definition of "Cash Equivalents" granted under such repurchase agreements in favor of the counterparties thereto;

(dd) undetermined or inchoate Liens and charges arising or potentially arising under statutory provisions incidental to current operations which have not at the time been filed or registered in accordance with applicable Law or of which written notice has not been duly given in accordance with applicable Law, or which although filed or registered, relate to obligations not delinquent;

(ee) Liens securing Indebtedness of non-Loan Party Subsidiaries permitted under Section 7.03(z), so long as no such Lien attaches to or otherwise covers any asset of any Loan Party;

(ff) Liens in favor of trustees, agents and representatives arising under instruments governing Indebtedness permitted under this Agreement, provided that (w) such Liens are customarily included in such instruments, (x) such Liens are solely for the benefit of the trustees, agents and representatives in their capacities as such and not for the benefit of the holders of such Indebtedness, (y) such Liens secure only indemnities, fees and other obligations customarily owing to trustees, agents and representatives under such instruments, and not the Indebtedness incurred thereunder and (z) such Liens extend only to cash held by such trustees, agents and representatives under such instruments; and

(gg) Liens not otherwise permitted by this Section 7.01 securing (i) obligations at any one time outstanding in an aggregate principal amount not to exceed the greater of (A) $60,000,000 and (B) 35% of Consolidated EBITDA of the Company and its Subsidiaries for the four (4) fiscal quarters most recently ended for which financial statements have been delivered pursuant to Section 6.01 as of the later of the date such Lien is granted and the date the last such obligation is incurred

and (ii) any refinancings, refundings, replacements, renewals or extensions of obligations under this subsection (gg); provided that, in the case of this clause (ii), the principal amount of such obligation is not increased at the time of such refinancing, refunding, replacements, renewal or extension except by an amount equal to accrued and unpaid interest owed in connection with such obligation, a reasonable premium or other reasonable amount paid and fees and expenses reasonably incurred, in connection with such event, and by an amount equal to any existing commitments unutilized thereunder, it being understood that any amount under this clause (ii) shall constitute utilization of the limits set forth in clause (i), but if at the time of such incurrence under clause (ii) the threshold in clause (i) shall be exceeded, such incurrence shall be permitted (and the threshold in clause (i) shall be fully utilized at such time).

In each case set forth above in this Section 7.01, notwithstanding any stated limitation on the assets or property that may be subject to such Lien, a Permitted Lien on a specified asset or property or group or type of assets or property may include Liens on all improvements, additions and accessions thereto, assets and property affixed or appurtenant thereto, and all products and proceeds thereof, including dividends, distributions, interest and increases in respect thereof.

7.02 Investments. Make any Investments, except:

(a) Investments held by the Company or such Subsidiary in the form of Cash Equivalents;

(b) advances to officers, directors and employees of the Company and Subsidiaries in an aggregate amount not to exceed $2,000,000 at any time outstanding, for travel, entertainment, relocation and analogous ordinary business purposes;

(c) Investments in the Company or any Loan Party; provided that in the case of any such Investment by a Subsidiary that is not a Loan Party in a Loan Party, (i) if such Investment constitutes Indebtedness, such Investment shall be subordinated in right of payment to the Obligations in a manner and to an extent reasonably acceptable to the Administrative Agent and (ii) except in the case of ordinary course of business cash management obligations customarily settled not less than monthly, such Investment shall not be repaid unless no Event of Default exists;

(d) Investments of any Subsidiary that is not a Loan Party in any other Subsidiary that is not a Loan Party;

(e) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss;

(f) (i) Guarantees permitted by Section 7.03 and (ii) to the extent constituting Investments, Guarantees in respect of underlying obligations not constituting Indebtedness if such Guarantees are made in the ordinary course of business and such underlying obligations constitute either (A) ordinary course of business obligations of the Company or any Subsidiary, including real property leases, or (B) obligations of suppliers, customers or licensees of the Company or any Subsidiary;

(g) Permitted Acquisitions, provided that the aggregate amount of consideration paid for all Permitted Acquisitions of (i) Persons that are (or will become) Excluded Subsidiaries and (ii) assets that are to be acquired by Excluded Subsidiaries shall not exceed $25,000,000;

(h) Investments of any Person in existence at the time such Person becomes a Subsidiary pursuant to a Permitted Acquisition; provided such Investment was not made in connection with or anticipation of such Person becoming a Subsidiary;

(i) to the extent constituting Investments, deposit accounts maintained in the ordinary course of business and cash pooling arrangements in the ordinary course of business;

(j) Investments of the Company or any Subsidiary in any Special Purpose Subsidiary in connection with any Permitted Securitization Transaction, provided that such Investments are customary in Securitization Transactions;

(k) to the extent constituting Investments, Restricted Payments permitted under Section 7.06;

(l) Investments existing on, or contractually committed to as of, the Closing Date and described in Schedule 7.02 or consisting of intercompany Investments between or among the Company and its Subsidiaries outstanding on the Closing Date and, in each case, any modification, replacement, renewal, refinancing, refunding or extension thereof so long as such modification, replacement, renewal, refinancing, refunding or extension thereof does not increase the amount of such Investment except, in each case, as otherwise permitted by another provision of this Section 7.02 or, in the case of any such Investment described on Schedule 7.02, by the terms thereof as in effect on the date hereof and described on Schedule 7.02;

(m) Swap Contracts permitted under Section 7.03(d);

(n) Investments (including debt obligations and Equity Interests) (i) received by the Company or any of its Subsidiaries as a creditor pursuant to a bankruptcy, insolvency, receivership or plan of reorganization under any Debtor Relief Law of any Person or a composition or readjustment of the debts of such Person, (ii) in settlement of a dispute or delinquent account, (iii) upon foreclosure with respect to any secured Investment or other transfer of title with respect to any secured Investment or (iv) as a result of the settlement, compromise, resolution of litigation, arbitration or other disputes;

(o) Investments consisting of (i) deposits or prepaid expenses or (ii) endorsements for collection or deposit and customary trade arrangements, in each case made or incurred in the ordinary course of business;

(p) any Investment received as non-cash consideration from any Disposition permitted by Section 7.05;

(q) Investments comprised of notes payable, or Equity Interests issued by account debtors to the Company or any Subsidiary pursuant to negotiated agreements with respect to settlement of such account debtor's account in the ordinary course of business;

(r) Investments by a Loan Party or any Subsidiary that is not a Loan Party in any Subsidiary which is not a Loan Party consisting of the contribution or Disposition of the Equity Interests of any Subsidiary which is not a Loan Party;

(s) Investments consisting of Indebtedness to the extent permitted under Section 7.03, Permitted Liens, transactions to the extent permitted by Section 7.04, and Restricted Payments and Junior Payments to the

739 extent permitted by Section 7.06;

(t) Investments in any Subsidiary in connection with reorganizations and activities related to tax planning; provided that after giving effect to any such reorganization and related activities, the security interest of the Administrative Agent in the Collateral, taken as a whole, is not materially impaired and after giving effect to such Investment, the Company and its Subsidiaries shall otherwise be in compliance with Section 7.02; and

(u) other Investments in an aggregate amount not to exceed at any time outstanding the sum of (i) the greater of (x) $40,000,000 and (y) 20% of Consolidated EBITDA of the Company and its Subsidiaries for the four (4) fiscal quarters most recently ended for which financial statements have been delivered pursuant to Section 6.01 immediately prior to the date such Investment is made or committed to be made plus (ii) an unlimited amount so long as after giving effect to such Investment on a Pro Forma Basis, the Consolidated Total Leverage Ratio shall be less than 3.50:1.00 (for purposes of clarity, the amount of any Investment made in reliance on the immediately preceding clause (ii) and permitted thereunder at such time shall not be included in any calculation of the amount available in the immediately preceding clause (i)).

For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment, but in each case, net of any return in respect thereof, including dividends, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts.

7.03 Indebtedness. Create, incur, assume or suffer to exist any Indebtedness, except:

(a) Indebtedness under the Loan Documents;

(b) Indebtedness outstanding on the Closing Date and listed on Schedule 7.03 and any refinancings, refundings, replacements, renewals or extensions thereof; provided that the amount of such Indebtedness is not increased at the time of such refinancing, refunding, replacements, renewal or extension except by an amount equal to accrued and unpaid interest owed in connection with such Indebtedness, a reasonable premium or other reasonable amount paid and fees and expenses reasonably incurred, in connection with such event, and by an amount equal to any existing commitments unutilized thereunder;

(c) Guarantees of the Company or any Loan Party in respect of Indebtedness otherwise permitted hereunder of the Company or any Loan Party; provided that if such Indebtedness is subordinated to the Obligations, such Guarantee shall be subordinated to the Obligations on terms at least as favorable to the Lenders as those contained in the subordination of such Indebtedness;

(d) obligations (contingent or otherwise) of the Company or any Loan Party existing or arising under any Swap Contract (including any Secured Swap Contract), provided that such obligations are (or were) entered into by such Person in the ordinary course of business for the purpose of directly mitigating risks associated with revenues, expenses, liabilities, commitments, investments, assets, or property held or reasonably anticipated by such Person, or changes in the value of securities issued by such Person, and not for purposes of speculation or taking a "market view";

(e) (1) Indebtedness in respect of finance leases, capital leases, Synthetic Lease Obligations and purchase money obligations for fixed or capital assets within the limitations set forth in Section 7.01(i) and any refinancings, refundings, replacements, renewals or extensions of Indebtedness incurred in compliance with this subsection (e); provided, however, that the aggregate amount of all such Indebtedness at any one time outstanding shall not exceed $50,000,000;

(f) Indebtedness in respect of workers' compensation claims, self-insurance obligations, performance bonds, surety, appeal, customs or similar bonds and completion guarantees provided by the Company and its Subsidiaries in the ordinary course of business;

(g) intercompany Indebtedness permitted under Section 7.02 (other than Section 7.02(s)); provided that in the case of Indebtedness owing by a Loan Party to any Subsidiary that is not a Loan Party, such Indebtedness shall be unsecured and subordinated in right of payment to the Obligations on a basis, and pursuant to an agreement, reasonably acceptable to the Administrative Agent;

(h) (1) Pari Passu Indebtedness, Subordinated Indebtedness and unsecured Indebtedness (any such Indebtedness, "Additional Indebtedness"); provided in each case of the incurrence of such Additional Indebtedness in reliance on this subsection (h), that (i) after giving effect to the incurrence of such Indebtedness and the application of the proceeds thereof on a Pro Forma Basis, (A) the Loan Parties would be in Pro Forma Compliance and (B) solely with respect to Pari Passu Indebtedness and secured Subordinated Indebtedness, the Consolidated Secured Leverage Ratio would be less than 4.00 to 1.00, (ii) with respect to the incurrence of (A) any such unsecured Subordinated Indebtedness or unsecured Indebtedness, in each case, in excess of $30,000,000 or (B) any such secured Subordinated Indebtedness or Pari Passu Indebtedness, the Company shall have delivered to the Administrative Agent a Pro Forma Compliance Certificate demonstrating compliance with the immediately preceding sub-clauses (A) and (B) of the immediately preceding clause (i), as applicable; (iii) no Default or Event of Default shall exist at the time of, or would result from, the incurrence of, such Indebtedness; (iv) the maturity date of such Indebtedness shall be at least ninety-one (91) days after the latest Maturity Date of the Loans then in effect; (v) the Weighted Average Life of any such Indebtedness shall not be shorter than the then remaining Weighted Average Life of any Term Loan; (vi) such Additional Indebtedness shall be subject to intercreditor or subordination agreements, as applicable, reasonably acceptable to the Administrative Agent; and (vii) the terms and conditions including such financial maintenance covenants (if any) applicable to such Additional Indebtedness shall either (A) not be, when taken as a whole, materially more restrictive (as determined by the Administrative Agent acting reasonably) than those contained in the Loan Documents or (B) be reasonably acceptable to the Administrative Agent, and (2) any refinancings, refundings, replacements, renewals or extensions of Indebtedness incurred in compliance with this subsection (h) if (A) such Indebtedness would comply with clauses (iii), (iv), (v), (vi) and (vii) of the immediately preceding clause (1) and (B) the amount of such Indebtedness is not increased at the time of such refinancing, refunding, replacements, renewal or extension except by an amount equal to accrued and unpaid interest owed in connection with such Indebtedness, a reasonable premium or other reasonable amount paid and fees and expenses reasonably incurred, in connection with such event, and by an amount equal to any existing commitments unutilized thereunder;

(i) (1) Indebtedness of any Borrower or any Subsidiary assumed or acquired in connection with any Permitted Acquisition (any such Indebtedness, "Acquired Indebtedness"), provided that (i) such Indebtedness shall exist prior to the applicable Permitted Acquisition and was not incurred in connection with, in anticipation or contemplation of, the applicable Permitted Acquisition and (ii) the aggregate principal amount of all such Indebtedness shall not exceed $25,000,000 at any one time outstanding and (2) any refinancings, refundings, replacements, renewals or extensions of Indebtedness incurred in compliance with this subsection (i) if the amount of such Indebtedness is not increased at the time of such refinancing, refunding, replacements, renewal or extension except by an amount equal to accrued and unpaid interest owed in connection with such Indebtedness, a reasonable premium or other reasonable amount paid and fees and expenses reasonably incurred, in connection with such event, and by an amount equal to any

existing commitments unutilized thereunder, it being understood that any amount under this clause (2) shall constitute utilization of the $25,000,000 limit set forth in clause (1), but if at the time of such incurrence under clause (2) the $25,000,000 limit in clause (1) shall be exceeded, such incurrence shall be permitted (and the $25,000,000 limit in clause (1) shall be fully utilized at such time);

(j) (i) Attributable Indebtedness under any Securitization Transaction and (ii) to the extent constituting Indebtedness, the obligations of the Company or any Subsidiary pursuant to any Permitted Receivables Transaction; provided that (A) the aggregate amount of all Indebtedness and all outstanding sales of receivables permitted pursuant to this clause (j) shall not exceed at any time outstanding $20,000,000, (B) no Default or Event of Default shall exist immediately prior to or immediately after giving effect to such Securitization Transaction or Permitted Receivables Transaction, and (C) such Securitization Transaction or Permitted Receivables Transaction shall be non-recourse to the Company and its Subsidiaries other than with respect to purchase or repurchase obligations for breaches of representations and warranties, performance guaranties, indemnity obligations, pledges of the Equity Interests of the applicable Special Purpose Subsidiary, and other similar undertakings in each case that are customary for similar standard market accounts receivable securitizations or receivables factoring arrangements;

(k) accrued expenses (including salaries, accrued vacation and other compensation), current trade or other accounts payable and other current liabilities arising in the ordinary course of business and not past due more than 90 days except to the extent being contested in good faith and by appropriate proceedings;

(l) Indebtedness arising from agreements providing for indemnification, adjustment of purchase price or similar obligations (including contingent earn-out obligations) incurred in connection with any disposition permitted hereunder, any acquisition or other purchase of assets or Equity Interests permitted hereunder, and Indebtedness arising from surety bonds, performance bonds or similar instruments securing the performance of the Company or any Subsidiary pursuant to such agreement;

(m) Indebtedness arising in connection with endorsement of instruments for deposit in the ordinary course of business;

(n) Indebtedness in respect of premium financing arrangements; provided that the aggregate principal amount of such Indebtedness shall not exceed the annual premium amount and shall be secured only by the Liens described in Section 7.01(y);

(o) Indebtedness consisting of unsecured guarantees by the Company or any of its Subsidiaries of operating leases of the Company or any Subsidiary;

(p) Indebtedness in respect of Cash Management Agreements to the extent incurred in the ordinary course of business;

(q) Indebtedness representing deferred compensation to employees of the Company and its Subsidiaries;

(r) (i) to the extent constituting Indebtedness, Indebtedness in respect of Guarantees of the obligations of suppliers, customers and licensees arising in the ordinary course of business and (ii) Indebtedness incurred in the ordinary course of business in respect of obligations of the

Company or any Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services;

(s) unfunded pension fund and other employee benefit plan obligations and liabilities incurred in the ordinary course of business to the extent that the unfunded amounts would not otherwise cause an Event of Default;

(t) Indebtedness consisting of obligations owing under any dealer, customer or supplier under incentive, supply, license or similar agreements entered into in the ordinary course of business;

(u) Indebtedness consisting of (i) take-or-pay obligations contained in supply arrangements, (ii) obligations to reacquire assets or inventory in connection with customer financing arrangements, and (iii) obligations to repay unearned customer advances or deposits, in each case, in the ordinary course of business;

(v) Indebtedness issued to former, current or future directors, officers, members of management, employees or consultants of the Company or any of its Subsidiaries or their respective estates, heirs, family members, spouses, former spouses or beneficiaries under their estates to finance the purchase or redemption of Equity Interests of the Company or any Subsidiary permitted by this Agreement, in an aggregate amount at any time outstanding not to exceed $5,000,000;

(w) to the extent constituting Indebtedness, customer deposits and advance payments received in the ordinary course of business from customers for goods and services purchased in the ordinary course of business;

(x) any Indebtedness (i) pursuant to a Dutch Fiscal Unity or (ii) pursuant to a declaration of joint and several liability as referred to in Section 2:403 of the Dutch Civil Code ((and any residual liability under such declaration, as referred to in Section 2:404 (2) of the Dutch Civil Code) in relation to one or more Loan Parties;

(y) Indebtedness ("Permitted Credit Agreement Refinancing Indebtedness") issued, incurred or otherwise obtained (including by means of the extension or renewal of existing Indebtedness) in exchange for, or to extend, renew, replace, repurchase, retire or refinance, in whole or part, any class of existing Term Loans or any existing Revolving Loans (or unused Revolving Commitments), or any then-existing Permitted Credit Agreement Refinancing Indebtedness, and constituting any of the following: (A) secured Indebtedness ("Permitted First Priority Refinancing Indebtedness") in the form of one or more series of senior secured notes or secured loans that is secured by the Collateral on a *pari passu* basis to the Liens securing the Obligations, including any Registered Equivalent Notes issued in exchange for any such senior secured notes; (B) secured Indebtedness in the form of one or more series of secured notes or secured loans that is secured by the Collateral on a junior priority basis to the Liens securing the Obligations and the obligations in respect of any Permitted First Priority Refinancing Indebtedness, including any Registered Equivalent Notes issued in exchange therefor; (C) unsecured Indebtedness in the form of one or more series of senior unsecured notes or loans, including any Registered Equivalent Notes issued in exchange therefor; and (D) Permitted Refinancing Commitments and Permitted Refinancing Loans incurred pursuant to a Permitted Refinancing Amendment; provided:

(i) such Indebtedness shall not have a greater principal amount than the principal amount (or accreted value, if applicable) of the Indebtedness being refinanced thereby plus accrued interest, fees, premiums (if any) and penalties thereon and reasonable

fees and expenses and original issue discount associated with the refinancing, plus an amount equal to any existing commitments unutilized thereunder;

(ii) the Indebtedness being refinanced thereby (other than contingent indemnification obligations for which no claim or demand has been made) shall be repaid, repurchased, redeemed, retired, defeased or satisfied and discharged, and all accrued interest, fees, premiums (if any) and penalties in connection therewith shall be paid, defeased or satisfied or discharged substantially concurrently with the date such Indebtedness is issued, incurred or obtained;

(iii) such Indebtedness shall not at any time be incurred or guaranteed by any Person other than a Loan Party;

(iv) if secured, such Indebtedness shall not be secured by property other than the Collateral, and, if applicable, any after-acquired property that is affixed or incorporated into such assets and the proceeds and products thereof (provided, that in the case of such Indebtedness that is funded into escrow, such debt may be secured by the applicable funds and related assets held in escrow (and the proceeds thereof) until such funds are released from escrow), and a representative acting on behalf of the lenders or holders of such Indebtedness shall have entered into a customary intercreditor agreement reasonably satisfactory to the Administrative Agent, and any security documentation related to such Indebtedness shall not be, when taken as a whole, materially more restrictive to the Loan Parties than the Loan Documents;

(v) such Indebtedness (A) shall have a final scheduled maturity date no earlier than the latest scheduled maturity date of the Indebtedness being refinanced thereby and (B) shall have a weighted average life to maturity that is equal to or greater than the weighted average life to maturity of the Indebtedness being refinanced thereby; provided, if such Indebtedness is junior in right of Collateral or payment to the Obligations, it will not mature (and no scheduled payment, redemption or sinking fund or similar payments or obligations will be permitted) prior to 91 days after the latest Maturity Date existing at the time of such incurrence; provided further that, at the option of the Company, this clause (v) shall not apply to any Permitted Bridge Indebtedness;

(vi) except as otherwise expressly set forth herein, (x) the pricing (including interest, fees and premiums), call protection, optional prepayment and redemption terms with respect such Indebtedness shall be determined by the Company and the lenders or investors providing such Indebtedness, and (y) the other terms and conditions including such financial maintenance covenants (if any) applicable to such Indebtedness shall either (A) not be, when taken as a whole, materially more restrictive (as determined by the Administrative Agent acting reasonably) than those contained in the Loan Documents or (B) be reasonably acceptable to the Administrative Agent; and

(vii) with respect to any such Indebtedness that takes the form of Revolving Loans, there shall be only two revolving credit facilities in effect during the term of this Agreement and in each instance, shall be a revolving credit facility under this Agreement;

(z) Indebtedness of Subsidiaries that are not, and are not required to be, Guarantors in an aggregate principal amount not to exceed $25,000,000 at any time outstanding; and

(aa) (i) other Indebtedness at any time outstanding in an aggregate principal amount not to exceed the greater of (A) $60,000,000 and (B) 35% of Consolidated EBITDA of the Company and its Subsidiaries for the four (4) fiscal quarters most recently ended for which financial statements have been delivered pursuant to Section 6.01 at the time of the most recent incurrence of Indebtedness under this subsection (aa) and (ii) any refinancings, refundings, replacements, renewals or extensions of Indebtedness under this subsection (aa); provided that, in the case of this clause (ii), the amount of such Indebtedness is not increased at the time of such refinancing, refunding, replacements, renewal or extension except by an amount equal to accrued and unpaid interest owed in connection with such Indebtedness, a reasonable premium or other reasonable amount paid and fees and expenses reasonably incurred, in connection with such event, and by an amount equal to any existing commitments unutilized thereunder, it being understood that any amount under this clause (ii) shall constitute utilization of the limit set forth in clause (i), but if at the time of such incurrence under clause (ii) the limit in clause (i) shall be exceeded, such incurrence shall be permitted (and the limit in clause (i) shall be fully utilized at such time).

Notwithstanding anything to the contrary in this Section 7.03 or otherwise, no Special Purpose Subsidiary shall contract, create, incur, assume or permit to exist any Indebtedness other than Indebtedness existing from time to time under any Permitted Securitization Transaction.

For purposes of determining the amount of Indebtedness permitted in connection with any U.S. dollar-denominated restriction on the incurrence of Indebtedness or any other covenant, limitation or ratio in this Agreement, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be utilized, calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred. Notwithstanding any other provision of this Agreement, the maximum amount of Indebtedness that the Company or any Subsidiary may incur pursuant to this Section 7.03 shall not be deemed to be exceeded, nor shall any other covenant, limitation or ratio in this Agreement be deemed to be breached or exceeded, solely as a result of fluctuations in market value, exchange rates or currency values.

Indebtedness will not be considered subordinate in right of payment to any other Indebtedness solely by virtue of being unsecured, secured with a subset of the collateral securing such other Indebtedness or with different collateral, secured to a greater or lesser extent or secured with greater or lower priority, by virtue of structural subordination, by virtue of maturity date, order of payment or order of application of funds, or by virtue of not being guaranteed by all guarantors of such other Indebtedness, and any subordination in right of payment must be pursuant to a written agreement or instrument.

7.04 Fundamental Changes. Merge, amalgamate, dissolve, liquidate, consolidate with or into another Person, or Dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person, except that, so long as no Event of Default exists or would result therefrom:

(a) (i) the Company may merge, amalgamate or consolidate with any of its Subsidiaries; provided that the Company is the resulting, continuing or surviving Person, and (ii) any Subsidiary may merge, amalgamate or consolidate with (or engage in any similar transaction, including to be acquired by or wound up into) any of the Company or one or more other Subsidiaries; provided that (x) if a Guarantor is a party thereto, the resulting, continuing or surviving Person is a Borrower or a Guarantor and (y) if any Borrower is a party thereto, a Borrower is the resulting, continuing or surviving Person;

(b) the Company or any Subsidiary may merge or amalgamate with any other Person in connection with a Permitted Acquisition, provided that (i) if the Company is a party thereto, the Company is the resulting, continuing or surviving Person, (ii) if a Borrower is a party thereto, a Borrower is the resulting, continuing or surviving Person and (iii) if a Guarantor is a party thereto, such resulting or surviving Person shall be a Borrower or a Guarantor;

(c) any Subsidiary may Dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to the Company or to another Subsidiary; provided that (i) if the transferor in such a transaction is a Loan Party, then the transferee must be a Loan Party and (ii) if the transferor in such a transaction is a Borrower, the transferee must be a Borrower; and

(d) any Subsidiary that is an Immaterial Subsidiary (and has not been designated as a Material Subsidiary) may be dissolved, liquidated, or merged, amalgamated or consolidated with or into another Person, provided that (x) if a Borrower is a party thereto, a Borrower is the resulting, continuing or surviving Person and (y) if a Guarantor is a party thereto, such resulting or surviving Person shall be a Borrower or a Guarantor; and

(e) any Disposition to the extent permitted by Section 7.05 (other than, for the avoidance of doubt, pursuant to clause (e) of such Section) shall be permitted under this Section 7.04.

7.05 Dispositions. Make any Disposition or enter into any agreement to make any Disposition, except:

(a) Dispositions of used, obsolete, damaged, worn-out or surplus equipment, or property no longer useful in the conduct of the business or otherwise economically impracticable to maintain, whether now owned or hereafter acquired, in the ordinary course of business;

(b) Disposition of inventory, goods held for sale and other assets and licenses of intellectual property (including on an intercompany basis), in each case in the ordinary course of business;

(c) Dispositions of equipment or real property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of such Disposition are reasonably promptly applied to the purchase price of such replacement property;

(d) Dispositions of property (including, for the avoidance of doubt, owned Equity Interests) to the Company or to another Subsidiary; provided that if the transferor of such property is a Loan Party, the transferee thereof must be a Loan Party;

(e) Dispositions permitted by Section 7.04 or Section 7.06;

(f) non-exclusive licenses of IP Rights in the ordinary course of business and substantially consistent with past practice for terms not exceeding five (5) years;

(g) Dispositions of accounts receivable in connection with the collection or compromise thereof;

(h) licenses, sublicenses, leases or subleases granted to others not interfering in any material respect with the business of the Company and its Subsidiaries;

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(i) Dispositions of Cash Equivalents in the ordinary course of business;

(j) to the extent constituting Dispositions, Recovery Events;

(k) Dispositions of Securitized Assets by any Special Purpose Subsidiary in connection with any Permitted Securitization Transaction;

(l) the Disposition of non-core or non-strategic assets acquired in connection with a Permitted Acquisition or similar Investment; *provided* that (x) to the extent required by Section 2.06(b)(ii), such Net Cash Proceeds from any such sale are reinvested or applied in prepayment of the Loans in accordance with the provisions of Section 2.06(b)(v), (y) immediately after giving effect thereto, no Event of Default would exist and (z) the fair market value of such non-core or non-strategic assets (determined as of the date of acquisition thereof by the applicable Loan Party or Subsidiary, as the case may be) so Disposed shall not exceed twenty-five percent (25%) of the purchase price paid for all such assets acquired in such Permitted Acquisition;

(m) the termination of a lease due to the default of the landlord thereunder or pursuant to any right of termination of the tenant under the lease;

(n) the lease or sub-lease of any real or personal property in the ordinary course of business and the termination or non-renewal of any real property lease not used or not necessary to the operations of the Company or any Subsidiary;

(o) Dispositions in the ordinary course of business consisting of the abandonment of intellectual property rights which, in the reasonable good faith determination of the Company, are not material to the conduct of the business of the Company and its Subsidiaries, taken as a whole;

(p) Dispositions of Investments in joint ventures or any Subsidiaries that are not wholly-owned Subsidiaries to the extent required by, or made pursuant to, buy/sell arrangements between joint venture or similar parties set forth in the relevant joint venture arrangements and/or similar binding arrangements;

(q) Dispositions or consignments of equipment, inventory or other assets (including leasehold interests in real property) with respect to facilities that are temporarily not in use, held for sale or closed;

(r) Dispositions in connection with the termination or unwinding of Swap Contracts;

(s) exchanges or swaps, including transactions covered by Section 1031 of the Code (or any comparable provision of any foreign jurisdiction), of property or assets so long as the exchange or swap is made for fair value (as reasonably determined by the Company) for like property or assets; provided that (i) within ninety (90) days of any such exchange or swap, in the case of any Loan Party and to the extent such property does not constitute Excluded Property, the Administrative Agent has a perfected Lien having the same priority as any Lien held on the property so exchanged or swapped and (ii) any Net Cash Proceeds received as a "cash boot" in connection with any such transaction shall be applied and/or reinvested as (and to the extent) required by Section 2.06(b)(ii);

(t) any merger, consolidation, Disposition or conveyance, the sole purpose and effect of which is to reincorporate or reorganize (i) any U.S. Subsidiary in another jurisdiction in the U.S. or (ii) any Non-U.S.

750 Subsidiary in the U.S. or any other jurisdiction; provided, that any Loan Party

involved in such transaction does not become an Excluded Subsidiary (except to the extent that it is or becomes an Immaterial Subsidiary so long as it remains a Loan Party hereunder) as a result of such transaction; and

(u) Dispositions of accounts receivable due from any customer of the Company or any Subsidiary in connection with such customer's supplier financing program pursuant to a customary receivables sale agreement entered into in the ordinary course of business of the Company or such Subsidiary (each such Disposition, a "Permitted Receivables Transaction"); provided that (i) any such sale is made on a nonrecourse basis to the Company and its Subsidiaries other than with respect to the representations given by the Company or the applicable Subsidiary, as the case may be, in connection with such receivables, (ii) if the Company or such Subsidiary, as the case may be, receives an updated pricing schedule that provides for a total "discount rate" resulting in more than a five percent (5%) discount on the total amount of each account receivable sold pursuant to such receivables sale agreement (i.e., discounting any such receivable so that the receivables would be sold for less than "95 cents on the dollar"), the Company or such Subsidiary, as the case may be, does not permit any such receivables to be sold at such discount rate for more than five (5) Business Days after its receipt of such updated pricing schedule and (iii) any lien release and UCC-3 financing statement amendment to be filed in connection with such lien release shall be reasonably satisfactory (including with respect to the terms and conditions thereof in the case of any such lien release) to the Administrative Agent and such UCC-3 financing statement amendment shall be promptly filed by the Administrative Agent after entering into such lien release;

(v) the Form 10 Transactions by and among the Company and its Subsidiaries and ADS and its Subsidiaries reasonably necessary to effectuate the Spinoff; and

(w) Dispositions not otherwise permitted under this Section 7.05, so long as (i) no Default or Event of Default has occurred and is continuing, (ii) at least seventy-five percent (75%) of the consideration paid in connection therewith shall be cash or Cash Equivalents paid contemporaneously with consummation of the transaction, (iii) the consideration paid in connection therewith shall be in an amount not less than the fair market value of the property disposed of (as reasonably determined by the Company), (iv) such transaction does not involve the Disposition of a minority Equity Interest in any Loan Party, (v) such Disposition does not involve a Disposition of receivables other than receivables owned by or attributable to other property concurrently being disposed of in a Disposition otherwise permitted under this Section 7.05, and (vi) the aggregate net book value of all of the assets subject to Dispositions made in reliance on this clause (w) shall not exceed $30,000,000 in any fiscal year.

7.06 Restricted Payments and Junior Payments. Declare or make, directly or indirectly, any Restricted Payment or any Junior Payment, or incur any obligation (contingent or otherwise) to do so, except:

(a) each Subsidiary may make Restricted Payments to the Company, the Guarantors and any other Person that owns an Equity Interest in such Subsidiary, ratably according to their respective holdings of the type of Equity Interest in respect of which such Restricted Payment is being made;

(b) the Company and each Subsidiary may declare and make dividend payments or other distributions payable solely in the common stock or other common Equity Interests of such Person;

(c) the Company and each Subsidiary may purchase, redeem or otherwise acquire Equity Interests issued by it with the proceeds received from the substantially concurrent issue of new shares of its common stock or other common Equity Interests;

(d) to the extent constituting Restricted Payments, transactions contemplated by or required under any other employment, compensation or separation agreement or arrangement entered into by the Company or any Subsidiary in the ordinary course of business;

(e) the Company may make Restricted Payments and Junior Payments (including, without limitation, normal-course issuer bids) in an aggregate amount during the term of this Agreement not to exceed the sum of (i) $30,000,000 plus (ii) an unlimited amount so long as both before and after giving effect to such Restricted Payment or Junior Payment, as applicable, on a Pro Forma Basis, the Consolidated Total Leverage Ratio shall be less than 3.25:1.00 (for purposes of clarity, the amount of any Restricted Payment made in reliance on the immediately preceding clause (ii) and permitted thereunder at such time shall not be included in any calculation of the amount available in the immediately preceding clause (i)); provided that no Default or Event of Default then exists or would arise therefrom; and

(f) to the extent constituting a Restricted Payment, the Spin Payment.

7.07 Change in Nature of Business. Engage in any material line of business other than those lines of business conducted by the Company and its Subsidiaries on the Closing Date and/or any business similar, complementary, ancillary, adjacent, reasonably related or incidental thereto.

7.08 Transactions with Affiliates. Enter into any transaction of any kind with any Affiliate (other than the Company or a Subsidiary) of the Company, whether or not in the ordinary course of business, other than (a) reasonable and customary compensation and reimbursement expenses of officers and directors, (b) stock option plans for officers, management and other employees, (c) transactions solely between or among the Company and/or one or more Subsidiaries or any Person that becomes a Subsidiary as a result of such transaction, (d) any dividends or distributions on account of shares of any Equity Interests issued by Subsidiaries of the Company ratably to the holders thereof, (e) transactions between or among the Company and/or one or more Subsidiaries and their Affiliates that are required under applicable Law or by any Governmental Authority, (f) transactions entered into on or prior to the Closing Date and described on Schedule 7.08, (g) the Form 10 Transactions by and among the Company and its Subsidiaries and ADS and its Subsidiaries reasonably necessary to effectuate the Spinoff, (h) any transaction or series of related transactions involving aggregate payment or consideration of less than $2,000,000 and (i) other transactions on terms not materially less favorable to the Company or such Subsidiary as would be obtainable by the Company or such Subsidiary at the time in a comparable arm's length transaction with a Person other than an Affiliate.

7.09 Burdensome Agreements. Enter into any Contractual Obligation (other than this Agreement or any other Loan Document) that (a) limits the ability (i) of any Subsidiary to make Restricted Payments to the Company or any Loan Party or to otherwise transfer property to the Company or any Loan Party, (ii) of any Subsidiary to Guarantee the Indebtedness of the Borrowers or (iii) of the Company or any Subsidiary to create, incur, assume or suffer to exist Liens on property of such Person; provided, however, that this clause (iii) shall not prohibit any negative pledge (x) incurred or provided in favor of any holder of Indebtedness permitted under Section 7.03(e) solely to the extent any such negative pledge relates to the property financed by or the subject of such Indebtedness, (y) contained in any document or instrument governing any Permitted Securitization Transaction, any Permitted Receivables Transaction or any Permitted Credit Agreement Refinancing Indebtedness, provided that any such restriction relates only to the applicable Securitized Assets or, in the case of any Permitted Receivables Transaction, accounts

receivable actually sold, conveyed, pledged, encumbered or otherwise contributed pursuant to such Permitted Securitization Transaction or to such Permitted Receivables Transaction, as applicable or (z) contained in any document or instrument governing any Permitted Credit Agreement Refinancing Indebtedness so long as any such restriction is not more restrictive than the provisions of the Loan Documents and does not limit the ability of any Loan Party to grant a Lien under the Loan Documents; or (b) requires the grant of a Lien to secure an obligation of such Person if a Lien is granted to secure another obligation of such Person, in the case of each of clauses (a) and (b), other than Contractual Obligations:

(a) set forth in any agreement evidencing (i) Indebtedness of a Subsidiary that is not a Loan Party permitted by Section 7.03, (ii) Indebtedness permitted by Section 7.03 that is secured by a Permitted Lien if the relevant restriction applies only to the Person obligated under such Indebtedness and its Subsidiaries or the property or assets intended to secure such Indebtedness and (iii) Indebtedness permitted pursuant to clauses (e), (j) and/or (w) of Section 7.03 (including any refinancings or replacements of any of the foregoing);

(b) that are or were created by virtue of any Lien granted upon, Disposition of, transfer of, agreement to transfer or grant of, any option or right with respect to any property, assets or Equity Interests not otherwise prohibited under this Agreement; provided that such Lien is only on or with respect to the property, assets or Equity Interests subject to such Disposition, transfer, agreement to transfer or option or right;

(c) arising under or as a result of applicable Law or the requirements of any Governmental Authority or the terms of any license, authorization, concession or permit obtained in the ordinary course of business;

(d) arising under customary non-assignment provisions with respect to assignments, leases, subletting or other transfers (including the granting of any Lien) contained in leases, subleases, licenses, sublicenses, joint venture agreements and other agreements, in each case entered into in the ordinary course of business;

(e) imposed by customary provisions in partnership agreements, limited liability company organizational governance documents, joint venture agreements and other similar agreements but solely with respect to the Equity Interests of such partnership, limited liability company or joint venture;

(f) that are assumed in connection with any acquisition of property or the Equity Interests of any Person, so long as the relevant encumbrance or restriction relates solely to the Person and its subsidiaries (including the Equity Interests of the relevant Person or Persons) and/or property so acquired and was not created in connection with or in anticipation of such acquisition;

(g) set forth in any agreement for any Disposition of any Subsidiary (or all or substantially all of the property and/or assets thereof) that restricts the payment of dividends or other distributions or the making of cash loans or advances by such Subsidiary pending such Disposition;

(h) set forth in agreements or instruments which prohibit the payment of dividends or the making of other distributions with respect to any class of Equity Interests of a Person other than on a pro rata basis;

(i) set forth in documents which exist on the Closing Date and were not created in contemplation thereof and which are set forth on Schedule 7.09;

(j) on cash, other deposits or net worth or similar restrictions imposed by Persons under contracts entered into in the ordinary course of business or for whose benefit such cash, other deposits or net worth or similar restrictions exist;

(k) arising in any Swap Contract and/or any agreement relating to any Swap Obligation or obligations of the type referred to in Section 7.03(d);

(l) arising pursuant to an agreement or instrument relating to any Indebtedness permitted to be incurred hereunder if the relevant restrictions, taken as a whole, are not materially less favorable to the Lenders than the restrictions contained in this Agreement, taken as a whole (as determined in good faith by the Company);

(m) relating to any asset (or all of the assets) of and/or the Equity Interests of any Subsidiary which are imposed pursuant to an agreement entered into in connection with any Disposition of such asset (or assets) and/or all or a portion of the Equity Interests of the relevant Person that is permitted or not restricted by this Agreement;

(n) set forth in any agreement relating to any Permitted Lien that limits the right of the Company or any Subsidiary to Dispose of or encumber the assets subject thereto; and

(o) imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (a) through (n) above; *provided* that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancing are, in the reasonable judgment of the Company, not materially more restrictive with respect to such encumbrances and other restrictions, taken as a whole, than those in effect prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

7.10 Use of Proceeds. Use the proceeds of any Credit Extension, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry margin stock (within the meaning of Regulation U of the FRB) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose.

7.11 Financial Covenant. Consolidated Total Leverage Ratio. Except with the consent of the Required Pro Rata Facilities Lenders, permit the Consolidated Total Leverage Ratio at any time during any period of four (4) fiscal quarters of the Company set forth below to be greater than the ratio set forth below opposite such period:

Four Fiscal Quarters Ending	Maximum Consolidated Total Leverage Ratio
December 31, 2021 through September 30, 2022	5.00:1.00
December 31, 2022 through September 30, 2023	4.50:1.00
December 31, 2023 and each fiscal quarter thereafter	4.25:1.00

In the event any Pro Forma Compliance or other compliance with the Consolidated Total Leverage Ratio is required to be measured or satisfied prior to the delivery of financial statements for the fiscal year ending December 31, 2021, the required Consolidated Total Leverage Ratio level at such time shall be deemed to be 5.00:1.00.

7.12 Organization Documents; Fiscal Year; Legal Name, Jurisdiction of Formation and Form of Entity.

(a) Amend, modify or change its Organization Documents in a manner materially adverse to the Lenders;

(b) Change the Company's fiscal year;

(c) Without providing written notice to the Administrative Agent within ten (10) days (or such longer periods as the Administrative Agent may agree) after such change, written notice to the Administrative Agent, change its name, jurisdiction of formation or form of organization; or

(d) Make any change in accounting policies or reporting practices, except as required by GAAP.

7.13 Form 10. Amend, make additions to or otherwise modify the Form 10 on or after the Closing Date in a manner that could reasonably be expected to be adverse to any material interest of the Administrative Agent or the Lenders (unless approved by the Required Lenders, notwithstanding the provisions of Section 10.01 to the contrary, such approval not to be unreasonably conditioned, withheld or delayed).

7.14 Amendments to and Prepayments of Additional Indebtedness.

(a) Amend or modify any of the terms of any Additional Indebtedness if after giving effect to such amendment or modification the terms of such Additional Indebtedness would not satisfy the requirements of clauses (iv) through (vii) of Section 7.03(h);

(b) Make (or give any notice with respect thereto) any voluntary prepayment or redemption or acquisition for value of (including without limitation, by way of depositing money or securities with the trustee with respect thereto before due for the purpose of paying when due), or refund, refinance or exchange, any Additional Indebtedness except for (i) Junior Payments permitted by Section 7.06 and (ii) in the case of the giving of notice with respect to any such voluntary prepayment, redemption, acquisition for value, refund, refinance or exchange, any such notice given in connection with the repayment in full of all Obligations and the termination of the Aggregate Commitments;

(c) Amend or modify any of the subordination provisions applicable to any Subordinated Indebtedness without the prior written consent of the Administrative Agent; or

(d) Make any payments in respect of any Subordinated Indebtedness in violation of the subordination provisions applicable to such Subordinated Indebtedness

7.15 Canadian Pension Matters. Maintain, contribute to, or incur any liability or contingent liability in respect of a Canadian Defined Benefit Pension Plan, except as a result of the consummation of a Permitted Acquisition, or with the prior written consent of the Administrative Agent.

7.16 Sanctions. Directly or knowingly indirectly, use any Credit Extension or the proceeds of any Credit Extension, or lend, contribute or otherwise make available such Credit Extension or the proceeds of any Credit Extension to any Person, to fund any activities of or business with any Person, or in any Designated Jurisdiction, that, at the time of such funding, is the subject of Sanctions, in each case, in violation of Sanctions, or in any other manner that will result in a violation by any Person (including any

Person participating in the transaction, whether as Lender, Arranger, Administrative Agent, L/C Issuer, Swing Line Lender, or otherwise) of Sanctions.

7.17 Anti-Corruption Laws. Directly or knowingly indirectly use any Credit Extension or the proceeds of any Credit Extension for any purpose which would breach the United States Foreign Corrupt Practices Act of 1977, the Corruption of Foreign Public Officials Act (Canada), the UK Bribery Act 2010, and other similar anti-corruption legislation in other jurisdictions in which a Borrower or any of its Subsidiaries conducts business or owns property.

ARTICLE VIII.

EVENTS OF DEFAULT AND REMEDIES

8.01 Events of Default. Any of the following shall constitute an Event of Default:

(a) Non-Payment. Any Borrower or any other Loan Party fails to pay (i) when and as required to be paid herein, and in the currency required hereunder, any amount of principal of any Loan or any L/C Obligation, or (ii) within five (5) Business Days after the same becomes due, any interest on any Loan or on any L/C Obligation, or any fee due hereunder, or (iii) within five (5) Business Days after the same becomes due, any other amount payable hereunder or under any other Loan Document; or

(b) Specific Covenants. Any Loan Party fails to perform or observe any term, covenant or agreement contained in any of Section 6.01, 6.02, 6.03(a), 6.05(a) (solely with respect to such Loan Party's failure to preserve, renew or maintain in full force and effect its legal existence) or 6.10 or Article VII; provided that any such failure to observe or perform the covenant set forth in Section 7.11 shall not constitute an Event of Default for purposes of the Term B Loan or any Incremental Tranche B Term Facility unless and until the Administrative Agent or the Required Pro Rata Facilities Lenders first exercise any remedy in accordance with this Article VIII in respect of such breach (and until such time, the failure to comply with Section 7.11 shall only constitute an Event of Default with respect to the Aggregate Revolving Commitments, the Term A Loan and any Incremental Tranche A Term Facilities); provided, further, that any Event of Default under the covenant set forth in Section 7.11 may be amended, waived or otherwise modified from time to time by the Required Pro Rata Facilities Lenders pursuant to Section 10.01; or

(c) Other Defaults. Any Loan Party fails to perform or observe any other covenant or agreement (not specified in clauses (a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for thirty (30) days after the earlier of (i) a Responsible Officer of a Loan Party having actual knowledge of such failure, or (ii) receipt by a Responsible Officer of the Company of notice from the Administrative Agent or any Lender of such failure; or

(d) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of the Company or any other Loan Party herein, in any other Loan Document, or in any document delivered in connection herewith or therewith shall be incorrect or misleading in any respect (or in any material respect if such representation or warranty is not by its terms already qualified as to materiality or Material Adverse Effect) when made or deemed made; or

(e) Cross-Default. (i) The Company or any Subsidiary (A) fails to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or

otherwise) in respect of any Indebtedness or Guarantee (other than Indebtedness hereunder and Indebtedness under Swap Contracts) having an aggregate principal amount (including amounts owing to all creditors under any combined or syndicated credit arrangement) of more than the Threshold Amount and the continuation of such failure beyond any applicable grace or cure period, or (B) after giving effect to any applicable grace or cure period, fails to observe or perform any other agreement or condition relating to any such Indebtedness or Guarantee or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness or the beneficiary or beneficiaries of such Guarantee (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity, or such Guarantee to become payable or cash collateral in respect thereof to be demanded (provided that any breach of any covenant or agreement contained in Section 7.11 that may give rise to an event described in clause (B) above shall not, by itself, constitute an Event of Default for purposes of the Term B Loan unless and until the Administrative Agent or Required Pro Rata Facilities Lenders shall first exercise any remedy in accordance with this Article VIII as a result of such breach); or (ii) there occurs under any Swap Contract an Early Termination Date (as defined in such Swap Contract) resulting from (A) any event of default under such Swap Contract as to which the Company or any Subsidiary is the Defaulting Party (as defined in such Swap Contract) or (B) any Termination Event (as so defined) under such Swap Contract as to which the Company or any Subsidiary is an Affected Party (as so defined) and, in either event, the Swap Termination Value owed by the Company or such Subsidiary as a result thereof is greater than the Threshold Amount and, in the case of any Termination Event not arising out of a default by the Company or any Subsidiary, such Swap Termination Value has not been paid by the Company or such Subsidiary when due; or

(f) Insolvency Proceedings, Etc. Any Loan Party or any Material Subsidiary institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; makes a proposal to its creditors or files notice of its intention to do so, institutes any other proceeding under applicable Law seeking to adjudicate it a bankrupt or an insolvent, or seeking liquidation, dissolution, winding-up, reorganization, compromise, arrangement, adjustment, protection, moratorium, relief, stay of proceedings of creditors, composition of it or its debts or any other similar relief; or applies for or consents to the appointment of any receiver, receiver-manager, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any material part of its property; or any receiver, receiver-manager, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for sixty (60) consecutive calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for sixty (60) calendar days, or an order for relief is entered in any such proceeding; or

(g) Inability to Pay Debts; Attachment. (i) Any Loan Party or any Material Subsidiary becomes unable or admits in writing its inability or fails generally to pay its debts as they become due, or (ii) any writ or warrant of attachment or execution or similar process is issued or levied against all or any material part of the property of any such Person and is not released, vacated or fully bonded within thirty (30) days after its issue or levy; or

(h) Judgments. There is entered against the Company or any Subsidiary (i) one or more final judgments or orders for the payment of money in an aggregate unpaid amount (as to all

such judgments or orders) exceeding the Threshold Amount (to the extent not covered by independent third-party insurance as to which the insurer does not dispute coverage), or (ii) any one or more non-monetary final judgments that have, or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and, in either case, (A) enforcement proceedings are commenced by any creditor upon such judgment or order, or (B) there is a period of thirty (30) consecutive days during which a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, is not in effect; or

(i) ERISA and Canadian Pension Plan Events. The occurrence of any of the following which, either individually or taken in the aggregate, has resulted or would reasonably be expected to result in liability of the Company and its Subsidiaries in an aggregate amount in excess of the Threshold Amount: (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan, (ii) the Company or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan or (iii) any failure by any Loan Party or any Subsidiary to perform its obligations under, or the incurrence by any Loan Party or any Subsidiary of any liability or contingent liability in respect of, a Canadian Pension Plan; or

(j) Invalidity of Loan Documents. Any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or satisfaction in full of all the Obligations (other than contingent indemnification obligations for which no claim or demand has yet been made), ceases to be in full force and effect; or any Loan Party or any Subsidiary contests in any manner the validity or enforceability of any Loan Document for any reason other than satisfaction in full of all the Obligations (other than contingent indemnification obligations for which no claim or demand has yet been made); or any Loan Party denies that it has any or further liability or obligation under any Loan Document, or purports to revoke, terminate or rescind any provision of any Loan Document (other than upon satisfaction in full of the Obligations (other than contingent indemnification obligations for which no claim or demand has yet been made) or upon release from such Loan Document pursuant to the terms of this Agreement); or

(k) Change of Control. There occurs any Change of Control; or

(l) Subordinated Indebtedness. The subordination provisions applicable to any Subordinated Indebtedness in an aggregate principal in excess of $10,000,000 in the aggregate shall, in each case, in whole or in part, terminate, cease to be effective or cease to be legally valid, binding and enforceable against any holder of such Subordinated Indebtedness; or

(m) Form 10 Transactions. The Form 10 Transactions shall not have been consummated, and the Company shall not be an independent, publicly traded company, by 5:00 p.m. on the day that is two Business Days after the Closing Date.

8.02 Remedies Upon Event of Default. If any Event of Default occurs and is continuing:

(a) if such Event of Default is an Event of Default specified in Section 8.01(b) above as a result of any Loan Party's failure to perform or observe Section 7.11, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Pro Rata Facilities Lenders, take any or all of the following actions:

(i) declare the commitment of each Revolving Lender to make Revolving Loans, the commitment of each Lender in respect of any unfunded Term A Loan, the

commitment of each Lender in respect of any unfunded Incremental Tranche A Term Loan, any obligation of the Swing Line Lender to make Swing Line Loans and any obligation of the L/C Issuers to make L/C Credit Extensions to be terminated, whereupon such commitments and obligations shall be terminated;

(ii) declare the unpaid principal amount of all outstanding Revolving Loans, Swing Line Loans, Term A Loan, Incremental Tranche A Term Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document in respect of the Revolving Commitments, the Term A Loan and Incremental Tranche A Term Loans to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by each Borrower; and

(iii) require that the Borrowers Cash Collateralize the L/C Obligations (in an amount equal to the Minimum Collateral Amount with respect thereto); or

(b) if such Event of Default is any Event of Default other than an Event of Default specified in Section 8.01(b) above as a result of any Loan Party's failure to perform or observe Section 7.11 (or, if (x) such Event of Default is an Event of Default specified in Section 8.01(b) above as a result of any Loan Party's failure to perform or observe Section 7.11 and (y) the Administrative Agent has taken any of the actions described in the immediately preceding clause (a)), the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders, take any or all of the following actions:

(i) declare the commitment of each Lender to make Loans and any obligation of the L/C Issuers to make L/C Credit Extensions to be terminated, whereupon such commitments and obligation shall be terminated;

(ii) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document (including any Prepayment Premium) to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by each Borrower;

(iii) require that the Borrowers Cash Collateralize the L/C Obligations (in an amount equal to the Minimum Collateral Amount with respect thereto); and

(iv) exercise on behalf of itself, the Lenders and the L/C Issuers all rights and remedies available to it and the Lenders and the L/C Issuers under the Loan Documents or applicable law or equity;

provided, however, that upon the occurrence of an actual or deemed entry of an order for relief with respect to any Borrower under the Bankruptcy Code (or any similar occurrence in any other Debtor Relief Laws, and in any event including any Event of Default under Section 8.01(f)), the obligation of each Lender to make Loans and any obligation of the L/C Issuers to make L/C Credit Extensions shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of the Borrowers to Cash Collateralize the L/C Obligations as aforesaid shall automatically become effective, in each case without further act of the Administrative Agent or any Lender.

8.03 Application of Funds. After the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable and the L/C Obligations have automatically been required to be Cash Collateralized as set forth in the proviso to Section 8.02), any amounts received on account of the Obligations shall, subject to the provisions of Sections 2.17 and 2.18, be applied by the Administrative Agent in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Administrative Agent and amounts payable under Article III) payable to the Administrative Agent in its capacity as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal, interest and Letter of Credit Fees) payable to the Lenders and the L/C Issuer (including fees, charges and disbursements of counsel to the respective Lenders and applicable L/C Issuers payable in accordance with the terms of this Agreement and any of the other Loan Documents and amounts payable under Article III), ratably among them in proportion to the respective amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid Letter of Credit Fees and interest on the Loans, L/C Borrowings and other Obligations arising under the Loan Documents, ratably among the Lenders and the L/C Issuers in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting unpaid principal of the Loans, L/C Borrowings and Obligations then owing under Secured Swap Contracts and Secured Cash Management Agreements, ratably among the Lenders, the L/C Issuers, the Hedge Banks and the Cash Management Banks in proportion to the respective amounts described in this clause Fourth held by them;

Fifth, to the Administrative Agent for the account of each L/C Issuer, to Cash Collateralize that portion of L/C Obligations comprised of the aggregate undrawn amount of Letters of Credit issued by it to the extent not otherwise Cash Collateralized by the Company pursuant to Sections 2.03 and 2.17; and

Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full (other than contingent indemnification obligations for which no claim or demand has been made), to the applicable Loan Party or Loan Parties or as otherwise required by Law.

Subject to Sections 2.03(c) and 2.17, amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Fifth above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as Cash Collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Obligations, if any, in the order set forth above. Excluded Swap Obligations with respect to any Loan Party shall not be paid with amounts received from such Loan Party or such Loan Party's assets, but appropriate adjustments shall be made with respect to payments from other Loan Parties to preserve the allocation to Obligations otherwise set forth above in this Section.

Notwithstanding the foregoing, Obligations arising under Secured Cash Management Agreements and Secured Swap Contracts shall be excluded from the application described above if the Administrative Agent has not received a Secured Party Designation Notice, together with such supporting documentation as the Administrative Agent may request, from the applicable Lender or Affiliate thereof, as the case may be (unless such Lender or Affiliate is the Administrative Agent or an Affiliate thereof, in which case no Secured Party Designation Notice is required). Each Affiliate of a Lender that is not a party to this Agreement that has given the notice contemplated by the preceding sentence shall, by such notice, be

deemed to have acknowledged and accepted the appointment of the Administrative Agent pursuant to the terms of Article IX for itself and its Affiliates as if a "Lender" party hereto. Excluded Swap Obligations with respect to any Loan Party shall not be paid with amounts received from such Loan Party or such Loan Party's assets, but appropriate adjustments shall be made with respect to payments from other Loan Parties to preserve the allocation to Obligations otherwise set forth above in this Section.

ARTICLE IX.

ADMINISTRATIVE AGENT

9.01 Appointment and Authority. Each of the Lenders and each of the L/C Issuers hereby irrevocably appoints Bank of America to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent, the Lenders and the L/C Issuers, and neither the Company nor any other Loan Party shall have rights as a third party beneficiary of any of such provisions (other than Section 9.10 to the extent provided therein). It is understood and agreed that the use of the term "agent" herein or in any other Loan Documents (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

The Administrative Agent shall also act as the "collateral agent" under the Loan Documents, and each of the Lenders (in its capacities as a Lender, Swing Line Lender (if applicable), party to any Secured Swap Contract and party to any Secured Cash Management Agreement) and each of the L/C Issuers hereby irrevocably appoints and authorizes the Administrative Agent to act as the agent of such Lender and such L/C Issuer for purposes of acquiring, holding and enforcing any and all Liens on Collateral, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Administrative Agent, as "collateral agent" and any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent pursuant to Section 9.05 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or for exercising any rights and remedies thereunder at the direction of the Administrative Agent, shall be entitled to the benefits of all provisions of this Article IX and Article X (including Section 10.04(c)), as though such co-agents, sub-agents and attorneys-in-fact were the "collateral agent" under the Loan Documents as if set forth in full herein with respect thereto.

Without limiting the powers of the collateral agent pursuant to the terms hereof or of the other Loan Documents, for the purposes of holding any Liens granted by any of the Loan Parties under the laws of the Province of Quebec pursuant to the Collateral Documents, each of the Lenders and each of the L/C Issuers hereby acknowledges that the collateral agent shall be and act as the hypothecary representative of all present and future Lenders (in its capacities as a Lender, Swing Line Lender (if applicable), party to any Secured Swap Contract and party to any Secured Cash Management Agreement) and L/C Issuers for all purposes of Article 2692 of the Civil Code of Quebec (the "Hypothecary Representative"). Each of the Secured Parties therefore appoints, to the extent necessary, the collateral agent as its Hypothecary Representative to hold the Liens created pursuant to such Collateral Documents in order to secure the Obligations. The collateral agent accepts to act as Hypothecary Representative of all present and future Secured Parties for all purposes of Article 2692 of the Civil Code of Quebec.

9.02 Rights as a Lender. The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as

though it were not the Administrative Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of banking, trust, financial, advisory, underwriting or other business with any Loan Party or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders or to provide notice or consent of the Lenders with respect thereto

9.03 Exculpatory Provisions. The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent, each Arranger and each of their respective Related Parties:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable Law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law; and

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty or responsibility to disclose, and shall not be liable for the failure to disclose, any information relating to any Loan Party or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 10.01 and 8.02) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and nonappealable judgment. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given in writing to the Administrative Agent by the Company, a Lender or an L/C Issuer.

The Administrative Agent shall not be responsible for or have any duty or obligation to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent. The Administrative Agent shall not be responsible or have any

liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions of this Agreement relating to Disqualified Institutions. Without limiting the generality of the foregoing, the Administrative Agent shall not (x) be obligated to ascertain, monitor or inquire as to whether any Lender or Participant or prospective Lender or Participant is a Disqualified Institution or (y) have any liability with respect to or arising out of any assignment or participation of Loans, or disclosure of confidential information, to any Disqualified Institution.

9.04 Reliance by Administrative Agent.

The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance, extension, renewal or increase of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or an L/C Issuer, the Administrative Agent may presume that such condition is satisfactory to such Lender or such L/C Issuer unless the Administrative Agent shall have received notice to the contrary from such Lender or such L/C Issuer prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent may consult with legal counsel (who may be counsel for the Company), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

9.05 Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

9.06 Resignation of Administrative Agent.

(a) The Administrative Agent may at any time give notice of its resignation to the Lenders, the L/C Issuers and the Company. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with the Company, and, at all times other than during the existence of an Event of Default, with the Company's consent (such consent not to be unreasonably withheld), to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty (30) days after the retiring Administrative Agent gives notice of its resignation (or such earlier day as shall be agreed by the Required Lenders) (the "Resignation Effective Date"), then the retiring Administrative Agent may (but shall not be obligated to) on behalf of the Lenders and the L/C Issuers, appoint a successor Administrative Agent meeting the qualifications set forth above; provided that in no event shall any such successor Administrative

Agent be a Defaulting Lender. Whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(b) If the Person serving as Administrative Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Required Lenders may, to the extent permitted by applicable Law, by notice in writing to the Company and such Person remove such Person as Administrative Agent and, in consultation with the Company and, at all times other than during the existence of an Event of Default, with the Company's consent (such consent not to be unreasonably withheld), appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty (30) days (or such earlier day as shall be agreed by the Required Lenders) (the "Removal Effective Date"), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.

(c) With effect from the Resignation Effective Date or the Removal Effective Date (as applicable) (i) the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders or the L/C Issuers under any of the Loan Documents, the retiring or removed Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (ii) except for any indemnity payments or other amounts then owed to the retiring or removed Administrative Agent, all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender and each L/C Issuer directly, until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided for above. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or removed) Administrative Agent (other than as provided in Section 3.01(g) and other than any rights to indemnity payments or other amounts owed to the retiring or removed Administrative Agent as of the Resignation Effective Date or the Removal Effective Date, as applicable), and the retiring or removed Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section 9.06). The fees payable by the Company to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Company and such successor. After the retiring or removed Administrative Agent's resignation or removal hereunder and under the other Loan Documents, the provisions of this Article and Section 10.04 shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them (A) while the retiring or removed Administrative Agent was acting as Administrative Agent and (B) after such resignation or removal for as long as any of them continues to act in any capacity hereunder or under the other Loan Documents, including (1) acting as collateral agent or otherwise holding any collateral security on behalf of any of the Lenders and (2) in respect of any actions taken in connection with transferring the agency to any successor Administrative Agent.

(d) Any resignation by or removal of Bank of America as Administrative Agent pursuant to this Section shall also constitute its resignation as an L/C Issuer and Swing Line Lender. If Bank of America resigns as an L/C Issuer, it shall retain all the rights, powers, privileges and duties of an L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as an L/C Issuer and all L/C Obligations with respect thereto, including the right to require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c). If Bank of America resigns as Swing Line Lender, it shall retain all the rights of the Swing Line Lender provided for hereunder with respect to Swing Line

Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Loans or fund risk participations in outstanding Swing Line Loans pursuant to Section 2.05(c). Upon the appointment by the Company of a successor L/C Issuer or Swing Line Lender hereunder (which successor shall in all cases be a Lender, other than a Defaulting Lender, who has consented to such appointment), (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer or Swing Line Lender, as applicable, (b) the retiring L/C Issuer and Swing Line Lender shall be discharged from all of their respective duties and obligations hereunder or under the other Loan Documents, and (c) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to Bank of America to effectively assume the obligations of Bank of America with respect to such Letters of Credit.

9.07 Non-Reliance on Administrative Agent and Other Lenders. Each Lender and each L/C Issuer expressly acknowledges that none of the Administrative Agent nor any Arranger has made any representation or warranty to it, and that no act by the Administrative Agent or any Arranger hereafter taken, including any consent to, and acceptance of any assignment or review of the affairs of any Loan Party of any Affiliate thereof, shall be deemed to constitute any representation or warranty by the Administrative Agent or any Arranger to any Lender or each L/C Issuer as to any matter, including whether the Administrative Agent or the Arrangers have disclosed material information in their (or their Related Parties') possession. Each Lender and each L/C Issuer represents to the Administrative Agent and the Arrangers that it has, independently and without reliance upon the Administrative Agent, any Arranger, any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis of, appraisal of, and investigation into, the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties and their Subsidiaries, and all applicable bank or other regulatory Laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to the Borrowers hereunder. Each Lender and each L/C Issuer also acknowledges that it will, independently and without reliance upon the Administrative Agent, any Arranger, any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties. Each Lender and each L/C Issuer represents and warrants that (i) the Loan Documents set forth the terms of a commercial lending facility and (ii) it is engaged in making, acquiring or holding commercial loans in the ordinary course and is entering into this Agreement as a Lender or L/C Issuer for the purpose of making, acquiring or holding commercial loans and providing other facilities set forth herein as may be applicable to such Lender or L/C Issuer, and not for the purpose of purchasing, acquiring or holding any other type of financial instrument, and each Lender and each L/C Issuer agrees not to assert a claim in contravention of the foregoing. Each Lender and each L/C Issuer represents and warrants that it is sophisticated with respect to decisions to make, acquire and/or hold commercial loans and to provide other facilities set forth herein, as may be applicable to such Lender or such L/C Issuer, and either it, or the Person exercising discretion in making its decision to make, acquire and/or hold such commercial loans or to provide such other facilities, is experienced in making, acquiring or holding such commercial loans or providing such other facilities.

9.08 No Other Duties, Etc. Anything herein to the contrary notwithstanding, none of the Bookrunners or Arrangers listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, a Lender or an L/C Issuer hereunder.

9.09 Administrative Agent May File Proofs of Claim; Credit Bidding. In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan or L/C Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on any Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise.

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, L/C Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the L/C Issuers and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the L/C Issuers and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the L/C Issuers and the Administrative Agent under Sections 2.03(h) and (i), 2.09 and 10.04) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and each L/C Issuer to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders and the L/C Issuers, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.09 and 10.04.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or any L/C Issuer any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or any L/C Issuer to authorize the Administrative Agent to vote in respect of the claim of any Lender or any L/C Issuer in any such proceeding.

The holders of the Obligations hereby irrevocably authorize the Administrative Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Obligations (including accepting some or all of the Collateral in satisfaction of some or all of the Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (a) at any sale thereof conducted under the provisions of the Bankruptcy Code, including under Sections 363, 1123 or 1129 of the Bankruptcy Code, or any similar Debtor Relief Laws in any other jurisdictions to which a Loan Party is subject, (b) at any other sale or foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) the Administrative Agent (whether by judicial action or otherwise) in accordance with any applicable Law. In connection with any such credit bid and purchase, the Obligations owed to the holders thereof shall be entitled to be, and shall be, credit bid on a ratable basis (with Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that would vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) in the asset or assets so purchased (or in the Equity Interests or debt instruments of the acquisition vehicle or vehicles that are used to consummate such purchase). In connection with any such bid (i) the Administrative Agent shall be authorized to form one or more acquisition vehicles to make a bid, (ii) to adopt documents providing for the governance of the acquisition vehicle or vehicles (provided that any actions by the Administrative Agent with respect to such

acquisition vehicle or vehicles, including any disposition of the assets or Equity Interests thereof shall be governed, directly or indirectly, by the vote of the Required Lenders, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in clauses (a)(i) through (a)(ix) of Section 10.01 of this Agreement), and (iii) to the extent that Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better, because the amount of Obligations assigned to the acquisition vehicle exceeds the amount of debt credit bid by the acquisition vehicle or otherwise), such Obligations shall automatically be reassigned to the Lenders *pro rata* and the Equity Interests and/or debt instruments issued by any acquisition vehicle on account of the Obligations that had been assigned to the acquisition vehicle shall automatically be cancelled, without the need for any Lender or any acquisition vehicle to take any further action.

9.10 Collateral and Guaranty Matters. Without limiting the provisions of Section 9.09, each Lender (including in its capacities as a party to any Secured Cash Management Agreement and a party to any Secured Swap Contract) and each of the L/C Issuers irrevocably authorize the Administrative Agent, and the Administrative Agent shall:

(a) release or authorize the release of any Lien on any property granted to or held by the Administrative Agent under any Loan Document (i) upon termination of the Aggregate Commitments and payment in full of all Obligations (other than (A) contingent indemnification obligations and (B) obligations and liabilities under Secured Cash Management Agreements and Secured Swap Agreements as to which arrangements satisfactory to the applicable Cash Management Bank or Hedge Bank shall have been made) and the expiration or termination of all Letters of Credit (other than Letters of Credit as to which other arrangements satisfactory to the Administrative Agent and the applicable L/C Issuer shall have been made), (ii) that is sold or otherwise disposed of or to be sold or otherwise disposed of as part of or in connection with any sale or other disposition not prohibited hereunder or under any other Loan Document, (iii) subject to Section 10.01, if approved, authorized or ratified in writing by the Required Lenders or (iv) with respect to any such property of a Guarantor, upon the release of such Guarantor in accordance with clause (c) below;

(b) subordinate or release, as applicable, any Lien on any property granted to or held by the Administrative Agent under any Loan Document on property that is subject to a Lien permitted by Section 7.01(f), (i), (n) (p), (u), (x)(ii), (xiii), (z), (aa), (bb)(i) or (cc);

(c) release any Guarantor from its obligations under any Guaranty if (i) such Person ceases to be a Subsidiary as a result of a transaction permitted under the Loan Documents, (ii) the provisions of Section 6.20 apply to such Guarantor or (iii) subject to Section 10.01, if approved, authorized or ratified in writing by the Required Lenders;

(d) at any time any Permitted Securitization Transaction is outstanding, release any Lien granted to or held by the Administrative Agent under any Loan Document on (i) any Securitized Asset that is subject thereto and (ii) the Equity Interests of any Special Purpose Subsidiary for such Permitted Securitization Transaction; and

(e) enter into and perform each intercreditor agreement or subordination agreement contemplated hereby.

Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor (other than, for the avoidance of doubt, any Borrower) from its

obligations under the Guaranty pursuant to this Section 9.10, and the Administrative Agent shall be entitled to such confirmation before being required to take any action provided in this Section 9.10.

The Administrative Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Administrative Agent's Lien thereon, or any certificate prepared by any Loan Party in connection therewith, nor shall the Administrative Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral. In connection with any release or subordination to be undertaken pursuant to this Section 9.10, the Administrative Agent shall reasonably promptly take such action and execute such documents as may be reasonably requested by the Company or any other Loan Party, at the Company's and the Loan Parties sole (and joint and several) expense, in connection with such release or subordination; provided that (i) nothing contained in this Section 9.10 shall be construed to permit or require the Borrower or the Administrative Agent to take any action that requires the consent of either (x) all Lenders pursuant to Section 10.01(a)(vii) or (y) all directly and adversely affected Lenders pursuant to Section 10.01(a)(xv) and (ii) upon reasonable request by the Administrative Agent, the Borrower shall deliver to the Administrative Agent a certificate of a Responsible Officer certifying that the transactions giving rise to such request were permitted under this Agreement and the other Loan Documents.

9.11 Secured Cash Management Agreements and Secured Swap Contracts. No Lender or Affiliate thereof party to a Secured Swap Contract or Secured Cash Management Agreement that obtains the benefit of Section 8.03, any Guaranty or any Collateral by virtue of the provisions hereof or any Collateral Document shall have any right to notice of any action or omission or to consent to, direct or object to any action or omission hereunder or under any other Loan Document or otherwise in respect of the Collateral (including the release or impairment of any Collateral) or to notice of or to consent to any amendment, waiver or modification of the provisions hereof or of any Guaranty or any Collateral Document (including any release or impairment with respect to any Guarantor) other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Loan Documents. Notwithstanding any other provision of this Article IX to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Obligations arising under Secured Cash Management Agreements and Secured Swap Contracts except to the extent expressly provided herein and unless the Administrative Agent has received a Secured Party Designation Notice of such Obligations, together with such supporting documentation as the Administrative Agent may request, from the applicable Lender or Affiliate thereof, as the case may be. The Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Obligations arising under Secured Cash Management Agreements and Secured Swap Contracts in the case that (a) all Commitments have terminated, (b) all Obligations arising under the Loan Documents have been paid in full (other than contingent indemnification obligations for which no claim or demand has yet been made), and (c) all Letters of Credit have terminated or expired (other than Letters of Credit that have been Cash Collateralized).

9.12 ERISA Matters.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, and not, for the avoidance of doubt, to or for the benefit of the Company or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such

Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments or this Agreement,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement,

(iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless either (1) clause (i) in the immediately preceding subsection (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with clause (iv) in the immediately preceding subsection (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of the Company or any other Loan Party, that the Administrative Agent is not a fiduciary with respect to the assets of such Lender involved in such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related hereto or thereto).

9.13 Recovery of Erroneous Payments. Without limitation of any other provision in this Agreement, if at any time the Administrative Agent makes a payment hereunder in error to any Credit Party, whether or not in respect of an Obligation due and owing by the Borrowers at such time, where such payment is a Rescindable Amount, then in any such event, each Credit Party receiving a Rescindable Amount severally agrees to repay to the Administrative Agent forthwith on demand the Rescindable Amount received by such Credit Party in immediately available funds in the currency so received, with interest thereon, for each day from and including the date such Rescindable Amount is received by it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation. Each Credit Party irrevocably waives any and all defenses, including any "discharge for

value" (under which a creditor might otherwise claim a right to retain funds mistakenly paid by a third party in respect of a debt owed by another) or similar defense to its obligation to return any Rescindable Amount. The Administrative Agent shall inform each Credit Party promptly upon determining that any payment made to such Credit Party comprised, in whole or in part, a Rescindable Amount.

ARTICLE X.

MISCELLANEOUS

10.01 Amendments, Etc.

(a) Subject to Sections 2.16, 2.21and 3.03, and except as otherwise provided in this Section 10.01, no amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Company or any other Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders and the Company or the applicable Loan Party, as the case may be, and acknowledged by the Administrative Agent, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no such amendment, waiver or consent shall:

(i) extend or increase the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 8.02) without the written consent of such Lender whose Commitment is being extended, increased or reinstated (it being understood and agreed that a waiver of any condition precedent set forth in Section 4.02 or of any Default or of a mandatory reduction in Commitments is not considered an extension, increase or reinstatement in Commitments of any Lender);

(ii) postpone any date fixed by this Agreement or any other Loan Document for any payment (excluding mandatory prepayments) of principal, interest, fees or other amounts due to the Lenders (or any of them) or any scheduled or mandatory reduction of the Aggregate Commitments hereunder or under any other Loan Document without the written consent of each Lender directly affected thereby;

(iii) reduce the principal of, or the rate of interest specified herein on, any Loan or L/C Borrowing, or (subject to clause (b) of this Section 10.01) any fees or other amounts payable hereunder or under any other Loan Document without the written consent of each Lender entitled to receive such amount (it being understood that neither of the following constitutes a reduction in the rate of interest on any Loan or L/C Borrowing or any fees or other amounts: (A) any amendment to the definition of "Default Rate" or waiver of any obligation of the Borrowers to pay interest or Letter of Credit Fees at the Default Rate or (B) any amendment to or waiver of any financial covenant hereunder (or any defined term or component defined term used therein) even if the effect of such amendment or waiver would be to reduce the rate of interest on any Loan or L/C Borrowing or to reduce any fee payable hereunder);

(iv) change Section 2.14 or Section 8.03 in a manner that would alter the *pro rata* sharing of payments required thereby without the written consent of each Lender directly affected thereby;

(v) change any provision of this Section 10.01 or the definition of "Required Lenders", "Required Pro Rata Facilities Lenders", "Required Revolving Lenders" or any other provision hereof specifying the number or percentage of Lenders required to amend,

waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder, without the written consent of each Lender;

(vi) release any Borrower without the consent of each Lender, or, except in connection with a transaction permitted under Section 7.04 or Section 7.05, release all or substantially all of the value of the Guaranty without the written consent of each Lender;

(vii) release or subordinate, or authorize the release or subordination, of all or substantially all of the Collateral under the Collateral Documents without the written consent of each Lender;

(viii) subject to Section 10.01(b)(ix) below, amend Section 1.06 or the definition of "Alternative Currencies" without the written consent of each Lender and L/C Issuer obligated to make Credit Extensions in Alternative Currencies; or

(ix) change Section 2.15 in a manner that would alter the requirement that each of the Lenders obligated to make Credit Extensions to an Applicant Borrower approve the addition thereof as a Designated Borrower, without the written consent of each such Lender;

(x) prior to the termination of the Aggregate Revolving Commitments, unless also signed by the Required Revolving Lenders, no such amendment, waiver or consent shall (A) waive any Default or Event of Default for purposes of Section 4.02(b), (B) amend, change, waive, discharge or terminate Sections- 4.02 or 8.01 in a manner adverse to the Revolving Lenders or (C) amend, change, waive, discharge or terminate this clause (x);

(xi) unless also signed by Lenders (other than Defaulting Lenders) holding in the aggregate at least a majority of the aggregate Outstanding Amount of the Term Loans entitled to receive prepayments pursuant to Section 2.06(b), no such amendment, waiver or consent shall (A) amend, change, waive, discharge or terminate Section 2.06(b)(v) so as to alter the manner of application of proceeds of any mandatory prepayment required by Section 2.06(b)(ii), (iii) or (iv) (other than to allow the proceeds of such mandatory prepayments to be applied ratably with other Term Loans under this Agreement) or (B) amend, change, waive, discharge or terminate this clause (xi) (other than to provide Lenders of other Term Loans with proportional rights under this clause (xi));

(xii) unless in writing and signed by each L/C Issuer in addition to the Lenders required above, no amendment, waiver or consent shall affect the rights or duties of the L/C Issuers under this Agreement or any Issuer Document relating to any Letter of Credit issued or to be issued by it;

(xiii) unless in writing and signed by the Swing Line Lender in addition to the Lenders required above, no amendment, waiver or consent shall affect the rights or duties of the Swing Line Lender under this Agreement;

(xiv) unless in writing and signed by the Administrative Agent in addition to the Lenders required above, no amendment, waiver or consent shall affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document;

(xv) without the prior written consent of each Lender directly and adversely affected thereby, subordinate, or have the effect of subordinating, the Obligations hereunder to any other Indebtedness or other obligation; and

(xvi) without the prior written consent of each Lender, release any Borrower as a Guarantor of the Obligations of the other Borrowers.

(b) Notwithstanding anything to the contrary in this Section 10.01:

(i) any amendment, waiver or consent with respect to (A) Section 7.11 (or any defined term or component defined term used therein) or any Default or Event of Default or exercise of remedies by the Required Pro Rata Facilities Lenders in respect or as a result thereof, (B) the second proviso in Section 8.01(b), (C) clause (a) of Section 8.02 or (D) the parenthetical provisions referencing Section 7.11 in Section 10.03 will not require the consent of the Required Lenders but shall be effective if, and only if, signed by the Required Pro Rata Facilities Lenders and the Loan Parties and acknowledged by the Administrative Agent;

(ii) each Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto.

(iii) any amendment, waiver or consent with respect to the definitions of "Letter of Credit Sublimit", "Swing Line Sublimit", "Euro Swing Line Sublimit" (except pursuant to Section 2.05(g)) and "U.S. Dollar Swing Line Sublimit" (except pursuant to Section 2.05(g)), Section 1.06, Section 2.03, Section 2.05 and Section 2.15 will not require the consent of the Required Lenders but shall be effective if, and only if, signed by the Required Revolving Lenders, the Loan Parties and any party whose consent is required pursuant to clauses (a)(viii), (a)(ix), (a)(xii), (a)(xiii) or (a)(xiv) above and acknowledged by the Administrative Agent;

(iv) only the written consent of the Administrative Agent and the Loan Parties shall be required to amend this Agreement solely to implement requirements reasonably deemed necessary by the Administrative Agent to add a Designated Borrower hereunder or to obtain pledges of Equity Interests in Non-U.S. Obligors in accordance with this Agreement (including pursuant to additional Collateral Documents);

(v) an Incremental Facility Amendment shall be effective if signed only by Company (and any other applicable Borrower), the Administrative Agent and each Person that agrees to provide a portion of the applicable Incremental Facility;

(vi) no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (A) the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender and (B) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender disproportionately adversely relative to other affected Lenders shall require the consent of such Defaulting Lender;

(vii) each Lender is entitled to vote as such Lender sees fit on any bankruptcy reorganization plan that affects the Loans, and each Lender acknowledges that the provisions of Section 1126(c) of the Bankruptcy Code supersedes the unanimous consent provisions set forth herein;

(viii) the Required Lenders shall determine whether or not to allow a Loan Party to use cash collateral in the context of a bankruptcy or insolvency proceeding and such determination shall be binding on all of the Lenders;

(ix) this Agreement may be amended with the written consent of only the Company, the Administrative Agent, the L/C Issuers and the Lenders obligated to make Credit Extensions in Alternative Currencies to amend the definition of "Alternative Currency", "Alternative Currency Daily Rate" or "Alternative Currency Term Rate" solely to add additional currency options and the applicable interest rate with respect thereto, in each case solely to the extent permitted pursuant to Section 1.06;

(x) [reserved];

(xi) this Agreement may be amended and restated in accordance with this Section 10.01 but without the consent of a specific Lender if, upon giving effect to such amendment and restatement, such Lender shall no longer be a party to this Agreement (as so amended and restated), the Commitments of such Lender shall have terminated, such Lender shall have no other commitment or other obligation hereunder and shall have been paid in full all principal, interest and other amounts then owing to it or then accrued for its account under this Agreement; and

(xii) only the written consent of the Administrative Agent and the Company shall be required to amend, modify or supplement this Agreement or any other Loan Document to cure or correct administrative errors or omissions, any ambiguity, omission, defect or inconsistency or to effect administrative changes or to extend an existing Lien over additional property, and such amendment shall become effective without any further consent of any other party to such Loan Document so long as (A) such amendment, modification or supplement does not adversely affect the rights of any Lender or other holder of Obligations in any material respect and (B) the Lenders shall have received at least five (5) Business Days' prior written notice thereof and the Administrative Agent shall not have received, within five (5) Business Days of the date of such notice to the Lenders, a written notice from the Required Lenders stating that the Required Lenders object to such amendment.

(c) In addition, notwithstanding anything to the contrary in this Section 10.01, the Company may, by written notice to the Administrative Agent from time to time, make one or more offers (each, a "Loan Modification Offer") to all the Lenders holdings Commitments and/or Loans of a particular class or tranche to make one or more amendments or modifications to (i) allow the maturity of such Commitments or Loans of the accepting Lenders to be extended, (ii) modify the Applicable Rate and/or fees payable with respect to such Loans and Commitments of the accepting Lenders, (iii) modify any covenants or other provisions or add new covenants or provisions that are agreed between the Company, the Administrative Agent and the Accepting Lenders; provided that such modified or new covenants and provisions are applicable only during periods after the latest Maturity Date that is in effect on the effective date of such amendment, and (iv) any other amendment to a Loan Document required to give effect to the amendments described in clauses (i), (ii) and (iii) of this paragraph ("Permitted Amendments", and any amendment to this Agreement to

implement Permitted Amendments, a "Loan Modification Agreement") pursuant to procedures reasonably specified by the Administrative Agent and reasonably acceptable to the Company. Such notice shall set forth (x) the terms and conditions of the requested Permitted Amendments and (y) the date on which such Permitted Amendments are requested to become effective. Permitted Amendments shall become effective only with respect to the applicable class or tranche of Commitments and/or Loans of the Lenders that accept the applicable Loan Modification Offer (such Lenders, the "Accepting Lenders") and, in the case of any Accepting Lender, only with respect to such Lender's Commitments and/or Loans as to which such Lender's acceptance has been made. The Company, each other Borrower and each Accepting Lender shall execute and deliver to the Administrative Agent a Loan Modification Agreement and such other documentation as the Administrative Agent shall reasonably specify to evidence the acceptance of the Permitted Amendments and the terms and conditions thereof, and the Loan Parties shall also deliver such resolutions, opinions and other documents as reasonably requested by the Administrative Agent. The Administrative Agent shall promptly notify each Lender as to the effectiveness of each Loan Modification Agreement. Each of the parties hereto hereby agrees that (1) upon the effectiveness of any Loan Modification Agreement, this Agreement shall be deemed amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Permitted Amendments evidenced thereby and only with respect to the applicable class or tranche of Commitments and Loans of the Accepting Lenders as to which such Lenders' acceptance has been made, (2) any applicable Lender who is not an Accepting Lender may be replaced by the Company in accordance with Section 10.13, and (3) to the extent relating to Revolving Commitments and Revolving Loans, the Administrative Agent and the Company shall be permitted to make any amendments or modifications to any Loan Documents necessary to allow any borrowings, prepayments, participations in Letters of Credit and Swing Line Loans and commitment reductions to be ratable across each class of Revolving Commitments the mechanics for which may be implemented through the applicable Loan Modification Agreement and may include technical changes related to the borrowing and repayment procedures of the Lenders; provided that with the consent of the Accepting Lenders such prepayments and commitment reductions and reductions in participations in Letters of Credit and Swing Line Loans may be applied on a non-ratable basis to the class of non-Accepting Lenders.

(d) In addition, notwithstanding anything to the contrary in this Section 10.01, this Agreement and any other Loan Document may be amended with only the consent of the Company and the Administrative Agent solely to the extent necessary to incorporate jurisdiction-specific provisions deemed reasonably necessary or appropriate by the Company, the Administrative Agent and their respective legal counsel in connection with the joinder of any Subsidiary as a Guarantor in accordance with the terms of Section 6.14 and the granting of security interests by such Subsidiary in accordance with the terms of Section 6.15.

10.02 Notices; Effectiveness; Electronic Communication.

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in clause (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile or electronic mail as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Company or any other Loan Party, the Administrative Agent, an L/C Issuer or the Swing Line Lender, to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 10.02; and

(ii) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire (including, as appropriate, notices delivered solely to the Person designated by a Lender on its Administrative Questionnaire then in effect for the delivery of notices that may contain material non-public information relating to the Company).

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in clause (b) below, shall be effective as provided in such clause (b).

(b) Electronic Communications. Notices and other communications to the Lenders and the L/C Issuers hereunder may be delivered or furnished by electronic communication (including e-mail, FpML messaging, and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender or any L/C Issuer pursuant to Article II if such Lender or such L/C Issuer, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent, the Swing Line Lender, any L/C Issuer or the Company may each, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (i) and (ii), if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice, email or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

(c) The Platform. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Related Parties (collectively, the "Agent Parties") have any liability to any Borrower, any Lender, any L/C Issuer or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Company's, any Loan Party's or the Administrative Agent's transmission of Borrower Materials or notices through the platform, any other electronic platform or electronic messaging service, or through the Internet, except to the extent such losses, claims, damages, liabilities or expenses are determined by a court of competent

jurisdiction by final and nonappealable judgment to have resulted from the gross negligence, bad faith or willful misconduct of such Agent Party; provided that in no event shall any Agent Party have any liability to any Borrower or any Subsidiary, any Lender, any L/C Issuer or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).

(d) Change of Address, Etc. Each of the Borrowers, the Administrative Agent, each L/C Issuer and the Swing Line Lender may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the Company, the Administrative Agent, the L/C Issuers and the Swing Line Lender. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, facsimile number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender's compliance procedures and applicable Law, including United States federal and state securities Laws, to make reference to Borrower Materials that are not made available through the "Public Side Information" portion of the Platform and that may contain material non-public information with respect to the Company or its securities for purposes of United States federal or state securities laws.

(e) Reliance by Administrative Agent, L/C Issuer and Lenders. The Administrative Agent, the L/C Issuers and the Lenders shall be entitled to rely and act upon any notices (including telephonic notices, Loan Notices, Letter of Credit Applications and Swing Line Loan Notices) purportedly given by or on behalf of any Loan Party even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Company shall indemnify the Administrative Agent, each L/C Issuer, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of any Loan Party, except to the extent that such losses, costs, expenses or liabilities are determined by a court of competent jurisdiction in a final and non-appealable judgment to have resulted from the bad faith, gross negligence or willful misconduct of, or material breach of this Agreement or any other Loan Document by, the Administrative Agent, such L/C Issuer or such Lender, or, in each case, any of its Related Parties, or, such Related Party, as applicable. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

10.03 No Waiver; Cumulative Remedies; Enforcement. No failure by any Lender, any L/C Issuer or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Loan

Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Section 8.02 for the benefit of all the Lenders and all the L/C Issuers (or in its own name as creditor of Parallel Debt, as applicable); provided, however, that the foregoing shall not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) any L/C Issuer or the Swing Line Lender from exercising the rights and remedies that inure to its benefit (solely in its capacity as L/C Issuer or Swing Line Lender, as the case may be) hereunder and under the other Loan Documents, (c) any Lender from exercising setoff rights in accordance with Section 10.08 (subject to the terms of Section 2.14), or (d) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Loan Party under any Debtor Relief Law; and provided, further, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Administrative Agent pursuant to Section 8.02 (or, in the case of any Event of Default arising from a breach of Section 7.11, the Required Pro Rata Facilities Lenders shall have the rights otherwise ascribed to the Administrative Agent pursuant to Section 8.02 with respect to the Aggregate Revolving Commitments, the Term A Loan, the Incremental Tranche A Term Loans and the Obligations in respect thereof) and (ii) in addition to the matters set forth in clauses (b), (c) and (d) of the preceding proviso and subject to Section 2.14, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders (or, in the case of any Event of Default arising from a breach of Section 7.11, any Lender with a Revolving Commitment, Revolving Credit Exposure, a Term A Loan or an Incremental Tranche A Term Loan may, with the consent of the Required Pro Rata Facilities Lenders, enforce any rights and remedies available to it with respect to the Aggregate Revolving Commitments, the Term A Loan, the Incremental Tranche A Term Loans and the Obligations in respect thereof and as authorized by the Required Pro Rata Facilities Lenders).

10.04 Expenses; Indemnity; Damage Waiver.

(a) Costs and Expenses. The Company shall pay (i) all reasonable and documented out-of-pocket fees and expenses incurred by the Administrative Agent, Bank of America in its capacity as an Arranger, Bank of America in its capacity as L/C Issuer and their respective Affiliates (but limited, in the case of legal fees and expenses, to the reasonable and documented and invoiced fees and expenses of one firm of counsel to the Administrative Agent, Bank of America in its capacity as an Arranger, Bank of America in its capacity as L/C Issuer and their respective Affiliates, taken as a whole, in each of the United States, Canada, the Netherlands and Luxembourg and, if necessary, one firm of regulatory counsel and one firm of local counsel in each other applicable material jurisdiction (which may be a single firm for multiple jurisdictions) to all such Persons, taken as a whole (and except allocated costs of in-house counsel) (and, in the case of an actual or perceived conflict of interest between or among such Persons, of another firm of primary counsel, another firm of regulatory counsel and another firm of local counsel in each applicable material jurisdiction for all such affected Persons taken as a whole, repeated until no such actual or perceived conflict exists among such Persons taken as a whole)), in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by each L/C Issuer in connection with the issuance, amendment, renewal, reinstatement or extension of any Letter of Credit or any demand for payment thereunder and (iii) all out-of-pocket expenses incurred by the Administrative Agent, any Lender or any L/C Issuer (but limited, in the case of legal fees and expenses, to the reasonable and documented and invoiced fees and expenses of one firm of counsel to the Administrative Agent, the Arrangers, the Lenders, the

L/C Issuers and their respective Affiliates, taken as a whole, in each of the United States, Canada, the Netherlands and Luxembourg and, if necessary, one firm of regulatory counsel and one firm of local counsel in each other applicable jurisdiction (which may be a single firm for multiple jurisdictions) to all such Persons, taken as a whole (and except allocated costs of in-house counsel) (and, in the case of an actual or perceived conflict of interest between or among such Persons, of another firm of primary counsel, another firm of regulatory counsel and another firm of local counsel in each applicable jurisdiction for all such affected Persons taken as a whole, repeated until no such actual or perceived conflict exists among such Persons taken as a whole)) in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section, or (B) in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) Indemnification by the Company. The Company and each other Loan Party shall indemnify the Administrative Agent (and any sub-agent thereof or delegate, administrator or receiver appointed by the Administrative Agent pursuant to the terms of the Loan Documents), each Arranger, each Lender and each L/C Issuer, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related reasonable, documented and invoiced out-of-pocket expenses (limited, in the case of legal fees and expenses, to one firm of counsel for all Indemnitees taken as a whole in each of the United States, Canada, the Netherlands and Luxembourg and, if necessary, one firm of regulatory counsel and one firm of local counsel in each other applicable material jurisdiction (which may be a single firm for multiple material jurisdictions) for all Indemnitees taken a as a whole (and, in the case of an actual or perceived conflict of interest, of another firm of primary counsel, another firm of regulatory counsel and another firm of local counsel in each applicable material jurisdiction for all such affected Indemnitees taken as a whole, repeated until no such actual or perceived conflict exists among such Persons taken as a whole) (in each case, excluding allocated costs of in-house counsel)), incurred by any Indemnitee or asserted against any Indemnitee by any Person (including the Company or any other Loan Party) arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby (including, without limitation, the Indemnitees' reliance on any Communication executed using an Electronic Signature, or in the form of an Electronic Record), the performance by the parties hereto of their respective obligations hereunder or thereunder, the consummation of the transactions contemplated hereby or thereby, or, in the case of the Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents (including in respect of any matters addressed in Section 3.01), (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by an L/C Issuer to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by a Loan Party or any of its Subsidiaries, or any Environmental Liability related in any way to a Loan Party or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Company or any other Loan Party, and regardless of whether any Indemnitee is a party thereto; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related reasonable, documented and invoiced out-of-pocket expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from (a) the gross negligence, bad faith or willful misconduct of such Indemnitee or any of its Related Indemnified Parties or (b) a material breach of such Indemnitee's obligations (or any

of its Related Indemnified Parties' obligations) hereunder or under any other Loan Document, (y) arise solely out of, or result from, a claim, litigation, investigation or proceeding brought by one Indemnitee against another Indemnitee except to the extent such claim (1) involves any action or inaction by the Company or any Subsidiary or (2) relates to any action or inaction of such Indemnitee in its capacity as Administrative Agent (or any sub-agent thereof), Arranger or similar title (including, without limitation, arranger, bookrunner, syndication agent, documentation) or (z) relates to any settlement entered into by such Indemnitee without the Company's written consent (such consent not to be unreasonably withheld or delayed); provided that if such settlement is reached with the Company's written consent, or if there is a final and non-appealable judgment by a court of competent jurisdiction in any related proceeding, the Company and each other Loan Party agrees to indemnify and hold harmless each Related Indemnified Party in the manner and to the extent set forth above; provided, further that the Company shall be deemed to have consented to any such settlement unless the Company shall object thereto by written notice to the applicable Related Indemnified Party within ten (10) Business Days after having received notice thereof. Without limiting the provisions of Section 3.01(c), this Section 10.04(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

(c) Reimbursement by Lenders. To the extent that the Company and the other Loan Parties for any reason fail to indefeasibly pay any amount required under clauses (a) or (b) of this Section 10.04 to be paid by it to the Administrative Agent (or any sub-agent thereof), any L/C Issuer, the Swing Line Lender or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), such L/C Issuer, the Swing Line Lender or such Related Party, as the case may be, such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought based on each Lender's share of the Total Credit Exposure at such time) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender), such payment to be made severally among them based on such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought), provided further that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent), or such L/C Issuer or the Swing Line Lender in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent), such L/C Issuer or the Swing Line Lender in connection with such capacity. The obligations of the Lenders under this clause (c) are subject to the provisions of Section 2.13(d).

(d) Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable Law, no party hereto shall assert, and each party hereto hereby waives, and acknowledges that no other Person shall have, any claim against any party hereto, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof; provided that nothing contained in this clause (d) shall limit the Company's or any other Loan Party's indemnification obligations set forth above to the extent such special, indirect, consequential or punitive damages are included in any third party claim in connection with which such Indemnitee is entitled to indemnification hereunder. No Indemnitee shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnitee through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby other than for direct or actual damages resulting

from the gross negligence, bad faith or willful misconduct of such Indemnitee as determined by a final and nonappealable judgment of a court of competent jurisdiction.

(e) Payments. All amounts due under this Section shall be payable not later than ten (10) Business Days after demand therefor.

(f) Survival. The agreements in this Section and the indemnity provisions of Section 10.02(e) shall survive the resignation of the Administrative Agent, an L/C Issuer and the Swing Line Lender, the replacement of any Lender, the termination of the Aggregate Commitments, and the repayment, satisfaction or discharge of all the other Obligations.

10.05 Payments Set Aside. To the extent that any payment by or on behalf of any Loan Party is made to the Administrative Agent, any L/C Issuer or any Lender, or the Administrative Agent, any L/C Issuer or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent, such L/C Issuer or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender and each L/C Issuer severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the applicable Overnight Rate from time to time in effect, in the applicable currency of such recovery or payment. The obligations of the Lenders and the L/C Issuers under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

10.06 Successors and Assigns.

(a) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that neither the Company nor any other Loan Party may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder (other than to the extent expressly permitted under Section 2.15(c) or, in the case of the Company or any other Loan Party, Section 7.04) except (i) to an assignee in accordance with the provisions of clause (b) of this Section 10.06, (ii) by way of participation in accordance with the provisions of clause (d) of this Section 10.06, or (iii) by way of pledge or assignment of a security interest subject to the restrictions of clause (f) of this Section 10.06 (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in clause (d) of this Section 10.06 and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the L/C Issuers and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans (including for purposes of this clause (b), participations in L/C Obligations and in Swing Line Loans) at the time owing to it); provided that (in each case

with respect to any credit facility hereunder) any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and the Loans at the time owing to it (in each case with respect to any credit facility provided hereunder) or contemporaneous assignments to related Approved Funds (determined after giving effect to such Assignments) that equal at least the amount specified in clause (b)(i)(B) of this Section 10.06 in the aggregate or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in clause (b)(i)(A) of this Section 10.06, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the applicable Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than $5,000,000 in the case of any assignment in respect of the Revolving Facility, or $1,000,000, in the case of any assignment in respect of the Term Facility unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Company otherwise consents (each such consent not to be unreasonably withheld or delayed).

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loans or the Commitment assigned, except that this clause (ii) shall not (A) apply to the Swing Line Lender's rights and obligations in respect of Swing Line Loans or (B) prohibit any Lender from assigning all or a portion of its rights and obligations among the revolving credit facility or term loan facilities provided hereunder on a non-*pro rata* basis;

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by clause (b)(i)(B) of this Section 10.06 and, in addition:

(A) the consent of the Company (such consent not to be unreasonably withheld or delayed) shall be required unless (1) an Event of Default has occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided that the Company shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within five (5) Business Days after having received written notice thereof;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of (1) any unfunded commitment to a term loan facility provided hereunder or any Revolving Commitment if such assignment is to a Person that is not a Lender with a Commitment in respect of the applicable credit facility subject to such

assignment, an Affiliate of such Lender or an Approved Fund with respect to such Lender or (2) any Term Facility to a Person that is not a Lender, an Affiliate of a Lender or an Approved Fund;

(C) the consent of each L/C Issuer (such consent not to be unreasonably withheld or delayed) shall be required for any assignment that increases the obligation of the assignee to participate in exposure under one or more Letters of Credit (whether or not then outstanding); and

(D) the consent of the Swing Line Lender (such consent not to be unreasonably withheld or delayed) shall be required for any assignment in respect of Revolving Loans and Revolving Commitments.

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee in the amount of $3,500; provided, however, that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(v) No Assignment to Certain Persons. No such assignment shall be made (A) to the Company or any of the Company's Affiliates or Subsidiaries, (B) to any Defaulting Lender or any of its Subsidiaries or to any Disqualified Institution, or to any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B), or (C) to a natural Person (or to a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of a natural Person).

(vi) No Assignment Resulting in Additional Indemnified Taxes, etc. Without the written consent of the Company, no such assignment shall be made to any Person that, on the effective date of such assignment, through its Lending Offices, (A) is not capable of lending to the Borrowers without the imposition of any additional Taxes or Mandatory Costs that would require indemnification payments by any of the Borrowers under this Agreement or (B) is not capable of lending in the Alternative Currencies or at the applicable interest rates.

(vii) Certain Additional Payments. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Company and the Administrative Agent, the applicable *pro rata* share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent, any L/C Issuer or any Lender hereunder (and interest accrued thereon) and (y) acquire (and fund as appropriate) its full *pro rata* share of all Loans and participations in Letters of Credit and Swing Line Loans in accordance with its Applicable Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall

become effective under applicable Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to clause (c) of this Section 10.06, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 3.01, 3.04, 3.05, and 10.04 with respect to facts and circumstances occurring prior to the effective date of such assignment; provided, that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender. Upon request, each Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with clause (d) of this Section 10.06.

(c) Register. The Administrative Agent, acting solely for this purpose as an agent of the Borrowers (and such agency being solely for tax purposes), shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it (or the equivalent thereof in electronic form) and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) of the Loans and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and the Borrowers, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Borrowers and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, any Borrower, the Administrative Agent or any L/C Issuer, sell participations to any Person (other than a natural Person, or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of a natural Person, a Defaulting Lender or the Company or any of the Company's Affiliates or Subsidiaries) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender's participations in L/C Obligations and/or Swing Line Loans) owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrowers, the Administrative Agent, the Lenders and the L/C Issuers shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 10.04(c) without regard to the existence of any participation.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such

agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in Sections 10.01(a)(i) through Section 10.01(a)(ix) that directly affects such Participant. Subject to clause (e) of this Section 10.06, each Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to clause (b) of this Section 10.06 (it being understood that the documentation required under Section 3.01(e) shall be delivered to the Lender who sells the participation); provided that such Participant (A) agrees to be subject to the provisions of Sections 3.06 and 10.13 as if it were an assignee under clause (b) of this Section 10.06 and (B) shall not be entitled to receive any greater payment under Sections 3.01 or 3.04, with respect to any participation, than the Lender from whom it acquired the applicable participation would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Company's request and expense, to use reasonable efforts to cooperate with the Company to effectuate the provisions of Section 3.06 with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.08 as though it were a Lender; provided that such Participant agrees to be subject to Section 2.14 as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Company, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) Limitation on Participant Rights. A Participant shall not be entitled to receive any greater payment under Section 3.01 or 3.04 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Company's request and expense, to use reasonable efforts to cooperate with the Company to effectuate the provisions of Section 3.06(b) with respect to any Participant. A Participant that would be a Non-U.S. Lender if it were a Lender shall not be entitled to the benefits of Section 3.01 unless the Company is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrowers, to comply with Section 3.01(e) as though it were a Lender.

(f) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(g) Resignation as L/C Issuer or Swing Line Lender after Assignment. Notwithstanding anything to the contrary contained herein, if at any time any Lender acting as an L/C Issuer or Swing Line Lender assigns all of its Revolving Commitment and Revolving Loans pursuant to clause (b) above, such L/C Issuer or Swing Line Lender may, (i) upon thirty (30) days' prior written notice to the Administrative Agent, the Company and the Lenders, resign as an L/C Issuer and/or (ii) upon thirty (30) days' prior written notice to the Company, resign as Swing Line Lender. In the event of any such resignation as L/C Issuer or Swing Line Lender, the Company shall be entitled to appoint from among the Lenders a successor L/C Issuer or Swing Line Lender hereunder; provided, however, that no failure by the Company to appoint any such successor shall affect the resignation of such lender as L/C Issuer or Swing Line Lender, as the case may be. If any Lender resigns as L/C Issuer, it shall retain all the rights, powers, privileges and duties of an L/C Issuer hereunder with respect to all Letters of Credit issued by it and outstanding as of the effective date of its resignation as L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c)). If any Lender resigns as Swing Line Lender, it shall retain all the rights of the Swing Line Lender provided for hereunder with respect to Swing Line Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Loans or fund risk participations in outstanding Swing Line Loans pursuant to Section 2.05(c). Upon the appointment of a successor L/C Issuer and/or Swing Line Lender (with the consent of such Lender), (1) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer or Swing Line Lender, as the case may be, and (2) the successor L/C Issuer shall issue letters of credit in substitution for the applicable Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to such resigning L/C Issuer to effectively assume the obligations of such resigning L/C Issuer with respect to such Letters of Credit.

(h) Disqualified Institutions.

(i) Notwithstanding anything to the contrary set forth in this Section 10.06, no assignment or, to the extent the DQ List has been posted on the Platform for all Lenders, participation shall be made to any Person that was a Disqualified Institution as of the date (the "Trade Date") on which the applicable Lender entered into a binding agreement to sell and assign or participate all or a portion of its rights and obligations under this Agreement to such Person (unless the Company has consented to such assignment as otherwise contemplated by this Section 10.06, in which case such Person will not be considered a Disqualified Institution for the purpose of such assignment or participation). For the avoidance of doubt, with respect to any assignee or participant that becomes a Disqualified Institution after the applicable Trade Date (including as a result of the delivery of a notice pursuant to, and/or the expiration of the notice period referred to in, the definition of "Disqualified Institution"), such assignee shall not retroactively be considered a Disqualified Institution. Any assignment in violation of this clause (h)(i) shall not be void, but the other provisions of this clause (h) shall apply.

(ii) If any assignment or participation is made to any Disqualified Institution without the Company's prior consent in violation of clause (i) above, the Company may, at its sole expense and effort, upon notice to the applicable Disqualified Institution and the Administrative Agent, (A) terminate any Revolving Commitment of such Disqualified Institution and repay (or cause the other Borrowers to repay) all obligations of the Borrowers owing to such Disqualified Institution in connection with such Revolving Commitment, (B) in the case of outstanding Term Loans held by Disqualified Institutions, prepay such Term Loan by paying the lesser of (x) the principal amount thereof and (y) the

amount that such Disqualified Institution paid to acquire such Term Loans, in each case plus accrued interest, accrued fees and all other amounts (other than principal amounts) payable to it hereunder and under the other Loan Documents and/or (C) require such Disqualified Institution to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in this Section 10.06), all of its interest, rights and obligations under this Agreement and related Loan Documents to an Eligible Assignee that shall assume such obligations at the lesser of (x) the principal amount thereof and (y) the amount that such Disqualified Institution paid to acquire such interests, rights and obligations, in each case plus accrued interest, accrued fees and all other amounts (other than principal amounts) payable to it hereunder and other the other Loan Documents; provided that (i) the Company or the assigning Disqualified Institution shall have paid to the Administrative Agent the assignment fee (if any) specified in Section 10.06(b), (ii) such assignment does not conflict with applicable Laws and (iii) in the case of clause (B), the Borrowers shall not use the proceeds from any Loans to prepay Term Loans held by Disqualified Institutions.

(iii) Notwithstanding anything to the contrary contained in this Agreement, Disqualified Institutions (A) will not (x) have the right to receive information, reports or other materials provided to Lenders by the Company, the Administrative Agent or any other Lender, (y) attend or participate in meetings attended by the Lenders and the Administrative Agent, or (z) access any electronic site established for the Lenders or confidential communications from counsel to or financial advisors of the Administrative Agent or the Lenders and (B) (x) for purposes of any consent to any amendment, waiver or modification of, or any action under, and for the purpose of any direction to the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) under this Agreement or any other Loan Document, each Disqualified Institution will be deemed to have consented in the same proportion as the Lenders that are not Disqualified Institutions consented to such matter, and (y) for purposes of voting on any plan of reorganization or plan of liquidation pursuant to any Debtor Relief Laws ("Plan of Reorganization"), each Disqualified Institution party hereto hereby agrees (1) not to vote on such Plan of Reorganization, (2) if such Disqualified Institution does vote on such Plan of Reorganization notwithstanding the restriction in the foregoing clause (1), such vote will be deemed not to be in good faith and shall be "designated" pursuant to Section 1126(e) of the Bankruptcy Code (or any similar provision in any other Debtor Relief Laws), and such vote shall not be counted in determining whether the applicable class has accepted or rejected such Plan of Reorganization in accordance with Section 1126(c) of the Bankruptcy Code (or any similar provision in any other Debtor Relief Laws) and (3) not to contest any request by any party for a determination by any applicable court of competent jurisdiction effectuating the foregoing clause (2).

(iv) The Administrative Agent shall have the right, and the Company hereby expressly authorizes the Administrative Agent, to (A) post the list of Disqualified Institutions provided by the Company and any updates thereto from time to time (collectively, the "DQ List") on the Platform, including that portion of the Platform that is designated for "public side" Lenders or (B) provide the DQ List to each Lender requesting the same.

(i) Preservation of Lien. In the event of a transfer, assignment, novation or amendment of the rights and/or the obligations under this Agreement and any other Loan Documents all Liens created under or in connection with the Security Agreements shall automatically and without any formality be preserved for the benefit of the Administrative Agent,

any successor Administrative Agent and the other Secured Parties for the purpose of the provisions of articles 1278 to 1281 of the Luxembourg Civil Code or any other purposes (and, to the extent applicable, any similar provisions of foreign law). The Administrative Agent, the other Secured Parties and each of the Company and the Subsidiaries hereby expressly confirm the preservation of the Collateral and of the Security Agreement in case of assignment, novation, amendment or any other transfer or change of the obligations expressed to be secured by the Collateral (including an extension of the term or an increase of the amount of such obligations the granting of additional credit) or of any change of any of the parties (including pursuant to this section) to this Agreement or any other Loan Document.

10.07 Treatment of Certain Information; Confidentiality. Each of the Administrative Agent, the Lenders and the L/C Issuers agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates, its auditors and its and its Affiliates' respective Related Parties (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent required or requested by any regulatory authority purporting to have jurisdiction over such Person or its Related Parties (including any self-regulatory authority, such as the National Association of Insurance Commissioners), in which case the Administrative Agent, such Lender or such L/C Issuer shall (i) except with respect to any audit or examination conducted by accountants or any governmental, regulatory, or self-regulatory authority exercising examination or regulatory authority, to the extent practicable and permitted by Law, notify the Company promptly in advance thereof and (ii) use commercially reasonable efforts to ensure that any such Information disclosed is accorded confidential treatment, (c) to the extent required by applicable Laws, by any compulsory legal process or pursuant to the order of any court or administrative agency in any pending legal, judicial or administrative proceeding, in which case the Administrative Agent, such Lender or such L/C Issuer shall (i) notify the Company of the proposed disclosure in advance to the extent not prohibited by Law, compulsory legal process or the applicable administrative agency, provided if the Administrative Agent, such Lender or such L/C Issuer is prohibited from notifying the Company in advance of such disclosure, such notice shall be delivered promptly thereafter to the extent practicable and permitted by Law and (ii) use commercially reasonable efforts to ensure that any such Information disclosed is accorded confidential treatment, (d) to any other party hereto, provided that no material non-public information with respect to the Company or its Affiliates, or the respective securities of any of the foregoing, may be disclosed to any Public Lender, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section (it being understood and agreed that any "click through" confidentiality agreement used on SyndTrak is acceptable to the parties hereto for purposes of satisfying the requirements of the exception contemplated in this clause (f)), to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights and obligations under this Agreement or any Eligible Assignee invited to be a Lender pursuant to Section 2.16 or (ii) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to any of the Borrowers and their obligations, this Agreement or payments hereunder, (g) on a confidential basis to (i) any rating agency in connection with rating the Company or its Subsidiaries or the credit facilities provided hereunder or (ii) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers or other market identifiers with respect to the credit facilities provided hereunder, (h) with the prior written consent of the Company, or (i) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Administrative Agent, any Lender, any L/C Issuer or any of their respective Affiliates on a nonconfidential basis from a source other than the Company; provided that in no event shall any disclosure of Information be made to any Disqualified Institution. In addition, the Administrative Agent and the Lenders may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry and service

providers to the Administrative Agent and the Lenders in connection with the administration of this Agreement, the other Loan Documents, and the Commitments.

For purposes of this Section, "Information" means all information received from the Company or any Subsidiary relating to the Company or any Subsidiary or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or any L/C Issuer on a nonconfidential basis prior to disclosure by the Company or any Subsidiary. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Each of the Administrative Agent, the Lenders and the L/C Issuers acknowledges that (a) the Information may include material non-public information concerning the Company or a Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with applicable Law, including United States federal and state securities Laws.

10.08 Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender, each L/C Issuer and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender, such L/C Issuer or any such Affiliate to or for the credit or the account of the Company or any other Loan Party against any and all of the obligations of the Company or such Loan Party now or hereafter existing under this Agreement or any other Loan Document to such Lender or such L/C Issuer or their respective Affiliates, irrespective of whether or not such Lender, L/C Issuer or Affiliate shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Company or such Loan Party may be contingent or unmatured or are owed to a branch, office or Affiliate of such Lender or such L/C Issuer different from the branch, office or Affiliate holding such deposit or obligated on such indebtedness; provided, that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.18 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the L/C Issuers and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender, each L/C Issuer and their respective Affiliates under this Section 10.08 are in addition to other rights and remedies (including other rights of setoff) that such Lender, such L/C Issuer or their respective Affiliates may have. Each Lender and each L/C Issuer agrees to notify the Company and the Administrative Agent promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.

10.09 Interest Rate Limitation. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (including, without limitation, the Criminal Code (Canada)) (the "Maximum Rate"). If the Administrative Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Company. In determining whether the interest contracted for, charged, or received by the Administrative Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the

effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

10.10 Integration; Effectiveness. This Agreement, the other Loan Documents, and any separate letter agreements with respect to fees payable to the Administrative Agent or any L/C Issuer, constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto.

10.11 Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder (other than contingent indemnification obligations for which no claim or demand has been made) shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding.

10.12 Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section 10.12, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent, the applicable L/C Issuer or the Swing Line Lender, as applicable, then such provisions shall be deemed to be in effect only to the extent not so limited.

10.13 Replacement of Lenders. If the Company is entitled to replace a Lender pursuant to the provisions of Section 3.06, or if any Lender is a Defaulting Lender or a Non-Consenting Lender, then the Company may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 10.06), all of its interests, rights (other than its existing rights to payments pursuant to Sections 3.01 and 3.04) and obligations under this Agreement and the related Loan Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that:

(a) the Company shall have paid (or caused a Borrower to pay) to the Administrative Agent the assignment fee (if any) specified in Section 10.06(b);

(b) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and L/C Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 3.05) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Company or applicable Borrower (in the case of all other amounts);

(c) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter;

(d) such assignment does not conflict with applicable Laws; and

(e) in the case of an assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable assignee shall have consented to the applicable amendment, waiver or consent.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Company to require such assignment and delegation cease to apply.

Each party hereto agrees that (a) an assignment required pursuant to this Section 10.13 may be effected pursuant to an Assignment and Assumption executed by the Company, the Administrative Agent and the assignee and (b) the Lender required to make such assignment need not be a party thereto in order for such assignment to be effective and shall be deemed to have consented to and be bound by the terms thereof; provided that, following the effectiveness of any such assignment, the other parties to such assignment agree to execute and deliver such documents necessary to evidence such assignment as reasonably requested by the applicable Lender; provided, further that any such documents shall be without recourse to or warranty by the parties thereto.

Notwithstanding anything in this Section 10.13 to the contrary, (i) any Lender that acts as an L/C Issuer may not be replaced hereunder at any time it has any Letter of Credit outstanding hereunder unless arrangements satisfactory to such Lender (including the furnishing of a backstop standby letter of credit in form and substance, and issued by an issuer, reasonably satisfactory to such L/C Issuer or the depositing of Cash Collateral into a Cash Collateral account in amounts and pursuant to arrangements reasonably satisfactory to such L/C Issuer) have been made with respect to such outstanding Letter of Credit and (ii) the Lender that acts as the Administrative Agent may not be replaced hereunder except in accordance with the terms of Section 9.06.

10.14 Governing Law; Jurisdiction; Etc.

(a) GOVERNING LAW. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (EXCEPT, AS TO ANY OTHER LOAN DOCUMENT, AS EXPRESSLY SET FORTH THEREIN) AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT (EXCEPT, AS TO ANY OTHER LOAN DOCUMENT, AS EXPRESSLY SET FORTH THEREIN) AND THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) ATTORNEY. EACH PARTY ACKNOWLEDGES AND ACCEPTS THAT, IF A PARTY IS REPRESENTED BY AN ATTORNEY IN CONNECTION WITH THE SIGNING AND/OR EXECUTION OF THIS AGREEMENT OR ANY OTHER AGREEMENT, DEED OR DOCUMENT REFERRED TO IN THIS AGREEMENT OR MADE PURSUANT TO THIS AGREEMENT, AND THE POWER OF ATTORNEY IS GOVERNED BY DUTCH LAW, THAT THE EXISTENCE AND EXTENT OF THE ATTORNEY'S AUTHORITY AND THE EFFECTS

OF THE ATTORNEY'S EXERCISE OR PURPORTED EXERCISE OF ITS AUTHORITY SHALL BE GOVERNED BY DUTCH LAW.

(c) SUBMISSION TO JURISDICTION. THE COMPANY AND EACH OTHER LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY AGREES THAT IT WILL NOT COMMENCE ANY ACTION, LITIGATION OR PROCEEDING OF ANY KIND OR DESCRIPTION, WHETHER IN LAW OR EQUITY, WHETHER IN CONTRACT OR IN TORT OR OTHERWISE, AGAINST THE ADMINISTRATIVE AGENT, ANY LENDER, ANY L/C ISSUER, OR ANY RELATED PARTY OF THE FOREGOING IN ANY WAY RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS RELATING HERETO OR THERETO, IN ANY FORUM OTHER THAN THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE JURISDICTION OF SUCH COURTS AND AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION, LITIGATION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION, LITIGATION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT THE ADMINISTRATIVE AGENT, ANY LENDER OR ANY L/C ISSUER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST THE COMPANY OR ANY OTHER LOAN PARTY OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(d) WAIVER OF VENUE. THE COMPANY AND EACH OTHER LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (b) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(e) SERVICE OF PROCESS. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 10.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

10.15 Service of Process on the Borrowers. Each Borrower hereby irrevocably designates, appoints and empowers the Company, and successors as the designee, appointee and agent of such Borrower to receive, accept and acknowledge, for and on behalf of such Borrower and its properties, service of any and all legal process, summons, notices and documents which may be served in such action, suit or proceeding relating to this Agreement or the Loan Documents in the case of the courts of the Southern District of New York or of the courts of the State of New York sitting in the city of New York, which

service may be made on any such designee, appointee and agent in accordance with legal procedures prescribed for such courts. Each Borrower agrees to take any and all action necessary to continue such designation in full force and effect and should such designee, appointee and agent become unavailable for this purpose for any reason, such Borrower will forthwith irrevocably designate a new designee, appointee and agent, which shall irrevocably agree to act as such, with the powers and for purposes specified in this Section 10.15. Each Borrower further irrevocably consents and agrees to service of any and all legal process, summons, notices and documents out of any of the aforesaid courts in any such action, suit or proceeding relating to this Agreement or the other Loan Documents delivered to such Borrower in accordance with this Section 10.15 or to its then designee, appointee or agent for service. If service is made upon such designee, appointee and agent, a copy of such process, summons, notice or document shall also be provided to the applicable Borrower at the address specified in Section 10.02 by registered or certified mail, or overnight express air courier; provided that failure of such holder to provide such copy to such Borrower shall not impair or affect in any way the validity of such service or any judgment rendered in such action or proceedings. Each Borrower agrees that service upon such Borrower or any such designee, appointee and agent as provided for herein shall constitute valid and effective personal service upon such Borrower with respect to matters contemplated in this Section 10.15 and that the failure of any such designee, appointee and agent to give any notice of such service to such Borrower shall not impair or affect in any way the validity of such service or any judgment rendered in any action or proceeding based thereon. Nothing herein shall, or shall be construed so as to, limit the right of the Administrative Agent or the Lenders to bring actions, suits or proceedings with respect to the obligations and liabilities of each Borrower under, or any other matter arising out of or in connection with, this Agreement, or for recognition or enforcement of any judgment rendered in any such action, suit or proceeding, in the courts of whatever jurisdiction in which the respective offices of the Administrative Agent or the Lenders may be located or assets of such Borrower may be found or as otherwise shall to the Administrative Agent or the Lenders seem appropriate, or to affect the right to service of process in any jurisdiction in any other manner permitted by law.

10.16 Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

10.17 No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), the Company and each other Loan Party acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (i) (A) the arranging and other services regarding this Agreement provided by the Administrative Agent**,** the Arrangers and the Lenders are arm's-length commercial transactions between the Company, each other Loan Party and their respective Affiliates, on the one hand, and the Administrative Agent, the Arrangers and the Lenders, on the other hand, (B) each of the Company and the other Loan Parties has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) the Company and each other Loan Party is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) the Administrative Agent, the

Arrangers and the Lenders each is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Company, any other Loan Party or any of their respective Affiliates, or any other Person and (B) neither the Administrative Agent, any of the Arrangers nor any Lender has any obligation to the Company, any other Loan Party or any of their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Administrative Agent, the Arrangers, the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Company, the other Loan Parties and their respective Affiliates, and neither the Administrative Agent, any of the Arrangers nor any Lender has any obligation to disclose any of such interests to the Company, any other Loan Party or any of their respective Affiliates. To the fullest extent permitted by law, each of the Company and each other Loan Party hereby waives and releases any claims that it may have against the Administrative Agent, the Arrangers or any Lender with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

10.18 Electronic Execution; Electronic Records; Counterparts. This Agreement, any Loan Document and any other Communication, including Communications required to be in writing, may be in the form of an Electronic Record and may be executed using Electronic Signatures. Each of the Loan Parties and each of the Administrative Agent and each Credit Party agrees that any Electronic Signature on or associated with any Communication shall be valid and binding on such Person to the same extent as a manual, original signature, and that any Communication entered into by Electronic Signature, will constitute the legal, valid and binding obligation of such Person enforceable against such Person in accordance with the terms thereof to the same extent as if a manually executed original signature was delivered. Any Communication may be executed in as many counterparts as necessary or convenient, including both paper and electronic counterparts, but all such counterparts are one and the same Communication. For the avoidance of doubt, the authorization under this paragraph may include, without limitation, use or acceptance of a manually signed paper Communication which has been converted into electronic form (such as scanned into .pdf format), or an electronically signed Communication converted into another format, for transmission, delivery and/or retention. The Administrative Agent and each of the Credit Parties may, at its option, create one or more copies of any Communication in the form of an imaged Electronic Record ("Electronic Copy"), which shall be deemed created in the ordinary course of such Person's business, and destroy the original paper document. All Communications in the form of an Electronic Record, including an Electronic Copy, shall be considered an original for all purposes, and shall have the same legal effect, validity and enforceability as a paper record. Notwithstanding anything contained herein to the contrary, neither the Administrative Agent, any L/C Issuer nor Swing Line Lender is under any obligation to accept an Electronic Signature in any form or in any format unless expressly agreed to by such Person pursuant to procedures approved by it; provided, further, without limiting the foregoing, (a) to the extent the Administrative Agent, any L/C Issuer and/or Swing Line Lender has agreed to accept such Electronic Signature, the Administrative Agent and each of the Credit Parties shall be entitled to rely on any such Electronic Signature purportedly given by or on behalf of any Loan Party and/or any Credit Party without further verification and (b) upon the request of the Administrative Agent or any Credit Party, any Electronic Signature shall be promptly followed by such manually executed counterpart.

Neither the Administrative Agent, any L/C Issuer nor the Swing Line Lender shall be responsible for or have any duty to ascertain or inquire into the sufficiency, validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document (including, for the avoidance of doubt, in connection with the Administrative Agent's, any L/C Issuer's or Swing Line Lender's reliance on any Electronic Signature transmitted by telecopy, emailed .pdf or any other electronic means). The Administrative Agent, each L/C Issuer and Swing Line Lender shall be entitled to rely on, and shall incur no liability under or in respect of this Agreement or any other Loan Document by acting upon, any Communication (which writing may be a fax, any electronic message, Internet or intranet website

posting or other distribution or signed using an Electronic Signature) or any statement made to it orally or by telephone and believed by it to be genuine and signed or sent or otherwise authenticated (whether or not such Person in fact meets the requirements set forth in the Loan Documents for being the maker thereof).

Each of the Loan Parties and each Credit Party hereby waives (i) any argument, defense or right to contest the legal effect, validity or enforceability of this Agreement and any other Loan Document based solely on the lack of paper original copies of this Agreement and/or such other Loan Document, and (ii) waives any claim against the Administrative Agent, each Credit Party and each Related Party for any liabilities arising solely from the Administrative Agent's and/or any Credit Party's reliance on or use of Electronic Signatures, including any liabilities arising as a result of the failure of the Loan Parties to use any available security measures in connection with the execution, delivery or transmission of any Electronic Signature.

10.19 USA PATRIOT Act and Canadian AML Acts. Each Lender that is subject to the PATRIOT Act (as hereinafter defined) or any Canadian AML Act and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the other Loan Parties that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "PATRIOT Act") and the Canadian AML Acts, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party, information concerning its direct and indirect holders of Equity Interests and other Persons exercising Control over it, and other information that will allow such Lender or the Administrative Agent, as applicable, to identify such Loan Party in accordance with the PATRIOT Act and the Canadian AML Acts. Each Loan Party shall, promptly following a request by the Administrative Agent or any Lender, provide all documentation and other information that the Administrative Agent or such Lender requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the PATRIOT Act and the Canadian AML Acts.

10.20 Judgment Currency. If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Loan Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of each Loan Party in respect of any such sum due from it to the Administrative Agent or any Lender hereunder or under the other Loan Documents shall, notwithstanding any judgment in a currency (the "Judgment Currency") other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the "Agreement Currency"), be discharged only to the extent that on the Business Day following receipt by the Administrative Agent or such Lender, as the case may be, of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent or such Lender, as the case may be, may in accordance with normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to the Administrative Agent or any Lender from any Loan Party in the Agreement Currency, such Loan Party agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or such Lender, as the case may be, against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent or any Lender in such currency, the Administrative Agent or such Lender, as the case may be, agrees to return the amount of any excess to such Loan Party (or to any other Person who may be entitled thereto under applicable law).

10.21 Acknowledgement and Consent to Bail-In of Affected Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender or L/C Issuer that is an Affected Financial Institution arising under any Loan Document, to the extent such

liability is unsecured, may be subject to the write-down and conversion powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Lender or L/C Issuer that is an Affected Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of the applicable Resolution Authority.

10.22 Appointment of Company as Agent. Each Loan Party hereby appoints the Company to act as its agent for all purposes of this Agreement, the other Loan Documents and all other documents and electronic platforms entered into in connection herewith and agrees that (a) the Company may execute such documents and provide such authorizations on behalf of such Loan Party as the Company deems appropriate in its sole discretion and each Loan Party shall be obligated by all of the terms of any such document and/or authorization executed on its behalf, (b) any notice or communication delivered by the Administrative Agent, an L/C Issuer or a Lender to the Company shall be deemed delivered to each Loan Party and (c) the Administrative Agent, the L/C Issuers or the Lenders may accept, and be permitted to rely on, any document, authorization, instrument or agreement executed by the Company on behalf of each of the Loan Party.

10.23 Acknowledgement Regarding Any Supported QFCs. To the extent that the Loan Documents provide support, through a guarantee or otherwise, for any Swap Contract or any other agreement or instrument that is a QFC (such support, "QFC Credit Support", and each such QFC, a "Supported QFC"), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "U.S. Special Resolution Regime") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

(a) In the event a Covered Entity that is party to a Supported QFC (each, a "Covered Party") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under

a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

(b) As used in this Section 10.23, the following terms have the following meanings:

"BHC Act Affiliate" of a party means an "affiliate" (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

"Covered Entity" means any of the following: (i) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a "covered bank" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) a "covered FSI" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

"Default Right" has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

"QFC" has the meaning assigned to the term "qualified financial contract" in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

10.24 Parallel Debt.

(a) Each Loan Party, by way of an independent payment obligation (such payment obligation of such Loan Party to the Administrative Agent, its "Parallel Debt"), hereby irrevocably and unconditionally undertakes to pay to the Administrative Agent, as creditor in its own right and not as agent or representative of any other Secured Party or any other Person, an amount equal to and in the currency of each amount payable by such Loan Party to the Secured Parties under this Agreement and each of the other Loan Documents (such Loan Party's "Corresponding Debt") as and when each such amount becomes due and payable under such Loan Document (or would have fallen due but for any discharge resulting from the failure of any Secured Party to take appropriate steps in any proceeding under any Debtor Relief Law affecting such Loan Party to preserve its right or entitlement to be paid such amount).

(b) Any Lien granted by any Loan Party to the Administrative Agent under any Collateral Document or any other Loan Document to secure its Parallel Debt is granted to the Administrative Agent in its capacity as creditor of the Parallel Debt of such Loan Party and shall not be held in trust for any other Secured Party or any other Person.

(c) The Administrative Agent acts in its own name and on its own behalf and not as agent, representative or trustee of any of the other Secured Parties with respect to the amounts payable by each Loan Party under this Section. Accordingly, the Administrative Agent shall have its own independent right to demand payment of all amounts payable by each Loan Party under

this Section and to seek enforcement of any Collateral securing such amounts, irrespective of any discharge of such Loan Party's obligation to pay the Corresponding Debt to the other Secured Parties resulting from any failure of such Secured Parties to take appropriate steps in any proceeding under any Debtor Relief Law affecting such Loan Party to preserve their right or entitlement to be paid such amounts.

(d) Notwithstanding anything to the contrary in this Agreement:

(i) the amount of Parallel Debt of each Loan Party shall be decreased to the extent that the Corresponding Debt of such Loan Party has been irrevocably paid or discharged and (ii) the amount of Corresponding Debt of each Loan Party shall be decreased to the extent that the Parallel Debt of such Loan Party has been irrevocably paid or discharged.

(ii) All amounts received or recovered by the Administrative Agent pursuant to this Section, and all amounts received or recovered by the Administrative Agent from or by the enforcement of any security granted to secure the Parallel Debt, shall be applied in accordance with Section 8.03.

(iii) Without limiting or affecting the Administrative Agent's rights or obligations with respect to the Loan Parties (whether under this Section or under any other provision of this Agreement or any other Loan Document), each Loan Party acknowledges that (i) nothing in this Section shall impose any obligation on the Administrative Agent to advance any sum to any Loan Party or otherwise under this Agreement or any other Loan Document, except in its capacity as a Lender, an L/C Issuer and/or the Swing Line Lender, as applicable and (ii) for the purpose of any vote taken under this Agreement or any other Loan Document, the Administrative Agent shall not be regarded as having any participation or commitment other than those which it has in its capacity as a Lender, an L/C Issuer and/or the Swing Line Lender, as applicable.

(iv) For the avoidance of doubt, this Section shall not operate and may not be construed as operating to disapply, suspend or circumvent any guarantee and/or indemnity limitations in relation to any claim of a Secured Party set out in this Agreement or any other Loan Document.

(e) For purposes of the Dutch Security Agreements any resignation by the Administrative Agent is not effective with respect to its rights under the Parallel Debts until all rights and obligations under the Parallel Debts have been assigned and assumed to the successor agent.

(f) The Administrative Agent will reasonably cooperate in assigning its rights and obligations under the Parallel Debt to a successor administrative agent in accordance with Section 9.06 of this Agreement. Each Loan Party and any other party to this Agreement hereby, in advance, irrevocably grant its cooperation (*medewerking*) to the transfer of such rights and obligations by the Administrative Agent to a successor administrative agent in accordance with Section 9.06 of this Agreement

ARTICLE XI.

GUARANTY

11.01 Guaranty.

(a) Each Guarantor hereby jointly and severally guarantees to each Secured Party and each other holder of Obligations as hereinafter provided, as primary obligor and not as surety, the prompt payment of the Obligations in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration, as a mandatory cash collateralization or otherwise) strictly in accordance with the terms thereof. Each Guarantor hereby further agrees that if any of the Obligations are not paid in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration, as a mandatory cash collateralization or otherwise), such Guarantors will, jointly and severally, promptly pay the same, without any demand or notice whatsoever, and that in the case of any extension of time of payment or renewal of any of the Obligations, the same will be promptly paid in full when due (whether at extended maturity, as a mandatory prepayment, by acceleration, as a mandatory cash collateralization or otherwise) in accordance with the terms of such extension or renewal.

(b) Notwithstanding any provision to the contrary contained herein or in any other of the Loan Documents or the other documents relating to the Obligations, the obligations of each Guarantor (in its capacity as such) under this Agreement and the other Loan Documents shall not exceed an aggregate amount equal to the largest amount that would not render such obligations subject to avoidance under applicable Debtor Relief Laws.

11.02 Obligations Unconditional.

(a) The obligations of the Guarantors under Section 11.01(a) are joint and several, absolute and unconditional, irrespective of the value, genuineness, validity, regularity or enforceability of any of the Loan Documents or other documents relating to the Obligations, or any substitution, release, impairment or exchange of any other guarantee of or security for any of the Obligations, and, to the fullest extent permitted by applicable Law, irrespective of any other circumstance whatsoever which might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor (other than payment in full of the Obligations (other than contingent indemnification obligations for which no claim or demand has been made)), it being the intent of this Section 11.02 that the obligations of the Guarantors hereunder shall be absolute and unconditional under any and all circumstances. Each Guarantor agrees that such Guarantor's right of subrogation, indemnity, reimbursement or contribution against any Borrower or any other Loan Party for amounts paid under this Article XI shall be unconditionally postponed until such time as the Obligations have been paid in full (other than contingent indemnification obligations for which no claim or demand has been made) and the Commitments have expired or terminated.

(b) Without limiting the generality of the foregoing subsection (a), it is agreed that, to the fullest extent permitted by Law, the occurrence of any one or more of the following shall not alter or impair the liability of any Guarantor hereunder, which shall remain absolute and unconditional as described above:

(i) at any time or from time to time, without notice to any Guarantor, the time for any performance of or compliance with any of the Obligations shall be extended, or such performance or compliance shall be waived;

(ii) any of the acts mentioned in any of the provisions of any of the Loan Documents or other documents relating to the Obligations or any other agreement or instrument referred to therein shall be done or omitted;

(iii) the maturity of any of the Obligations shall be accelerated, or any of the Obligations shall be modified, supplemented or amended in any respect, or any right under any of the Loan Documents or other documents relating to the Obligations or any other agreement or instrument referred to therein shall be waived or any other guarantee of any of the Obligations or any security therefor shall be released, impaired or exchanged in whole or in part or otherwise dealt with;

(iv) any Lien granted to, or in favor of, the Administrative Agent or any other holder of the Obligations as security for any of the Obligations shall fail to attach or be perfected; or

(v) any of the Obligations shall be determined to be void or voidable (including for the benefit of any creditor of any Guarantor) or shall be subordinated to the claims of any Person (including any creditor of any Guarantor).

(c) With respect to its obligations hereunder, each Guarantor hereby expressly waives diligence, presentment, demand of payment, protest and all notices whatsoever, and any requirement that the Administrative Agent or any other holder of the Obligations exhaust any right, power or remedy or proceed against any Person under any of the Loan Documents or any other document relating to the Obligations or any other agreement or instrument referred to therein, or against any other Person under any other guarantee of, or security for, any of the Obligations.

11.03 Reinstatement. Neither the Guarantors' obligations hereunder nor any remedy for the enforcement thereof shall be impaired, modified or released in any manner whatsoever by an impairment, modification, change, release or limitation of the liability of the Borrowers, by reason of any Borrower's bankruptcy or insolvency or by reason of the invalidity or unenforceability of all or any portion of the Obligations. In addition, the obligations of each Guarantor under this Article XI shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of any Person in respect of the Obligations is rescinded or must be otherwise restored by any holder of any of the Obligations, whether as a result of any Debtor Relief Law or otherwise, and each such Guarantor agrees that it will indemnify the Administrative Agent and each other holder of the Obligations on demand for all reasonable costs and expenses (including the fees, charges and disbursements of counsel) incurred by the Administrative Agent or such holder of the Obligations in connection with such rescission or restoration, including any such costs and expenses incurred in defending against any claim alleging that such payment constituted a preference, fraudulent transfer or similar payment under any Debtor Relief Law.

11.04 Certain Additional Waivers. Each Guarantor acknowledges and agrees that (a) the guaranty given hereby may be enforced without the necessity of resorting to or otherwise exhausting remedies in respect of any other security or collateral interests, and without the necessity at any time of having to take recourse against the Borrowers hereunder or against any collateral securing the Obligations or otherwise, and (b) it will not assert any right to require the action first be taken against the Borrowers or any other Person (including any co-guarantor) or pursuit of any other remedy or enforcement any other right, and (c) nothing contained herein shall prevent or limit action being taken against the Borrowers hereunder, under the other Loan Documents or the other documents and agreements relating to the Obligations or from foreclosing on any security or collateral interests relating hereto or thereto, or from exercising any other rights or remedies available in respect thereof, if neither the Borrowers nor the Guarantors shall timely perform their obligations, and the exercise of any such rights and completion of any such foreclosure proceedings shall not constitute a discharge of the Guarantors' obligations hereunder unless as a result thereof, the Obligations shall have been paid in full (other than contingent indemnification obligations for which no claim or demand has been made) and the commitments relating thereto shall have expired or terminated, it being the purpose and intent that the Guarantors' obligations hereunder be absolute,

irrevocable, independent and unconditional under all circumstances. Each Guarantor further agrees that such Guarantor shall have no right of recourse to security for the Obligations, except through the exercise of rights of subrogation pursuant to Section 11.02 and through the exercise of rights of contribution pursuant to Section 11.06.

11.05 Remedies. The Guarantors agree that, to the fullest extent permitted by Law, as between such Guarantors, on the one hand, and the Administrative Agent and the other holders of the Obligations, on the other hand, the Obligations may be declared to be forthwith due and payable as specified in Section 8.02 (and shall be deemed to have become automatically due and payable in the circumstances specified in Section 8.02) for purposes of Section 11.01(a) notwithstanding any stay, injunction or other prohibition preventing such declaration (or preventing the Obligations from becoming automatically due and payable) as against any other Person and that, in the event of such declaration (or the Obligations being deemed to have become automatically due and payable), the Obligations (whether or not due and payable by any other Person) shall forthwith become due and payable by the Guarantors for purposes of Section 11.01(a). The Guarantors acknowledge and agree that their obligations hereunder are secured in accordance with the terms of the Collateral Documents to which they are parties and that the holders of the Obligations may exercise their remedies thereunder in accordance with the terms thereof.

11.06 Rights of Contribution. The Guarantors hereby agree as among themselves that, in connection with payments made hereunder, each Guarantor shall have a right of contribution from each other Guarantor in accordance with applicable Law. Such contribution rights shall be subordinate and subject in right of payment to the Obligations until such time as the Obligations have been irrevocably paid in full (other than contingent indemnification obligations for which no claim or demand has been made) and the commitments relating thereto shall have expired or been terminated, and none of the Guarantors shall exercise any such contribution rights until the Obligations have been irrevocably paid in full (other than contingent indemnification obligations for which no claim or demand has been made) and the commitments relating thereto shall have expired or been terminated.

11.07 Guarantee of Payment; Continuing Guarantee. The guarantee given by the Guarantors in this Article XI is a guaranty of payment and not of collection, is a continuing guarantee, and shall apply to all Obligations whenever arising.

11.08 Keepwell.

(a) Each Loan Party that is a Qualified ECP Guarantor at the time the Guaranty in this Article XI by any Specified Loan Party or the grant of a security interest under the Loan Documents by any such Specified Loan Party, in either case, becomes effective with respect to any Swap Obligation, hereby jointly and severally, absolutely, unconditionally and irrevocably undertakes to provide such funds or other support to each Specified Loan Party with respect to such Swap Obligation as may be needed by such Specified Loan Party from time to time to honor all of its obligations under the Loan Documents in respect of such Swap Obligation (but, in each case, only up to the maximum amount of such liability that can be hereby incurred without rendering such Qualified ECP Guarantor's obligations and undertakings under this Article XI voidable under applicable Debtor Relief Laws, and not for any greater amount).

(b) The obligations and undertakings of each Qualified ECP Guarantor under this Section shall remain in full force and effect until the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations. Each Loan Party intends this Section to constitute, and this Section shall be deemed to constitute, a guarantee of the obligations of, and a "keepwell, support, or other agreement" for the benefit of, each Specified Loan Party for all purposes of the Commodity Exchange Act.

11.09 Luxembourg Guaranty Limitation. Notwithstanding any other provision of this Agreement or any other Loan Document, in case a Guarantor is a Luxembourg Obligor (the "Luxembourg Guarantor"), the aggregate obligations and exposure of such Luxembourg Guarantor in respect of the obligations of any Loan Party which is not a direct or indirect subsidiary of such Luxembourg Guarantor shall be limited at any time to an aggregate amount not exceeding 95% (ninety-five percent) of the greater of:

(a) an amount equal to the sum of the Luxembourg Guarantor's Net Assets (as defined below) and its subordinated debt (*dettes subordonnées*), as reflected in the financial information of the Luxembourg Guarantor available to the Administrative Agent as at the date of this Agreement, including, without limitation, its most recently and duly approved financial statements (*comptes annuels*) and any (*unaudited*) interim financial statements signed by its board of managers (*conseil de gérance*); and

(b) an amount equal to the sum of the Luxembourg Guarantor's Net Assets and its subordinated debt (*dettes subordonnées*), as reflected in the financial information of the Luxembourg Guarantor available to the Administrative Agent as at the date the guaranty is called, including, without limitation, its most recently and duly approved financial statements (*comptes annuels*) and any (unaudited) interim financial statements signed by its board of managers (*conseil de gérance*).

For purposes of this Section 11.09, "Net Assets" shall mean all the assets (*actifs*) of the Luxembourg Guarantor minus its liabilities (*provisions et dettes*) as valued either (i) at the fair market value determined by an independent third party appointed by the Administrative Agent, or (ii) if no such market value has been determined, in accordance with the Luxembourg GAAP or the International Financial Reporting Standards (IFRS), as applicable, and the relevant provisions of the Luxembourg Act of 19 December 2002 on the Register of Commerce and Companies, on accounting and on annual accounts of the companies, as amended.

The limitation set forth in this Section 11.09 shall not apply to any amounts borrowed under this Agreement and made available, in any form whatsoever, to such Luxembourg Guarantor or any of its direct or indirect subsidiaries.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

BORROWERS:

LOYALTY VENTURES INC.

By: /s/ J. Jeffrey Chesnut
Name: J. Jeffrey Chesnut
Title: Executive Vice President, Chief Financial Officer

BRAND LOYALTY GROUP B.V.

By: /s/ Cornelia Maria Pieternella Mennen-Vermeule
Name: Cornelia Maria Pieternella Mennen-Vermeule
Title: Authorised Signatory

BRAND LOYALTY HOLDING B.V.

By: /s/ Cornelia Maria Pieternella Mennen-Vermeule
Name: Cornelia Maria Pieternella Mennen-Vermeule
Title: Authorised Signatory

BRAND LOYALTY INTERNATIONAL B.V.

By: /s/ Cornelia Maria Pieternella Mennen-Vermeule
Name: Cornelia Maria Pieternella Mennen-Vermeule
Title: Authorised Signatory

GUARANTORS:

LOYALTYONE, CO.

By: /s/ Charles L. Horn
Name: Charles L. Horn
Title: Treasurer

LVI LUX HOLDINGS S.À R.L.

By: /s/ Cynthia Hageman
Name: Cynthia Hageman
Title: Class A Manager and Authorised Signatory

LVI LUX FINANCING S.À R.L.

By: /s/ Cynthia L. Hageman
Name: Cynthia L. Hageman
Title: Class A Manager and Authorised Signatory

APOLLO HOLDINGS B.V.

By: /s/ Cornelia Maria Pieternella Mennen-Vermeule
Name: Cornelia Maria Pieternella Mennen-Vermeule
Title: Authorised Signatory

BRAND LOYALTY AMERICAS B.V.

By: /s/ Cornelia Maria Pieternella Mennen-Vermeule
Name: Cornelia Maria Pieternella Mennen-Vermeule
Title: Authorized Signatory

BRAND LOYALTY EUROPE B.V.

By: /s/ Cornelia Maria Pieternella Mennen-Vermeule
Name: Cornelia Maria Pieternella Mennen-Vermeule
Title: Authorised Signatory

BRAND LOYALTY ASIA B.V.

By: /s/ Cornelia Maria Pieternella Mennen-Vermeule
Name: Cornelia Maria Pieternella Mennen-Vermeule
Title: Authorised Signatory

BRAND LOYALTY SOURCING B.V.

By: /s/ Cornelia Maria Pieternella Mennen-Vermeule
Name: Cornelia Maria Pieternella Mennen-Vermeule
Title: Authorised Signatory

BRAND LOYALTY B.V.

By: /s/ Cornelia Maria Pieternella Mennen-Vermeule
Name: Cornelia Maria Pieternella Mennen-Vermeule
Title: Authorised Signatory

WORLD LICENSES B.V.

By: /s/ Cornelia Maria Pieternella Mennen-Vermeule
Name: Cornelia Maria Pieternella Mennen-Vermeule
Title: Authorised Signatory

ICEMOBILE AGENCY B.V.

By: /s/ Cornelia Maria Pieternella Mennen-Vermeule
Name: Cornelia Maria Pieternella Mennen-Vermeule
Title: Authorised Signatory

BRAND LOYALTY DEVELOPMENT B.V.
By: /s/ Cornelia Maria Pieternella Mennen-Vermeule
Name: Cornelia Maria Pieternella Mennen-Vermeule
Title: Authorised Signatory

BRAND LOYALTY RUSSIA B.V.

By: /s/ Cornelia Maria Pieternella Mennen-Vermeule
Name: Cornelia Maria Pieternella Mennen-Vermeule
Title: Authorised Signatory

ADMINISTRATIVE AGENT:

BANK OF AMERICA, N.A., as Administrative Agent

By: /s/ Taelitha Bonds-Harris
Name: Taelitha Bonds-Harris
Title: Assistant Vice President

LENDERS:

BANK OF AMERICA, N.A., as a Lender, an L/C Issuer and Swing Line Lender

By: /s/ Molly Daniello
Name: Molly Daniello
Title: Director

CITIZENS BANK, N.A., as a Lender

By: /s/ Doug Kennedy
Name: Doug Kennedy
Title: Senior Vice President

CITY NATIONAL BANK, as a Lender

By: /s/ Brian Myers
Name: Brian Myers
Title: Senior Vice President

DEUTSCH BANK AG, AMSTERDAM BRANCH, as a Lender

By: /s/ Matijs van Middelaar
Name: Matijs van Middelaar
Title: VP

By: /s/ J.P.F. Nouws
Name: J.P.F. Nouws
Title: VP

FIFTH THIRD BANK, NATIONAL ASSOCIATION, as a Lender

By: /s/ Kelly Shield
Name: Kelly Shield
Title: Managing Director

JPMORGAN CHASE BANK, N.A., as a Lender

By: /s/ Caitlin Stewart
Name: Caitlin Stewart
Title: Executive Director

MIZUHO BANK, LTD., as a Lender

By: /s/ Donna DeMagistris
Name: Donna DeMagistris
Title: Executive Director

MORGAN STANLEY BANK N.A., as a Lender

By: /s/ Michael King
Name: Michael King
Title: Authorized Signatory

MUFG BANK, LTD., as a Lender

By: /s/ Matthew Antioco
Name: Matthew Antioco
Title: Director

REGIONS BANK, as a Lender

By: /s/ Jason Douglas
Name: Jason Douglas
Title: Director

TEXAS CAPITAL BANK, as a Lender

By: /s/ Julie Woidneck
Name: Julie Woidneck
Title: Senior Vice President

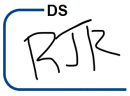
TRUIST BANK, as a Lender

By: /s/ Jim C. Wright
Name: Jim C. Wright
Title: Vice President

WELLS FARGO BANK, NATIONAL ASSOCIATION, as a Lender

By: /s/ Sid Khanolkar
Name: Sid Khanolkar
Title: Director

This is Exhibit “T” referred to in the Affidavit of Joseph L. Motes III affirmed by Joseph L. Motes III of the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on February 9, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

RJ REID

Execution Version

TAX MATTERS AGREEMENT

between

Alliance Data Systems Corporation,

on behalf of itself and the members of the ADS Group,

and

Loyalty Ventures Inc.,

on behalf of itself and the members of the Loyalty Ventures Group

Dated as of November 5, 2021

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TAX MATTERS AGREEMENT

This TAX MATTERS AGREEMENT (the "**Agreement**") is entered into as of November 5, 2021 between Alliance Data Systems Corporation ("**ADS**"), a Delaware corporation, on behalf of itself and the members of the ADS Group and Loyalty Ventures Inc. ("**Loyalty Ventures**"), a Delaware corporation, on behalf of itself and the members of the Loyalty Ventures Group.

W I T N E S S E T H:

WHEREAS, pursuant to the Tax laws of various jurisdictions, certain members of the Loyalty Ventures Group presently file certain Tax Returns on an affiliated, consolidated, combined, unitary, fiscal unity or other group basis (including as permitted by Section 1501 of the Internal Revenue Code of 1986, as amended, the "**Code**") with certain members of the ADS Group;

WHEREAS, ADS and Loyalty Ventures have entered into a Separation and Distribution Agreement, dated November 3, 2021 (the "**Separation Agreement**"), pursuant to which the Contribution, the Distribution and other related transactions will be consummated;

WHEREAS, the Restructuring, together with the Contribution, the Distribution, the Equity-for-Debt Exchange and the Boot Purge, are intended to qualify for the Intended Tax Treatment; and

WHEREAS, ADS and Loyalty Ventures desire to set forth their agreement on the rights and obligations of ADS, Loyalty Ventures and the members of the ADS Group and the Loyalty Ventures Group respectively, with respect to (a) the administration and allocation of federal, state, local and foreign Taxes incurred in Taxable periods beginning prior to the Distribution Date, (b) Taxes resulting from the Distribution and transactions effected in connection with the Distribution and (c) various other Tax matters.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the parties agree as follows:

Section 1. *Definitions*. (a) As used in this Agreement:

"**Active Trade or Business**" means the LoyaltyOne Business, the active conduct (as defined in Section 355(b)(2) of the Code, and taking into account Section 355(b)(3) of the Code and the Treasury Regulations thereunder) of which the Loyalty Ventures Group was engaged in immediately prior to the Distribution.

"**ADS**" has the meaning ascribed thereto in the preamble.

"**ADS Business**" has the meaning set forth in the Separation Agreement.

"**ADS Compensatory Equity Interests**" means any options, stock appreciation rights, restricted stock, stock units or other rights with respect to ADS stock that are

granted on or prior to the Distribution Date by any member of the ADS Group in connection with employee, independent contractor or director compensation or other employee benefits (including, for the avoidance of doubt, options, stock appreciation rights, restricted stock, restricted stock units, performance share units or other rights issued in respect of any of the foregoing by reason of the Distribution or any subsequent transaction).

"**ADS Group**" has the meaning set forth in the Separation Agreement.

"**ADS Separate Tax Return**" means any Tax Return that is required to be filed by, or with respect to, a member of the ADS Group that is not a Combined Tax Return.

"**Affiliate**" has the meaning set forth in the Separation Agreement.

"**Agreement**" has the meaning set forth in the preamble.

"**Applicable Law**" (or "**Applicable Tax Law**," as the case may be) has the meaning of "Applicable Law" set forth in the Separation Agreement.

"**Boot Purge**" has the meaning set forth in the Separation Agreement.

"**Business Day**" has the meaning set forth in the Separation Agreement.

"**Cash Proceeds**" has the meaning set forth in the Separation Agreement.

"**Closing of the Books Method**" means the apportionment of items between Taxable periods (or portions of a Taxable period) based on a closing of the books and records on the close of the Distribution Date (in the event that the Distribution Date is not the last day of the Taxable period, as if the Distribution Date were the last day of the Taxable period), subject to adjustment for items accrued on the Distribution Date that are properly allocable to the Taxable period following the Distribution, as determined by ADS in accordance with Applicable Law; *provided* that Taxes not based upon or measured by net or gross income or specific events shall be apportioned between the Pre- and Post-Distribution Periods on a *pro rata* basis in accordance with the number of days in each Taxable period.

"**Code**" has the meaning set forth in the Preamble.

"**Combined Group**" means any group consisting of at least two members that filed or was required to file (or will file or be required to file) a Tax Return on an affiliated, consolidated, combined, unitary, fiscal unity or other group basis (including as permitted by Section 1501 of the Code) that includes at least one member of the ADS Group and at least one member of the Loyalty Ventures Group.

"**Combined Tax Return**" means a Tax Return filed in respect of U.S. federal, state, local or non-U.S. income Taxes for a Combined Group, or any other affiliated, consolidated, combined, unitary, fiscal unity or other group basis (including as permitted by Section 1501 of the Code) Tax Return of a Combined Group.

"**Company**" means ADS or Loyalty Ventures (or the appropriate member of each of their respective Groups), as appropriate.

"**Contribution**" has the meaning set forth in the Separation Agreement.

"**Distribution**" has the meaning set forth in the Separation Agreement.

"**Distribution Date**" has the meaning set forth in the Separation Agreement.

"**Distribution Documents**" has the meaning set forth in the Separation Agreement.

"**Distribution Time**" has the meaning set forth in the Separation Agreement.

"**Equity-for-Debt Exchange**" has the meaning set forth in the Separation Agreement.

"**Equity Interests**" means any stock or other securities treated as equity for Tax purposes, options, warrants, rights, convertible debt, or any other instrument or security that affords any Person the right, whether conditional or otherwise, to acquire stock or to be paid an amount determined by reference to the value of stock.

"**Final Determination**" means (i) with respect to U.S. federal income Taxes, (A) a "determination" as defined in Section 1313(a) of the Code (including, for the avoidance of doubt, an executed IRS Form 906) or (B) the execution of an IRS Form 870-AD (or any successor form thereto), as a final resolution of Tax liability for any Taxable period, except that a Form 870-AD (or successor form thereto) that reserves the right of the taxpayer to file a claim for refund or the right of the IRS to assert a further deficiency shall not constitute a Final Determination with respect to the item or items so reserved; (ii) with respect to Taxes other than U.S. federal income Taxes, any final determination of liability in respect of a Tax that, under Applicable Tax Law, is not subject to further appeal, review or modification through proceedings or otherwise; (iii) with respect to any Tax, any final disposition by reason of the expiration of the applicable statute of limitations (giving effect to any extension, waiver or mitigation thereof); or (iv) with respect to any Tax, the payment of such Tax by any member of the ADS Group or any member of the Loyalty Ventures Group, whichever is responsible for payment of such Tax under Applicable Tax Law, with respect to any item disallowed or adjusted by a Taxing Authority; *provided*, in the case of this clause (iv), that the provisions of Section 15 hereof have been complied with, or, if such section is inapplicable, that the Company responsible under this Agreement for such Tax is notified by the Company paying such Tax that it has determined that no action should be taken to recoup such disallowed item, and the other Company agrees with such determination.

"**Governmental Authority**" has the meaning set forth in the Separation Agreement.

"**Group**" has the meaning set forth in the Separation Agreement.

"**Indemnified Party**" means the party which is entitled to seek indemnification from another party pursuant to the provisions of Section 11.

"**Intended Tax Treatment**" means the qualification of (i) the Contribution and the Distribution, taken together, as a reorganization within the meaning of Section 368(a)(1)(D) of the Code and each of ADS and Loyalty Ventures as a "party to reorganization" within the meaning of Section 368(b) of the Code, (ii) the Distribution as a tax-free transaction under section 355(a) and 361(c) of the Code, (iii) the Equity-for-Debt Exchange as a transfer of "qualified property" to ADS's creditors in connection with the reorganization described in clause (i) for purposes of Section 361(c) of the Code, (iv) the Boot Purge as money distributed to ADS's creditors in connection with the reorganization described in clause (i) for purposes of Section 361(b) of the Code, (v) the transactions described on SCHEDULE A as set forth therein, and (vi) such treatment as described in each of clauses (i)-(v) under the corresponding provisions of state law.

"**IRS**" has the meaning set forth in the Separation Agreement.

"**LoyaltyOne Business**" has the meaning set forth in the Separation Agreement.

"**Loyalty Ventures Carried Item**" shall mean any Tax Attribute of the Loyalty Ventures Group that may or must be carried from one Taxable period to another prior Taxable period under the Code or other Applicable Tax Law.

"**Loyalty Ventures Common Stock**" has the meaning set forth in the Separation Agreement.

"**Loyalty Ventures Compensatory Equity Interests**" means any options, stock appreciation rights, restricted stock, stock units or other rights with respect to the capital stock of Loyalty Ventures that are granted following the Distribution Time by any member of the Loyalty Ventures Group in connection with employee, independent contractor or director compensation or other employee benefits (including, for the avoidance of doubt, options, stock appreciation rights, restricted stock, restricted stock units, performance share units or other rights issued in respect of any of the foregoing by reason of the Distribution or any subsequent transaction).

"**Loyalty Ventures Disqualifying Action**" means (a) any action (or the failure to take any action) by any member of the Loyalty Ventures Group after the Distribution Time (including entering into any agreement, understanding or arrangement or any negotiations with respect to any transaction or series of transactions), (b) any event (or series of events) after the Distribution Time involving the capital stock of Loyalty Ventures or any assets of any member of the Loyalty Ventures Group or (c) any breach by any member of the Loyalty Ventures Group after the Distribution Time of any representation, warranty or covenant made by it in this Agreement, that, in each case, would affect the Intended Tax Treatment; *provided*, *however*, that the term "**Loyalty Ventures Disqualifying Action**" shall not include any action entered into pursuant to any Distribution Document (other than this Agreement) or that is undertaken pursuant to the Restructuring (including the Contribution) or the Distribution.

"**Loyalty Ventures Group**" has the meaning set forth in the Separation Agreement.

"**Loyalty Ventures Separate Tax Return**" means any Tax Return that is required to be filed by, or with respect to, any member of the Loyalty Ventures Group that is not a Combined Tax Return.

"**Person**" has the meaning set forth in Section 7701(a)(1) of the Code.

"**PLR**" has the meaning set forth in the Separation Agreement.

"**PLR Request**" means any letter or other materials submitted by ADS to the IRS in connection with the PLR.

"**Post-Distribution Period**" means any Taxable period (or portion thereof) beginning after the Distribution Date.

"**Pre-Distribution Loyalty Ventures Separate Tax Return**" means any Loyalty Ventures Separate Tax Return that relates in whole or part to a Pre-Distribution Period.

"**Pre-Distribution Period**" means any Taxable period (or portion thereof) ending on or before the Distribution Date.

"**Restructuring**" has the meaning set forth in the Separation Agreement.

"**Specified Event**" means (i) any failure of the Intended Tax Treatment with respect to (A) the Restructuring (including the Contribution) or (B) the Distribution, the Equity-for-Debt Exchange or the Boot Purge or (ii) any other event, in the case of clause (i) or (ii), that results in (x) a liability for Taxes with respect to a Pre-Distribution Period imposed on any member of the ADS Group and (y) a Tax Attribute with respect to any member of the Loyalty Ventures Group.

"**Separation Agreement**" has the meaning set forth in the recitals.

"**Separation Taxes**" means any Taxes incurred solely as a result of the failure of the Intended Tax Treatment of the Restructuring (or any step or transaction that is a part thereof, including the Contribution) or the Distribution, the Equity-for-Debt Exchange or the Boot Purge.

"**Straddle Tax Returns**" means a Tax Return of a member of the Loyalty Ventures Group with respect to a taxable period that includes but does not end on the Distribution Date.

"**Tax**" (and the correlative meaning, "**Taxes,**" "**Taxing**" and "**Taxable**") means (i) any tax, including any net income, gross income, gross receipts, recapture, alternative or add-on minimum, sales, use, business and occupation, value-added, trade, goods and services, ad valorem, franchise, profits, net wealth, license, business royalty, withholding, payroll, employment, capital, excise, transfer, recording, severance, stamp, occupation,

premium, property, asset, real estate acquisition, environmental, custom duty, impost, obligation, assessment, levy, tariff or other tax, governmental fee or other like assessment or charge of any kind whatsoever, together with any interest and any penalty, addition to tax or additional amount imposed by a Taxing Authority; or (ii) any liability of any member of the ADS Group or the Loyalty Ventures Group for the payment of any amounts described in clause (i) as a result of any express or implied obligation to indemnify any other Person.

"**Tax Attribute**" means net operating loss, net capital loss, unused investment credit, unused foreign tax credit, excess charitable contribution, unused general business credit, alternative minimum tax credit or any other Tax Item that could reduce a Tax liability.

"**Tax Advisor**" means Davis Polk & Wardwell LLP.

"**Tax Item**" means any item of income, gain, loss, deduction, credit, recapture of credit or any other item that can increase or decrease Taxes paid or payable.

"**Tax Opinion**" shall mean the legal opinion or legal opinions delivered to ADS by the Tax Advisor with respect to certain U.S. federal income tax consequences of the Restructuring, the Contribution and/or the Distribution, the Equity-for-Debt Exchange or the Boot Purge.

"**Tax Proceeding**" means any Tax audit, dispute, examination, contest, litigation, arbitration, action, suit, claim, cause of action, review, inquiry, assessment, hearing, complaint, demand, investigation or proceeding (whether administrative, judicial or contractual).

"**Tax-Related Losses**" means, with respect to any Taxes imposed pursuant to any settlement, determination, judgment or otherwise, (i) all accounting, legal and other professional fees, and court costs incurred in connection with such Taxes, as well as any other out-of-pocket costs incurred in connection with such Taxes and (ii) all damages, costs, and expenses associated with stockholder litigation or controversies and any amount paid by any member of the ADS Group or any member of the Loyalty Ventures Group in respect of the liability of shareholders, whether paid to shareholders or to the IRS or any other Taxing Authority.

"**Tax Refund**" means any refund, reimbursement, offset, credit, or other similar benefit in respect of Taxes (including any overpayment of Taxes that can be refunded or, alternatively, applied against other Taxes payable), including any interest paid on or with respect to such refund of Taxes.

"**Tax Representation Letters**" means the representations provided by Loyalty Ventures and ADS to the Tax Advisor in connection with the rendering by the Tax Advisor of the Tax Opinion.

"**Tax Return**" means any Tax return, statement, report, form, election, bill, certificate, claim or surrender (including estimated Tax returns and reports, extension

requests and forms, and information returns and reports), or statement or other document or written information filed or required to be filed with any Taxing Authority, including any amendment thereof, appendix, schedule or attachment thereto.

"**Taxing Authority**" means any Governmental Authority (domestic or foreign), including, without limitation, any state, municipality, political subdivision or governmental agency, responsible for the imposition, assessment, administration, collection, enforcement or determination of any Tax.

"**Transfer Taxes**" means all U.S. federal, state, local or non-U.S. sales, use, privilege, value added, transfer, documentary, stamp, duties, real estate transfer, controlling interest transfer, recording and similar Taxes and fees (including any penalties, interest or additions thereto) imposed upon any member of the ADS Group or any member of the Loyalty Ventures Group in connection with the Restructuring (including the Contribution), the Distribution, the Equity-for-Debt Exchange or the Boot Purge.

"**Treasury Regulations**" means the regulations promulgated from time to time under the Code as in effect for the relevant taxable period.

(b) Each of the following terms is defined in the Section set forth opposite such term:

Term	**Section**
Compensation Liability	Section 7(b)
Compensation Tax Benefit	Section 7(b)
Due Date	Section 12(a)
Indemnified Party	Section 11(c)Section 11(d)
Past Practices	Section 4(f)(i)
Proposed Acquisition Transaction	Section 9(b)(iv)
PTI	Section 5(b)
Section 336(e) Election	Section 10(a)
Section 9(b)(iv)(F) Acquisition Transaction	Section 9(b)(iv)(G)
Tax Arbiter	Section 24
Tax Materials	Section 9(a)
Tax Refund Recipient	Section 8(c)

(c) All capitalized terms used but not defined herein shall have meanings set forth in the Separation Agreement. Any term used in this Agreement which is not defined in this Agreement or the Separation Agreement shall, to the extent the context requires, have the meaning assigned to it in the Code or the applicable Treasury Regulations thereunder (as interpreted in administrative pronouncements and judicial decisions) or in comparable provisions of Applicable Tax Law.

Section 2. *Sole Tax Sharing Agreement.* Any and all existing Tax sharing agreements or arrangements, written or unwritten, between any member of the ADS Group, on the one hand, and any member of the Loyalty Ventures Group, on the other hand, if not previously terminated, shall be terminated as of the Distribution Date without

any further action by the parties thereto. Following the Distribution, no member of the Loyalty Ventures Group or the ADS Group shall have any further rights or liabilities thereunder, and this Agreement and the Distribution Documents (to the extent such Distribution Documents reflect an agreement between the Parties as to Tax sharing) shall be the sole Tax sharing agreement between the members of the Loyalty Ventures Group on the one hand, and the members of the ADS Group, on the other hand.

Section 3. *Allocation of Taxes*.

(a) *General Allocation Principles*. Except as provided in Section 3(c) or Section 11, all Taxes shall be allocated as follows:

(i) *Allocation of Taxes for Combined Tax Returns*. Except as provided in Section 3(b), ADS shall be allocated all Taxes reported, or required to be reported, on any Combined Tax Return that any member of the ADS Group files or is required to file under the Code or other Applicable Tax Law; *provided, however,* that to the extent any such Combined Tax Return includes any Tax Item attributable to (A) any member of the Loyalty Ventures Group or (B) the LoyaltyOne Business, in each case, in respect of any Post-Distribution Period, Loyalty Ventures shall be allocated all Taxes attributable to such Tax Items as determined by ADS in its reasonable discretion.

(ii) Allocation of Taxes Reflected on Separate Tax Returns.

(A) ADS shall be allocated all Taxes reported, or required to be reported, on (x) an ADS Separate Tax Return and (y) a Pre-Distribution Loyalty Ventures Separate Tax Return; *provided, however,* that to the extent any such Pre-Distribution Loyalty Ventures Separate Tax Return includes any Tax Item attributable to (A) any member of the Loyalty Ventures Group or (B) the LoyaltyOne Business, in each case, in respect of any Post-Distribution Period, Loyalty Ventures shall be allocated all Taxes attributable to such Tax Items as determined by ADS in its reasonable discretion.

(B) Loyalty Ventures shall be allocated all Taxes reported, or required to be reported, on a Loyalty Ventures Separate Tax Return other than a Pre-Distribution Loyalty Ventures Separate Tax Return.

(iii) Taxes Not Reported on Tax Returns.

(A) ADS shall be allocated any Tax attributable to any member of the ADS Group that is not required to be reported on a Tax Return.

(B) Loyalty Ventures shall be allocated any Tax attributable to any member of the Loyalty Ventures Group that is not required to be reported on a Tax Return.

(b) *Allocation Conventions*. Except as otherwise set forth in Section 3(c):

(i) All Taxes allocated pursuant to Section 3(a) shall be allocated in accordance with the Closing of the Books Method; *provided, however,* that if a Loyalty Ventures Group member does not close its Taxable year on the Distribution Date, the Tax attributable to the operations of the members of the Loyalty Ventures Group for any Pre-Distribution Period shall be the Tax computed using a hypothetical closing of the books consistent with the Closing of the Books Method (except to the extent otherwise agreed upon by ADS and Loyalty Ventures).

(ii) Any Tax Item of Loyalty Ventures or any member of the Loyalty Ventures Group arising from a transaction engaged in outside the ordinary course of business on the Distribution Date after the Distribution Time shall be allocable to Loyalty Ventures and any such transaction by or with respect to Loyalty Ventures or any member of the Loyalty Ventures Group occurring after the Distribution Time shall be treated for all Tax purposes (to the extent permitted by Applicable Tax Law) as occurring at the beginning of the day following the Distribution Date in accordance with the principles of Treasury Regulations Section 1.1502-76(b) (assuming no election is made under Treasury Regulations Section 1.1502-76(b)(2)(ii) (relating to a ratable allocation of a year's Tax Items)); *provided* that the foregoing shall not include any action that is undertaken pursuant to the Restructuring (including the Contribution) or the Distribution.

(c) *Special Allocation Rules.* Notwithstanding any other provision in this Section 3, the following Taxes shall be allocated as follows:

(i) *Transfer Taxes.* Transfer Taxes shall be allocated 50% to ADS and 50% to Loyalty Ventures, *provided* that with respect to any such Transfer Tax that is recoverable, ADS or Loyalty Ventures, as applicable, shall use commercially reasonable efforts to recover, all or a portion of, such Transfer Tax from the relevant Tax authority.

(ii) *Taxes Relating to ADS Compensatory Equity Interests*. Any Tax liability (including, for the avoidance of doubt, the satisfaction of any withholding Tax obligation) relating to the issuance, exercise, vesting or settlement of any ADS Compensatory Equity Interest shall be allocated in a manner consistent with Section 7.

(iii) *Section 965 Taxes*. Liability for any installment payments required to be made pursuant to the election made by a member of the ADS Group or a member of the Loyalty Ventures Group (that was a member of such Loyalty Ventures Group prior to the Distribution Date) under Section 965(h) of the Code, and any adjustments thereto, shall be allocated to ADS.

(iv) *Taxes Covered by Distribution Documents*. Subject to the preceding clauses of this Section 3(c) and Section 11, any liability or other matter relating to Taxes that is specifically addressed in any Distribution Document shall be allocated or governed as provided in such Distribution Document.

Section 4. *Preparation and Filing of Tax Returns*.

(a) *Combined Tax Returns*.

(i) ADS shall prepare and file, or cause to be prepared and filed, Combined Tax Returns for which a member of a Combined Group is required or, as provided in Section 4(f)(iii), elects to file a Combined Tax Return. Each member of any such Combined Group shall execute and file such consents, elections and other documents as may be required, appropriate or otherwise requested by ADS in connection with the filing of such Combined Tax Returns.

(ii) To the extent the Combined Tax Return reflects operations of Loyalty Ventures Group for a Taxable period that includes the Distribution Date, ADS shall include in such Combined Tax Return the results of such member of the Loyalty Ventures Group, as the case may be, on the basis of the Closing of the Books Method to the extent permitted by Applicable Tax Law.

(b) *Straddle Tax Returns and Pre-Distribution Loyalty Ventures Separate Tax Returns*. Loyalty Ventures shall prepare, or cause to be prepared, all Straddle Tax Returns and all Pre-Distribution Loyalty Ventures Separate Tax Returns. Loyalty Ventures shall submit to ADS a copy of each Straddle Tax Return and each Pre-Distribution Loyalty Ventures Separate Tax Return no later than 30 days prior to the date such Tax Return is required to be filed, and Loyalty Ventures shall reflect any reasonable comments on such Tax Returns with respect to a Pre-Distribution Period provided by ADS no later than 10 days prior to the date such Tax Return is required to be filed. Loyalty Ventures shall not file or cause to be filed any Straddle Tax Returns or Pre-Distribution Loyalty Ventures Separate Tax Returns without the consent of ADS, which consent shall not be unreasonably withheld or delayed. The Parties shall work together to resolve any issues arising out of the review of such Tax Returns pursuant to Section 24. Loyalty Ventures shall file, or cause to be filed, any such Straddle Tax Returns and Pre-Distribution Loyalty Ventures Separate Tax Returns required to be filed.

(c) *Other Loyalty Ventures Separate Tax Returns*. Loyalty Ventures shall prepare and file (or cause to be prepared and filed) all Loyalty Ventures Separate Tax Returns other than Pre-Distribution Loyalty Ventures Separate Tax Returns.

(d) *Provision of Information; Timing.* Loyalty Ventures shall maintain all necessary information for ADS (or any of its Affiliates) to file any Tax Return that ADS is required or permitted to file under this Section 4, and shall provide to ADS all such necessary information in accordance with the ADS Group's past practice. ADS shall maintain all necessary information for Loyalty Ventures (or any of its Affiliates) to file any Tax Return that Loyalty Ventures is required or permitted to file under this Section 4, and shall provide Loyalty Ventures with all such necessary information in accordance with the Loyalty Ventures Group's past practice. Without limiting the foregoing, the party that files, or causes to be filed, any Tax Return shall maintain contemporaneous transfer pricing documentation, in compliance with all applicable laws, with respect to such Tax Returns.

(e) *Review of Combined Tax Returns with Loyalty Ventures Tax Liability*. ADS shall submit to Loyalty Ventures a draft of the portions of any Combined Tax Returns that relate solely to any member of the Loyalty Ventures Group and that reflect a Tax liability allocated to Loyalty Ventures pursuant to Section 3(a)(i). ADS shall use (x) commercially reasonable efforts to make such portions of a Tax Return available for review as required under this paragraph no later than 30 days prior to the due date for filing of such Tax Return and (y) commercially reasonable efforts to have such Tax Return modified to reflect any reasonable comments provided by Loyalty Ventures no later than 10 days prior to the due date for filing, taking into account the party responsible for payment of the Tax (if any) reported on such Tax Return and the materiality of the Tax liability allocable to the requesting party with respect to such Tax Return.

(f) *Special Rules Relating to the Preparation of Tax Returns*.

(i) *General Rule*. Except as provided in this Section 4(f), Loyalty Ventures shall prepare (or cause to be prepared) any Tax Return, with respect to Taxable periods (or portions thereof) ending prior to or on the Distribution Date, for which it is responsible under this Section 4 in accordance with past practices, accounting methods, elections or conventions ("**Past Practices**") used by the members of the ADS Group prior to the Distribution Date with respect to such Tax Return to the extent permitted by Applicable Law, and to the extent any items, methods or positions are not covered by Past Practices, as directed by ADS in its reasonable discretion to the extent permitted by Applicable Law.

(ii) *Consistency with Intended Tax Treatment*. All Tax Returns that include any member of the ADS Group or any member of the Loyalty Ventures Group shall be prepared in a manner that is consistent with the Intended Tax Treatment.

(iii) *Election to File Combined Tax Returns*. ADS shall have the sole discretion to file any Combined Tax Return if the filing of such Tax Return is elective under Applicable Tax Law. Each member of any such Combined Group shall execute and file such consents, elections and other documents as may be required, appropriate or otherwise requested by ADS in connection with the filing of such Combined Tax Returns.

(iv) *Preparation of Transfer Tax Returns*. The Company required under Applicable Tax Law to file any Tax Returns in respect of Transfer Taxes shall prepare and file (or cause to be prepared and filed) such Tax Returns. If required by Applicable Tax Law, ADS and Loyalty Ventures shall, and shall cause their respective Affiliates to, cooperate in preparing and filing, and join the execution of, any such Tax Returns.

(v) *Payment of Taxes.* ADS shall pay (or cause to be paid) to the proper Taxing Authority the Tax shown as due on any Tax Return for which a member of the ADS Group is responsible for filing under this Section 4, and Loyalty Ventures shall pay (or cause to be paid) to the proper Taxing Authority

the Tax shown as due on any Tax Return for which a member of the Loyalty Ventures Group is responsible for filing under Section 4. If any member of the ADS Group is required to make a payment to a Taxing Authority for Taxes allocated to Loyalty Ventures under Section 3, Loyalty Ventures shall pay the amount of such Taxes to ADS in accordance with Section 11 and Section 12. If any member of the Loyalty Ventures Group is required to make a payment to a Taxing Authority for Taxes allocated to ADS under Section 3, ADS shall pay the amount of such Taxes to Loyalty Ventures in accordance with Section 11 and Section 12.

Section 5. *Apportionment of Earnings and Profits and Tax Attributes*.

(a) Tax Attributes arising in a Pre-Distribution Period will be allocated to (and the benefits and burdens of such Tax Attributes will inure to) the members of the ADS Group and the members of the Loyalty Ventures Group in accordance with ADS's historical practice as determined by ADS in its sole discretion (including historical methodologies for making corporate allocations), if any, the Code, Treasury Regulations, and any applicable state, local and foreign law.

(b) Upon the reasonable request of Loyalty Ventures in writing, ADS shall in good faith, based on information reasonably available to it, advise Loyalty Ventures in writing, as soon as reasonably practicable after the receipt of such request, of ADS's estimate of the portion, if any, of any earnings and profits, previously taxed earnings and profits (within the meaning of Section 959 of the Code ("**PTI**")), Tax Attributes, tax basis, overall foreign loss or other consolidated, combined or unitary attribute which ADS determines is expected to be allocated or apportioned to the members of the Loyalty Ventures Group under Applicable Tax Law. In the event of any adjustments to the previously delivered estimates of the portion of earnings and profits, Tax Attributes, Tax basis, overall foreign loss or other consolidated, combined or unitary attribute determined by ADS, ADS shall promptly advise Loyalty Ventures in writing of such adjustment. Loyalty Ventures shall reimburse ADS for all reasonable third-party costs and expenses actually incurred by the ADS Group in connection with providing such estimation requested by Loyalty Ventures within forty-five (45) days after receiving an invoice from ADS therefor. For the avoidance of doubt, ADS shall not be liable to any member of the Loyalty Ventures Group for any failure of any determination under this Section 5(b) to be accurate under Applicable Tax Law, provided such determination was made in good faith. All members of the Loyalty Ventures Group shall prepare all Tax Returns in accordance with the written notices provided by ADS to Loyalty Ventures pursuant to this Section 5(b).

(c) Except as otherwise provided herein, to the extent that the amount of any earnings and profits, PTI, Tax Attributes, Tax basis, overall foreign loss or other consolidated, combined or unitary attribute allocated to members of the ADS Group or the Loyalty Ventures Group pursuant to Section 5(b) is later reduced or increased by a Taxing Authority or as a result of a Tax Proceeding, such reduction or increase shall be allocated to the Company to which such earnings and profits, Tax Attributes, Tax basis,

overall foreign loss or other consolidated, combined or unitary attribute was allocated pursuant to this Section 5, as determined by ADS in good faith.

Section 6. *Utilization of Tax Attributes*.

(a) *Amended Returns.* Any amended Tax Return or claim for a Tax Refund with respect to any member of the Loyalty Ventures Group may be made only by the party responsible for preparing the original Tax Return with respect to such member of the Loyalty Ventures Group pursuant to Section 4.

(b) *ADS Discretion*. Loyalty Ventures hereby agrees that ADS shall be entitled to determine in its sole discretion whether to (x) file or to cause to be filed any claim for a Tax Refund or adjustment of Taxes with respect to any Combined Tax Return in order to claim in any Pre-Distribution Period any Loyalty Ventures Carried Item, (y) make or cause to be made any available elections to waive the right to claim in any Pre-Distribution Period, with respect to any Combined Tax Return, any Loyalty Ventures Carried Item, and (z) make or cause to be made any affirmative election to claim in any Pre-Distribution Period any Loyalty Ventures Carried Item, in each case, to the extent such election or filing does not result in any increase in Tax allocated to a member of the Loyalty Ventures Group under this Agreement (including, for the avoidance of doubt, any amounts allocated to Loyalty Ventures pursuant to Section 3(c)). Subject to Section 6(c), Loyalty Ventures shall submit a written request to ADS in order to seek ADS's consent with respect to any of the actions described in this Section 6(b).

(c) *Loyalty Ventures Carrybacks to Combined Tax Returns*.

(i) Subject to Section 6(b), each member of the Loyalty Ventures Group shall elect, to the extent permitted by Applicable Tax Law, to forgo the right to carry back any Loyalty Ventures Carried Item from a Post-Distribution Period to a Combined Tax Return.

(ii) If a member of the Loyalty Ventures Group determines that it is required by Applicable Tax Law to carry back any Loyalty Ventures Carried Item to a Combined Tax Return, it shall notify ADS in writing of such determination at least 90 days prior to filing the Tax Return on which such carryback will be reflected. Such notification shall include a description in reasonable detail of the basis for any expected Tax Refund and the amount thereof. If ADS disagrees with such determination, the parties shall resolve their disagreement pursuant to the procedures set forth in Section 24.

(iii) For the avoidance of doubt, if a Loyalty Ventures Carried Item is carried back to a Combined Tax Return for any reason, unless ADS Group consents otherwise, no member of the ADS Group shall be required to make any payment to, or otherwise compensate, any member of the Loyalty Ventures Group in respect of such Loyalty Ventures Carried Item, which consent may be subject to such conditions as ADS Group determines in its good faith discretion (including, for example, Loyalty Ventures bearing all associated costs and

expenses and retaining an accounting firm that is acceptable to ADS Group in connection therewith).

(d) *Carryforwards to Separate Tax Returns.* If a portion or all of any Tax Attribute is allocated to a member of a Combined Group pursuant to Section 5 and (i) is carried forward or back to a Pre-Distribution Loyalty Ventures Separate Tax Return, or (ii) is carried forward or back to a ADS Separate Tax Return, any Tax Refunds arising from such carryforward or carryback shall be retained by the ADS Group.

Section 7. *Deductions and Reporting for Certain Awards*.

(a) *Deductions.* To the extent permitted by Applicable Tax Law, income Tax deductions with respect to the issuance, exercise, vesting or settlement after the Distribution Date of any ADS Compensatory Equity Interests or Loyalty Ventures Compensatory Equity Interests shall be claimed (A) in the case of an active officer or employee, solely by the Group that employs such Person at the time of such issuance, exercise, vesting, or settlement, as applicable; (B) in the case of a former officer or employee, solely by the Group that was the last to employ such Person; and (C) in the case of a director or former director (who is not an officer or employee or former officer or employee of a member of either Group), by the Group that is the service recipient with respect to such director or former director with respect to the ADS Compensatory Equity Interests or Loyalty Ventures Compensatory Equity Interests at issue (or, in the case of Loyalty Ventures Compensatory Equity Interests that are issued in exchange for or in respect of ADS Compensatory Equity Interests, with respect to such ADS Compensatory Equity Interests).

(b) ADS shall be entitled to the value of the overall net reduction in actual cash Taxes paid by the Loyalty Ventures Group (determined on a "with and without" basis) (the "**Compensation Tax Benefit**") resulting from the utilization by the Loyalty Ventures Group under Applicable Tax Law of a Tax Attribute or a Tax deduction for a Taxable period ending after the Distribution Date attributable to (i) the issuance, exercise, vesting or settlement after the Distribution Date of any ADS Compensatory Equity Interests, or (ii) any liability with respect to compensation required to be paid or satisfied by, or otherwise allocated to, any member of the ADS Group in accordance with any Distribution Document (and not reimbursed or otherwise ultimately borne by a member of the Loyalty Ventures Group) (a "**Compensation Liability**"). ADS shall be entitled to reduce any amount that would otherwise be payable to a member of the Loyalty Ventures Group in respect of a Compensation Liability to reflect the Compensation Tax Benefit that would otherwise would result from such Compensation Liability. Any member of the Loyalty Ventures Group that receives a Compensation Tax Benefit shall, promptly following the filing of the Tax Return that reflects such Compensation Tax Benefit, pay to ADS an amount in cash equal to such benefit (except to the extent ADS has already been compensated for such benefit pursuant to the immediately precedent sentence). If a Taxing Authority subsequently reduces or disallows the use of a Tax Attribute or a Tax deduction that gave rise to a Compensation Tax Benefit by the Loyalty Ventures Group, ADS shall return an amount equal to the overall net increase in Tax liability of the Loyalty Ventures Group owing to the Taxing Authority as a result thereof.

(c) *Withholding and Reporting*. All applicable withholding and reporting responsibilities (including all income, payroll or other Tax reporting related to income to any current or former employee) with respect to the issuance, exercise, vesting or settlement of such ADS Compensatory Equity Interests or Loyalty Ventures Compensatory Equity Interests shall be the responsibility of the Party to which such responsibility has been prescribed by Section 9.02 of the Employee Matters Agreement. ADS and Loyalty Ventures acknowledge and agree that the parties shall cooperate with each other and with third-party providers to effectuate withholding and remittance of Taxes, as well as required Tax reporting, in a timely manner.

Section 8. *Tax Refunds*.

(a) *ADS Tax Refunds*. Except as provided by Section 8(b), ADS shall be entitled to all Tax Refunds received by any member of the ADS Group or any member of the Loyalty Ventures Group, including but not limited to Tax Refunds resulting from the matters set forth on Schedule C. Loyalty Ventures shall not be entitled to any Tax Refunds received by any member of the ADS Group or the Loyalty Ventures Group, except as set forth in Section 8(b).

(b) *Loyalty Ventures Tax Refunds.* Loyalty Ventures shall be entitled to any Tax Refunds received by any member of the ADS Group or any member of the Loyalty Ventures Group after the Distribution Date with respect to any Tax allocated to a member of the Loyalty Ventures Group under this Agreement.

(c) A Company (a "**Tax Refund Recipient**") receiving (or realizing) a Tax Refund to which another Company is entitled hereunder shall pay over the amount of such Tax Refund (including interest received from the relevant Taxing Authority, but net of any Taxes imposed with respect to such Tax Refund or the payment of such Tax Refund and any other reasonable costs associated therewith incurred after the Distribution Time, including third-party expenses incurred after the Distribution Time in connection with the application for or any Tax Proceeding with respect to such Tax Refund) within thirty (30) days of receipt thereof (or from the due date for payment of any Tax reduced thereby); *provided, however*, that the other Company, upon the request of such Tax Refund Recipient, shall repay the amount paid to the other Company (plus any penalties, interest or other charges imposed by the relevant Taxing Authority) in the event that, as a result of a subsequent Final Determination, a Tax Refund that gave rise to such payment is subsequently disallowed.

Section 9. *Certain Representations and Covenants*.

(a) *Representations.*

(i) ADS, on behalf of itself and all other members of the ADS Group, hereby represents and warrants that (i) it has examined the PLR, the PLR Request, the Tax Opinion, the Tax Representation Letters and any other materials delivered or deliverable in connection with the issuance of the PLR, the PLR Request, the Tax Opinion and the Tax Representation Letters (collectively, the "**Tax**

Materials") and (ii) the facts presented and representations that have been or will be made therein, to the extent descriptive of or otherwise relating to ADS or any member of the ADS Group or the ADS Business, were or will be, at the time presented or represented and from such time until and including the Distribution Date, true, correct, and complete in all material respects. ADS, on behalf of itself and all other members of the ADS, hereby confirms and agrees to comply with any and all covenants and agreements in the Tax Materials applicable to ADS or any member of the ADS Group or the ADS Business.

(ii) Loyalty Ventures, on behalf of itself and all other members of the Loyalty Ventures Group, hereby represents and warrants that (i) it has examined the Tax Materials and (ii) the facts presented and representations that have been or will be made therein, to the extent descriptive of or otherwise relating to Loyalty Ventures or any member of the Loyalty Ventures Group or the LoyaltyOne Business, were or will be, at the time presented or represented and from such time until and including the Distribution Date, true, correct, and complete in all material respects. Loyalty Ventures, on behalf of itself and all other members of the Loyalty Ventures Group, hereby confirms and agrees to comply with any and all covenants and agreements in the Tax Materials applicable to Loyalty Ventures or any member of the Loyalty Ventures Group or the LoyaltyOne Business.

(iii) Each of ADS, on behalf of itself and all other members of the ADS Group, and Loyalty Ventures, on behalf of itself and all other members of the Loyalty Ventures Group, represents and warrants that it knows of no fact (after due inquiry) that may cause the treatment of the Reorganization or the Distribution to be other than the Intended Tax Treatment.

(iv) Each of ADS, on behalf of itself and all other members of the ADS Group, and Loyalty Ventures, on behalf of itself and all other members of the Loyalty Ventures Group, represents and warrants that it has no plan or intent to take any action which is inconsistent with any statements or representations made in the Tax Materials.

(v) Loyalty Ventures and each other member of the Loyalty Ventures Group represents that as of the date hereof, and covenants that as of the Distribution Date, there is no plan or intention to:

(A) liquidate Loyalty Ventures or to merge or consolidate any member of the Loyalty Ventures Group with any other Person subsequent to the Distribution, other than liquidation of entities listed in Schedule B;

(B) sell, transfer or otherwise dispose of any material asset of any member of the Loyalty Ventures Group, except in the ordinary course of business;

(C) repurchase stock of Loyalty Ventures other than in a manner that satisfies the requirements of Section 4.05(1)(b) of IRS Revenue Procedure 96-30 (as in effect prior to the amendment of such Revenue Procedure by IRS Revenue Procedure 2003-48) and consistent with any representations made in the Tax Materials;

(D) take or fail to take any action in a manner that management of Loyalty Ventures knows, or should know, is reasonably likely to contravene any agreement with a Taxing Authority entered into prior to the Distribution Date to which any member of the Loyalty Ventures Group or the ADS Group is a party; or

(E) enter into any negotiations, agreements, or arrangements with respect to transactions or events (including stock issuances, pursuant to the exercise of options or otherwise, option grants, the adoption of, or authorization of shares under, a stock option plan, capital contributions, or acquisitions, but not including the Distribution) that could reasonably be expected to cause the Distribution to be treated as part of a plan (within the meaning of Section 355(e) of the Code) pursuant to which one or more Persons acquire directly or indirectly Loyalty Ventures stock representing a 50% or greater interest within the meaning of Section 355(d)(4) of the Code.

(b) *Covenants*.

(i) Loyalty Ventures shall not, and shall not permit any other member of the Loyalty Ventures Group to, take or fail to take any action that constitutes a Loyalty Ventures Disqualifying Action.

(ii) Loyalty Ventures shall not, and shall not permit any other member of the Loyalty Ventures Group to, take or fail to take any action that is inconsistent with the information and representations set forth in the Tax Materials.

(iii) Loyalty Ventures shall not, and shall not permit any other member of the Loyalty Ventures Group to, take or fail to take any action in a manner that management of Loyalty Ventures knows, or should know, is reasonably likely to contravene any agreement with a Taxing Authority entered into prior to the Distribution Date to which any member of the Loyalty Ventures Group or the ADS Group is a party.

(iv) During the two-year period following the Distribution Date:

(A) Loyalty Ventures shall (v) maintain its status as a company engaged in the Active Trade or Business for purposes of Section 355(b)(2) of the Code, (w) not engage in any transaction that would result in it ceasing to be a company engaged in the Active Trade or Business for purposes of Section 355(b)(2) of the Code, (x) cause each other member

of the Loyalty Ventures Group whose Active Trade or Business is relied upon for purposes of qualifying the Distribution for the Intended Tax Treatment to maintain its status as a company engaged in such Active Trade or Business for purposes of Section 355(b)(2) of the Code and any such other Applicable Tax Law, (y) not engage in any transaction or permit any other member of the Loyalty Ventures Group to engage in any transaction that would result in a member of the Loyalty Ventures Group described in clause (x) hereof ceasing to be a company engaged in the relevant Active Trade or Business for purposes of Section 355(b)(2) of the Code or such other Applicable Tax Law, taking into account Section 355(b)(3) of the Code for purposes of each of clauses (v) through (y) hereof; and (z) not dispose of or permit a member of the Loyalty Ventures Group to dispose of, directly or indirectly, any interest in a member of the Loyalty Ventures Group described in clause (x) hereof;

(B) Loyalty Ventures shall not repurchase stock of Loyalty Ventures in a manner contrary to the requirements of Section 4.05(1)(b) of IRS Revenue Procedure 96-30 (as in effect prior to the amendment of such Revenue Procedure by IRS Revenue Procedure 2003-48) or inconsistent with any representations in the Tax Materials;

(C) Loyalty Ventures shall not, and shall not agree to, merge, consolidate or amalgamate with any other Person;

(D) Loyalty Ventures shall not, and shall not permit any other member of the Loyalty Ventures Group to, or to agree to, sell or otherwise issue to any Person, any Equity Interests of Loyalty Ventures or of any other member of the Loyalty Ventures Group; *provided*, *however*, that Loyalty Ventures may issue Equity Interests to the extent such issuances satisfy Safe Harbor VIII (relating to acquisitions in connection with a person's performance of services) or Safe Harbor IX (relating to acquisitions by a retirement plan of an employer) of Treasury Regulations Section 1.355-7(d);

(E) Loyalty Ventures shall not, and shall not permit any other member of the Loyalty Ventures Group to (I) solicit any Person to make a tender offer for, or otherwise acquire or sell, the Equity Interests of Loyalty Ventures or any member of the Loyalty Ventures Group, (II) participate in or support any unsolicited tender offer for, or other acquisition, issuance or disposition of, the Equity Interests of Loyalty Ventures or any member of the Loyalty Ventures Group or (III) approve or otherwise permit any proposed business combination or any transaction which, in the case of clauses (I), (II) or (III), individually or in the aggregate, together with (x) the Debt-for Equity Exchange and (y) any other transaction occurring within the four-year period beginning on the date which is two years before the Distribution Date and any other transaction which is part of a plan or series of related transactions (within

the meaning of Section 355(e) of the Code) that includes the Distribution, could result in one or more Persons acquiring (except for acquisitions that otherwise satisfy Safe Harbor VIII (relating to acquisitions in connection with a person's performance of services) or Safe Harbor IX (relating to acquisitions by a retirement plan of an employer) of Treasury Regulation Section 1.355-7(d)) directly or indirectly stock representing a 40% or greater interest, by vote or value, in Loyalty Ventures (or any successor thereto) (any such transaction, a "**Proposed Acquisition Transaction**"); *provided further* that any clarification of, or change in, the statute or regulations promulgated under Section 355(e) of the Code shall be incorporated in the restrictions in this clause (iv) and the interpretation thereof;

(F) if any member of the Loyalty Ventures Group proposes to enter into any transaction or series of transactions that is not a Proposed Acquisition Transaction but would be a Proposed Acquisition Transaction if the percentage reflected in the definition of Proposed Acquisition Transaction were 25% instead of 40% (a "**Section 9(b)(iv)(F) Acquisition Transaction**"), Loyalty Ventures shall provide ADS, no later than 10 Business Days following the signing of any written agreement with respect to the Section 9(b)(iv)(F) Acquisition Transaction, a written description of such transaction (including the type and amount of Equity Interests of Loyalty Ventures to be issued or sold in such transaction) and a certificate of the board of directors of Loyalty Ventures to the effect that the Section 9(b)(iv)(F) Acquisition Transaction is not a Proposed Acquisition Transaction; and

(G) Loyalty Ventures shall not, and shall not permit any other member of the Loyalty Ventures Group to, amend its certificate of incorporation (or other organizational documents), or take any other action, whether through a stockholder vote or otherwise, affecting the voting rights of the Equity Interests of Loyalty Ventures (including, without limitation, through the conversion of one class of Equity Interests of Loyalty Ventures into another class of Equity Interests of Loyalty Ventures).

(v) Loyalty Ventures shall not take or fail to take, or permit any other member of the Loyalty Ventures Group to take or fail to take, any action which prevents or could reasonably be expected to result in Tax treatment that is inconsistent with the Intended Tax Treatment.

(c) *Loyalty Ventures Covenants Exceptions*. Notwithstanding the provisions of Section 9(b), Loyalty Ventures and the other members of the Loyalty Ventures Group may take any action that would reasonably be expected to be inconsistent with the covenants contained in Section 9(b), if either: (i) Loyalty Ventures notifies ADS of its proposal to take such action and Loyalty Ventures and ADS obtain a ruling from the IRS to the effect that such action will not affect the Intended Tax Treatment, *provided* that

Loyalty Ventures agrees in writing to bear any expenses associated with obtaining such a ruling and, *provided further* that the Loyalty Ventures Group shall not be relieved of any liability under Section 11(a) of this Agreement by reason of seeking or having obtained such a ruling; or (ii) Loyalty Ventures notifies ADS of its proposal to take such action and obtains an unqualified opinion of counsel (A) from a Tax advisor recognized as an expert in federal income Tax matters and acceptable to ADS in its sole discretion, (B) on which ADS may rely and (C) to the effect that such action "will" not affect the Intended Tax Treatment, *provided* that the Loyalty Ventures Group shall not be relieved of any liability under Section 11(a) of this Agreement by reason of having obtained such an opinion.

Section 10. *Tax Receivables Arrangements*.

(a) *Section 336(e) Election.* Pursuant to Treasury Regulations Sections 1.336-2(h)(1)(i) and 1.336-2(j), ADS and Loyalty Ventures agree that, in ADS's discretion, a timely protective election under Section 336(e) of the Code and the Treasury Regulations issued thereunder and under any comparable provisions of state, local or non-U.S. law for each member of the Loyalty Ventures Group that is a domestic corporation for U.S. federal income Tax purposes with respect to the Distribution (a "**Section 336(e) Election**") will be made, and, in such case, ADS and Loyalty Ventures shall take all necessary or helpful actions to facilitate the Section 336(e) Election. It is intended that a Section 336(e) Election will have no effect unless the Distribution is a "qualified stock disposition," as defined in Treasury Regulations Section 1.336(e)-1(b)(6), by reason of the application of Treasury Regulations Section 1.336-1(b)(5)(i)(B) or Treasury Regulations Section 1.336-1(b)(5)(ii), or under any comparable provisions of state, local or non-U.S. law in any other jurisdiction.

(b) *ADS TRA*. If any Specified Event results in the imposition of a liability on the part of a member of the ADS Group for Taxes (including any Taxes attributable to the Section 336(e) Election) that are not allocated to Loyalty Ventures pursuant to Section 3 or Section 11, (i) ADS shall be entitled to periodic payments from Loyalty Ventures equal to the product of (x) 85% of the Tax savings attributable to Tax Attributes arising from such Specified Event and (y) the percentage of Taxes arising from such Specified Event that are not allocated to Loyalty Ventures pursuant to Section 3 or Section 11, and (ii) the Parties shall negotiate in good faith the terms of a tax receivable agreement to govern the calculation of such payments; *provided* that any such tax savings in clause (i) shall be determined using a "with and without" methodology (treating any Tax Attribute arising from any Specified Event as the last items claimed for any Taxable year, including after the utilization of any carryforwards). Notwithstanding the foregoing, ADS may, at its sole discretion, waive its right to receive any and all payments pursuant to this Section 10(b).

Section 11. *Indemnities*.

(a) *Loyalty Ventures Indemnity to ADS*. Subject to the limitations set forth in Section 11(c), except in the case of any liabilities described in Section 11(b), Loyalty Ventures and each other member of the Loyalty Ventures Group shall jointly and

severally indemnify ADS and the other members of the ADS Group against, and hold them harmless, without duplication, from:

(i) any Tax liability allocated to Loyalty Ventures pursuant to Section 3;

(ii) any Tax liability and Tax-Related Losses attributable to a breach, after the Distribution Time by Loyalty Ventures or any other member of the Loyalty Ventures Group of any representation, covenant or provision contained in this Agreement (including, for the avoidance of doubt, any Taxes and Tax-Related Losses resulting from any breach for which the conditions set forth in Section 9(c) are satisfied);

(iii) any Separation Taxes and Tax-Related Losses attributable to a Loyalty Ventures Disqualifying Action (including, for the avoidance of doubt, any Taxes and Tax-Related Losses resulting from any action for which the conditions set forth in Section 9(c) are satisfied); and

(iv) all liabilities, costs, expenses (including, without limitation, reasonable expenses of investigation and attorneys' fees and expenses), losses, damages, assessments, settlements or judgments arising out of or incident to the imposition, assessment or assertion of any Tax liability or damage described in (i), (ii) or (iii), including those incurred in the contest in good faith in appropriate proceedings relating to the imposition, assessment or assertion of any such Tax, liability or damage.

(b) *ADS Indemnity to Loyalty Ventures*. Subject to the limitations set forth in Section 11(c), except in the case of any liabilities described in Section 11(a), ADS and each other member of the ADS Group will jointly and severally indemnify Loyalty Ventures and the other members of the Loyalty Ventures Group against, and hold them harmless, without duplication, from:

(i) any Tax liability allocated to ADS pursuant to Section 3;

(ii) any Tax liability and Tax-Related Losses attributable to a breach, after the Distribution Time by ADS or any other member of the ADS Group of any representation, covenant or provision contained in this Agreement; and

(iii) all liabilities, costs, expenses (including, without limitation, reasonable expenses of investigation and attorneys' fees and expenses), losses, damages, assessments, settlements or judgments arising out of or incident to the imposition, assessment or assertion of any Tax liability or damage described in (i) or (ii), including those incurred in the contest in good faith in appropriate proceedings relating to the imposition, assessment or assertion of any such Tax, liability or damage.

(c) *Cross Indemnity*. To the extent that any Tax or Tax-Related Loss is subject to indemnity pursuant to both Sections 11(a) and 11(b), responsibility for such

Tax or Tax-Related Loss shall be shared by ADS and Loyalty Ventures according to relative fault.

(d) For purposes of this Section 11, the term "**Indemnified Party**" means (x) the relevant member of the ADS Group in the event any member of the ADS Group is entitled to indemnity under Section 11(a) and (y) the relevant member of the Loyalty Ventures Group in the event any member of the Loyalty Ventures Group is entitled to indemnity under Section 11(b).

(e) *Discharge of Indemnity*. Loyalty Ventures, ADS and the members of their respective Groups shall discharge their obligations under Section 11(a) or Section 11(b) hereof, respectively, by paying the relevant amount in accordance with Section 12, within thirty (30) Business Days of demand therefor or, to the extent such amount is required to be paid to a Taxing Authority prior to the expiration of such thirty (30) Business Days, at least ten (10) Business Days prior to the date by which the demanding party is required to pay the related Tax liability. Any such demand shall include a statement showing the amount due under Section 11(a) or Section 11(b), as the case may be. Notwithstanding the foregoing, if any member of the Loyalty Ventures Group or any member of the ADS Group disputes in good faith the fact or the amount of its obligation under Section 11(a) or Section 11(b), then no payment of the amount in dispute shall be required until any such good faith dispute is resolved in accordance with Section 24 hereof; *provided*, *however*, that any amount not paid within thirty (30) Business Days of demand therefor shall bear interest as provided in Section 12.

(f) *Tax Benefits*. If an indemnification obligation of any Indemnifying Party under this Section 11 arises in respect of an adjustment that makes allowable to an Indemnitee any Tax benefit which would not, but for such adjustment, be allowable, then any such indemnification obligation shall be an amount equal to (i) the amount otherwise due but for this Section 11(f), minus (ii) the reduction in actual cash Taxes payable by the Indemnitee in the Taxable year such indemnification obligation arises, determined on a "with and without" basis.

Section 12. *Payments*.

(a) *Timing*. All payments to be made under this Agreement (excluding, for the avoidance of doubt, any payments to a Taxing Authority described herein) shall be made in immediately available funds. Except as otherwise provided, all such payments will be due thirty (30) Business Days after the receipt of notice of such payment or, where no notice is required, thirty (30) Business Days after the fixing of liability or the resolution of a dispute (the "**Due Date**"). Payments shall be deemed made when received. Any payment that is not made on or before the Due Date shall bear interest at the rate equal to the "prime" rate as published on such Due Date in the Wall Street Journal, Eastern Edition, for the period from and including the date immediately following the Due Date through and including the date of payment. With respect to any payment required to be made under this Agreement, ADS shall make such payment directly to Loyalty Ventures and Loyalty Ventures to ADS; provided, however, ADS has the right to designate, by written notice to Loyalty Ventures, which member of the ADS Group will

make or receive such payment, and vice versa (unless such designation will result in unreimbursed costs for the non-designating party that cannot be mitigated with commercially reasonable efforts). All indemnification payments shall be treated in the manner described in Section 12(b).

(b) *Treatment of Payments*. To the extent permitted by Applicable Tax Law, any payment made by ADS or any member of the ADS Group to Loyalty Ventures or any member of the Loyalty Ventures Group, or by Loyalty Ventures or any member of the Loyalty Ventures Group to ADS or any member of the ADS Group, pursuant to this Agreement, the Separation Agreement or any other Distribution Document that relates to Taxable periods (or portions thereof) ending on or before the Distribution Date shall be treated by the parties hereto for all Tax purposes as a distribution by Loyalty Ventures to ADS, or a capital contribution from ADS to Loyalty Ventures, as the case may be; *provided, however,* that notwithstanding anything to the contrary in this Section 12(b), any payment made pursuant to Section 2.08(c) of the Separation Agreement shall instead be treated as if the party required to make a payment of received amounts had received such amounts as agent for the other party; *provided further* that any payment made pursuant to (i) Section 4 of the Transition Services Agreement and (ii) other commercial arrangements, if any, between members of the ADS Group, on the one hand, and members of the Loyalty Ventures Group, on the other hand, that will continue to be in effect following the Distribution Date shall instead be treated as a payment for services or as required in light of the nature of such commercial arrangements. ADS and Loyalty Ventures shall, and shall cause their Affiliates to, use commercially reasonable efforts to cooperate and take reasonable actions to minimize any Tax liability in connection with a payment under this Section 12(b). In the event that a Taxing Authority asserts that a party's treatment of a payment described in this Section 12(b) should be other than as required herein, such party shall use its reasonable best efforts to contest such assertion in a manner consistent with Section 15 of this Agreement.

(c) *No Duplicative Payment.* It is intended that the provisions of this Agreement shall not result in a duplicative payment of any amount required to be paid under the Separation Agreement or any other Distribution Document, and this Agreement shall be construed accordingly.

Section 13. *Guarantees*. ADS and Loyalty Ventures, as the case may be, each hereby guarantees and agrees to otherwise perform the obligations of each other member of the ADS Group or the Loyalty Ventures Group, respectively, under this Agreement.

Section 14. *Communication and Cooperation*.

(a) *Consult and Cooperate.* ADS and Loyalty Ventures shall consult and cooperate (and shall cause each other member of their respective Groups to consult and cooperate) fully at such time and to the extent reasonably requested by the other party in connection with all matters subject to this Agreement. Such cooperation shall include, without limitation:

(i) the retention, and provision on reasonable request, of any and all information including all books, records, documentation or other information pertaining to Tax matters relating to the Loyalty Ventures Group (or, in the case of any Tax Return of the ADS Group, the portion of such return that relates to Taxes for which the Loyalty Ventures Group may be liable pursuant to this Agreement), any necessary explanations of information, and access to personnel, until one year after the expiration of the applicable statute of limitation (giving effect to any extension, waiver or mitigation thereof);

(ii) the execution of any document that may be necessary (including to give effect to Section 15) or helpful in connection with any required Tax Return or in connection with any audit, proceeding, suit or action; and

(iii) the use of the parties' commercially reasonable efforts to obtain any documentation from a Governmental Authority or a third party that may be necessary or helpful in connection with the foregoing.

(b) *Provide Information.* Except as set forth in Section 15, ADS and Loyalty Ventures shall keep each other reasonably informed with respect to any material development relating to the matters subject to this Agreement.

(c) *Tax Attribute Matters.* ADS and Loyalty Ventures shall promptly advise each other with respect to any proposed Tax adjustments that are the subject of an audit or investigation, or are the subject of any proceeding or litigation, and that may affect any Tax liability or any Tax Attribute (including, but not limited to, basis in an asset or the amount of earnings and profits) of any member of the Loyalty Ventures Group or any member of the ADS Group, respectively.

(d) *Confidentiality and Privileged Information*. Any information or documents provided under this Agreement shall be kept confidential by the party receiving the information or documents, except as may otherwise be necessary in connection with the filing of required Tax Returns or in connection with any audit, proceeding, suit or action. Without limiting the foregoing (and notwithstanding any other provision of this Agreement or any other agreement), (i) no member of the ADS Group or Loyalty Ventures Group, respectively, shall be required to provide any member of the Loyalty Ventures Group or ADS Group, respectively, or any other Person access to or copies of any information or procedures other than information or procedures that relate solely to Loyalty Ventures, the business or assets of any member of the Loyalty Ventures Group, or matters for which Loyalty Ventures or ADS Group, respectively, has an obligation to indemnify under this Agreement, and (ii) in no event shall any member of the ADS Group or the Loyalty Ventures Group, respectively, be required to provide any member of the Loyalty Ventures Group or ADS Group, respectively, or any other Person access to or copies of any information if such action could reasonably be expected to result in the waiver of any privilege. Notwithstanding the foregoing, in the event that ADS or Loyalty Ventures, respectively, determines that the provision of any information to any member of the Loyalty Ventures Group or ADS Group, respectively, could be commercially detrimental or violate any law or agreement to which ADS or Loyalty

Ventures, respectively, is bound, ADS or Loyalty Ventures, respectively, shall not be required to comply with the foregoing terms of this Section 14(d) except to the extent that it is able, using commercially reasonable efforts, to do so while avoiding such harm or consequence (and shall promptly provide notice to ADS or Loyalty Ventures, to the extent such access to or copies of any information is provided to a Person other than a member of the ADS Group or Loyalty Ventures Group (as applicable)).

Section 15. *Audits and Contest*.

(a) *Notice*. Each of ADS or Loyalty Ventures shall promptly notify the other in writing upon the receipt of any notice of Tax Proceeding from the relevant Taxing Authority or upon becoming aware of an actual or potential Tax Proceeding by a Taxing Authority that may affect the liability of any member of the Loyalty Ventures Group or the ADS Group, respectively, for Taxes under Applicable Law or this Agreement; *provided*, that a party's right to indemnification under this Agreement shall not be limited in any way by a failure to so notify, except to the extent that the Indemnifying Party is prejudiced by such failure.

(b) *ADS Control*. Notwithstanding anything in this Agreement to the contrary but subject to Section 15(d), ADS shall have the right to control all matters relating to Separation Taxes, any ADS Separate Tax Return and any Tax Return, or any Tax Proceeding, with respect to any Tax matters of a Combined Group or any member of a Combined Group (as such). ADS shall have absolute discretion with respect to any decisions to be made, or the nature of any action to be taken, with respect to any Tax matter described in the preceding sentence; *provided, however*, that to the extent that any Tax Proceeding relating to such a Tax matter is reasonably likely to give rise to an indemnity obligation of Loyalty Ventures under Section 11 hereof, (i) ADS shall keep Loyalty Ventures informed of all material developments and events relating to any such Tax Proceeding described in this proviso and (ii) at its own cost and expense, Loyalty Ventures shall have the right to participate in (but not to control) the defense of any such Tax Proceeding.

(c) *Loyalty Ventures Assumption of Control; Non-Separation Taxes*. If ADS determines that the resolution of any matter pursuant to a Tax Proceeding described in Section 15(b) (other than a Tax Proceeding relating to Separation Taxes) is reasonably likely to have an adverse effect on the Loyalty Ventures Group with respect to any Post-Distribution Period, ADS, in its sole discretion, may permit Loyalty Ventures to elect to assume control over disposition of such matter at Loyalty Ventures' sole cost and expense; *provided, however*, that if Loyalty Ventures so elects, it will (i) be responsible for the payment of any liability arising from the disposition of such matter notwithstanding any other provision of this Agreement to the contrary and (ii) indemnify the ADS Group for the creation of or any increase in any liability, and any reduction of a Tax asset, of the ADS Group arising from such matter.

(d) *Loyalty Ventures Control*. Loyalty Ventures shall have the right to control any Tax Proceeding relating to Loyalty Ventures Separate Tax Returns, *provided* that to the extent that any Tax Proceeding relating to such a Tax matter is reasonably likely to

give rise to an indemnity obligation of ADS under Section 11 hereof or a Tax Refund to which ADS in entitled pursuant to Section 8 hereof, (i) Loyalty Ventures shall keep ADS informed of all material developments and events relating to any such Tax Proceeding, (ii) at its own cost and expense, ADS shall have the right to participate in the defense of any such Tax Proceeding, (iii) Loyalty Ventures shall not settle or compromise any such Tax Proceedings described in this proviso without ADS's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed, (iv) Loyalty Ventures shall prosecute all elements of such Tax Proceeding, including by making commercially reasonable efforts to minimize any Tax liability and maximize any Tax Refund at issue in such Tax Proceeding, irrespective of the Party liable for or entitled to such liability or Tax Refund; and (v) in the event Loyalty Ventures is not complying with its obligations pursuant to Section 15(d)(iv), ADS shall have the right to assume control of such Tax Proceeding and Loyalty Ventures shall cooperate in all respects to facilitate such assumption of control and the subsequent prosecution of such Tax Contest (and, in such event, Loyalty Ventures shall have the rights set forth in this proviso that ADS had prior to such assumption of control by ADS, *mutatis mutandis*).

Section 16. *Notices.* Any notice, instruction, direction or demand under the terms of this Agreement required to be in writing shall be duly given upon delivery, if delivered by hand, facsimile transmission, email transmission, or mail, to the following addresses:

if to ADS or the ADS Group, to:

Alliance Data Systems Corporation
7500 Dallas Parkway, Suite 700
Plano, Texas 75024
Attention: General Counsel
Email: generalcounsel@alliancedata.com

with a copy (which shall not constitute notice) to:

Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, New York 10017 Attention: William A. Curran
Email: william.curran@davispolk.com

if to Loyalty Ventures or the Loyalty Ventures Group,

to:

Loyalty Ventures Inc.
7500 Dallas Parkway, Suite 700
Plano, Texas 75024
Attention: General Counsel
Email: generalcounsel@loyalty.com

or such other address or facsimile number as such party may hereafter specify for the purpose by notice to the other party hereto. All such notices, requests and other communications shall be deemed received on the date of receipt by the recipient thereof if received prior to 5:00 p.m. in the place of receipt and such day is a Business Day in the place of receipt. Otherwise, any such notice, request or communication shall be deemed not to have been received until the next succeeding Business Day in the place of receipt.

Section 17. *Costs and Expenses.* The party that prepares any Tax Return shall bear the costs and expenses incurred in the preparation of such Tax Return. Except as expressly set forth in this Agreement or the Separation Agreement, (i) each party shall bear the costs and expenses incurred pursuant to this Agreement to the extent the costs and expenses are directly allocable to a liability or obligation allocated to such party and (ii) to the extent a cost or expense is not directly allocable to a liability or obligation, it shall be borne by the party incurring such cost or expense. For purposes of this Agreement, costs and expenses shall include, but not be limited to, reasonable attorneys' fees, accountants' fees and other related professional fees and disbursements.

Section 18. *Effectiveness; Termination and Survival.* Except as expressly set forth in this Agreement, as between ADS and Loyalty Ventures, this Agreement shall become effective upon the consummation of the Distribution. All rights and obligations arising hereunder shall survive until they are fully effectuated or performed; *provided* that, notwithstanding anything in this Agreement to the contrary, this Agreement shall remain in effect and its provisions shall survive for one year after the full period of all applicable statutes of limitation (giving effect to any extension, waiver or mitigation thereof) and, with respect to any claim hereunder initiated prior to the end of such period, until such claim has been satisfied or otherwise resolved. This agreement shall terminate without any further action at any time before the Distribution upon termination of the Separation Agreement.

Section 19. *Specific Performance.* Each party to this Agreement acknowledges and agrees that damages for a breach or threatened breach of any of the provisions of this Agreement would be inadequate and irreparable harm would occur. In recognition of this fact, each party agrees that, if there is a breach or threatened breach, in addition to any damages, the other nonbreaching party to this Agreement, without posting any bond, shall be entitled to seek and obtain equitable relief in the form of specific performance, temporary restraining order, temporary or permanent injunction, attachment, or any other equitable remedy which may then be available to obligate the breaching party (i) to perform its obligations under this Agreement or (ii) if the breaching party is unable, for whatever reason, to perform those obligations, to take any other actions as are necessary, advisable or appropriate to give the other party to this Agreement the economic effect which comes as close as possible to the performance of those obligations (including transferring, or granting liens on, the assets of the breaching party to secure the performance by the breaching party of those obligations).

Section 20. *Construction.* In this Agreement, unless the context clearly indicates otherwise:

(a) words used in the singular include the plural and words used in the plural include the singular;

(b) references to any Person include such Person's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement;

(c) except as otherwise clearly indicated, reference to any gender includes the other gender;

(d) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation";

(e) reference to any Article, Section, Exhibit or Schedule means such Article or Section of, or such Exhibit or Schedule to, this Agreement, as the case may be, and references in any Section or definition to any clause means such clause of such Section or definition;

(f) the words "herein," "hereunder," "hereof," "hereto" and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Section or other provision hereof;

(g) reference to any agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and by this Agreement;

(h) reference to any law (including statutes and ordinances) means such law (including all rules and regulations promulgated thereunder) as amended, modified, codified or reenacted, in whole or in part, and in effect at the time of determining compliance or applicability;

(i) relative to the determination of any period of time, "from" means "from and including," "to" means "to and including" and "through" means "through and including";

(j) the titles to Articles and headings of Sections contained in this Agreement have been inserted for convenience of reference only and shall not be deemed to be a part of or to affect the meaning or interpretation of this Agreement;

(k) unless otherwise specified in this Agreement, all references to dollar amounts herein shall be in respect of lawful currency of the United States; and

(l) any capitalized term used in an Exhibit or Schedule but not otherwise defined therein shall have the meaning set forth in this Agreement.

Section 21. *Entire Agreement; Amendments and Waivers*.

(a) *Entire Agreement*.

(i) This Agreement and the other Distribution Documents constitute the entire understanding of the parties with respect to the subject matter hereof and thereof and supersede all prior agreements, understandings and negotiations, both written and oral, between the parties with respect to the subject matter hereof and thereof. No representation, inducement, promise, understanding, condition or warranty not set forth or incorporated by reference herein or in the other Distribution Documents has been made or relied upon by any party hereto or any member of their Group with respect to the transactions contemplated by the Distribution Documents. This Agreement is an "**Ancillary Agreement**" as such term is defined in the Separation Agreement and shall be interpreted in accordance with the terms of the Separation Agreement in all respects, *provided* that in the event of any conflict or inconsistency between the terms of this Agreement, the Separation Agreement or any other Distribution Document, the terms of this Agreement shall control in all respects.

(ii) THE PARTIES ACKNOWLEDGE AND AGREE THAT NO REPRESENTATION, WARRANTY, PROMISE, INDUCEMENT, UNDERSTANDING, COVENANT OR AGREEMENT HAS BEEN MADE OR RELIED UPON BY ANY PARTY OTHER THAN THOSE EXPRESSLY SET FORTH OR INCORPORATED BY REFERENCE IN THIS AGREEMENT AND IN THE OTHER DISTRIBUTION DOCUMENTS. WITHOUT LIMITING THE GENERALITY OF THE DISCLAIMER SET FORTH IN THE PRECEDING SENTENCE, NEITHER ADS NOR ANY OF ITS AFFILIATES HAS MADE OR SHALL BE DEEMED TO HAVE MADE ANY REPRESENTATIONS OR WARRANTIES IN ANY PRESENTATION OR WRITTEN INFORMATION RELATING TO THE LOYALTYONE BUSINESS GIVEN OR TO BE GIVEN IN CONNECTION WITH THE CONTEMPLATED TRANSACTIONS OR IN ANY FILING MADE OR TO BE MADE BY OR ON BEHALF OF ADS OR ANY OF ITS AFFILIATES WITH ANY GOVERNMENTAL AUTHORITY, AND NO STATEMENT MADE IN ANY SUCH PRESENTATION OR WRITTEN MATERIALS (OTHER THAN IN THE TAX MATERIALS), MADE IN ANY SUCH FILING OR CONTAINED IN ANY SUCH OTHER INFORMATION SHALL BE DEEMED A REPRESENTATION OR WARRANTY HEREUNDER OR OTHERWISE EXCEPT AS EXPRESSLY INCORPORATED BY REFERENCE. LOYALTY VENTURES ACKNOWLEDGES THAT ADS HAS INFORMED IT THAT NO PERSON HAS BEEN AUTHORIZED BY ADS OR ANY OF ITS AFFILIATES TO MAKE ANY REPRESENTATION OR WARRANTY IN RESPECT OF THE LOYALTYONE BUSINESS OR IN CONNECTION WITH THE CONTEMPLATED TRANSACTIONS, UNLESS IN WRITING AND CONTAINED OR INCORPORATED BY REFERENCE IN THIS AGREEMENT OR IN ANY OF THE OTHER DISTRIBUTION DOCUMENTS TO WHICH THEY ARE A PARTY.

(b) *Amendments and Waivers*.

(i) Any provision of this Agreement may be amended or waived if, and only if, such amendment or waiver is in writing and is signed, in the case of an amendment, by ADS and Loyalty Ventures, or in the case of a waiver, by the party against whom the waiver is to be effective.

(ii) No failure or delay by any party (or the applicable member of such party's Group) in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by Applicable Law.

Section 22. *Governing Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to the conflicts of law rules of such state.

Section 23. *WAIVER OF JURY TRIAL*. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 24. *Dispute Resolution.* In the event of any dispute relating to this Agreement, the parties shall work together in good faith to resolve such dispute within thirty (30) days. In the event that such dispute is not resolved, upon written notice by a party after such thirty (30)-day period, the matter shall be referred to a U.S. Tax counsel or other Tax advisor of recognized national standing (the "**Tax Arbiter**") that will be jointly chosen by the ADS and Loyalty Ventures; *provided, however*, that, if the ADS and Loyalty Ventures do not agree on the selection of the Tax Arbiter after five (5) days of good faith negotiation, the Tax Arbiter shall consist of a panel of three U.S. Tax counsel or other Tax advisors of recognized national standing with one member chosen by the ADS, one member chosen by Loyalty Ventures, and a third member chosen by mutual agreement of the other members within the following ten (10)-day period. Each decision of a panel Tax Arbiter shall be made by majority vote of the members. The Tax Arbiter may, in its discretion, obtain the services of any third party necessary to assist it in resolving the dispute. The Tax Arbiter shall furnish written notice to the parties to the dispute of its resolution of the dispute as soon as practicable, but in any event no later than ninety (90) days after acceptance of the matter for resolution. Any such resolution by the Tax Arbiter shall be binding on the parties, and the parties shall take, or cause to be taken, any action necessary to implement such resolution. All fees and expenses of the Tax Arbiter shall be shared equally by the parties to the dispute.

Section 25. *Counterparts; Effectiveness; Third-Party Beneficiaries.* This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement shall become effective when each party hereto shall have received a counterpart hereof signed by the other party hereto. Until and unless each party has received a counterpart hereof signed by the other party hereto, this Agreement

shall have no effect and no party shall have any right or obligation hereunder (whether by virtue of any other oral or written agreement or other communication). Except for Section 14(d) and the indemnification and release provisions of Section 11, neither this Agreement nor any provision hereof is intended to confer any rights, benefits, remedies, obligations, or liabilities hereunder upon any Person other than the parties hereto and their respective successors and permitted assigns.

Section 26. *Successors and Assigns.* The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns; *provided* that neither party may assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the consent of the other party hereto. If any party or any of its successors or permitted assigns (i) shall consolidate with or merge into any other Person and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (ii) shall transfer all or substantially all of its properties and assets to any Person, then, and in each such case, proper provisions shall be made so that the successors and assigns of such party shall assume all of the obligations of such party under the Distribution Documents.

Section 27. *Authorization*. Each of ADS and Loyalty Ventures hereby represents and warrants that it has the power and authority to execute, deliver and perform this Agreement, on its behalf and on behalf of each member of its Group, that this Agreement has been duly authorized by all necessary corporate action on the part of such party and each member of its Group, that this Agreement constitutes a legal, valid and binding obligation of each such party and each member of its Group, and that the execution, delivery and performance of this Agreement by such party and each member of its Group does not contravene or conflict with any provision or law or of its charter or bylaws or any agreement, instrument or order binding on such party or member of its Group.

Section 28. *Change in Tax Law.* Any reference to a provision of the Code, Treasury Regulations or any other Applicable Tax Law shall include a reference to any applicable successor provision of the Code, Treasury Regulations or other Applicable Tax Law.

Section 29. *Performance*. Each party shall cause to be performed all actions, agreements and obligations set forth herein to be performed by any member of such party's Group.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the day and year first written above.

ADS on its own behalf and on behalf of the members of the ADS Group

By: DocuSigned by: Perry Beberman BEFE5AF6A5894C3...

Name: Perry Beberman
Title: Chief Financial Officer

By: _____

Name: Jeffrey Fair
Title: Senior Vice President

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the day and year first written above.

ADS on its own behalf and on behalf of the members of the ADS Group

By: _____
Name: Perry Beberman
Title: Chief Financial Officer

By: _____
Name: Jeffrey Fair
Title: Senior Vice President

Loyalty Ventures on its own behalf and on behalf of the members of the Loyalty Ventures Group

By: 

Name: Jeffrey Fair
Title: Senior Vice President

SCHEDULE A

The following transactions occurring pursuant to the Restructuring are intended to be treated for U.S. federal income tax purposes as follow:

1. ADS Foreign Holdings, Inc. converts to a limited liability company and becomes ADS Foreign Holdings, LLC. This conversion is intended to qualify as a tax-free liquidation under Section 332 of the Code.

2. Alliance Data Systems Foreign Holdings, Inc. converts to a limited liability company and becomes Alliance Data Systems Foreign Holdings, LLC. This conversion is intended to qualify as a tax-free liquidation under Section 332 of the Code.

3. Alliance Data International, LLC elects to be treated as a disregarded entity for U.S. federal tax purposes. This election is intended to qualify as a tax-free liquidation under Section 332 of the Code.

4. Upon the deemed liquidation of ADS Foreign Holdings, Inc., Alliance Data Systems Foreign Holdings, Inc. and Alliance Data International, LLC described in 1-3 above, the amount of the intercompany gain resulting from ADS's previous contribution of all of the issued and outstanding stock of LoyaltyOne, Inc. to Alliance Data Systems Foreign Holdings, Inc. in exchange for equity and a note receivable is intended to be redetermined to be excluded from gross income under Treas. Reg. §1.1502-13(c)(6).

SCHEDULE B

The following entities are in the process of being liquidated or will be liquidated by Loyalty Ventures or a member of Loyalty Ventures Group:

- Merison Retail B.V.
- Merison Group B.V.
- Max Holding B.V.
- Edison International Concept & Agencies B.V.
- Brand Loyalty Special Promotions B.V.

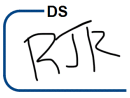
SCHEDULE C

The following matters may result in Tax Refunds to which ADS is entitled pursuant to Section 8(a):

- LoyaltyOne, Co. income tax payments made in order to appeal and litigate the 2013 tax assessments (and additional assessments in 2014-2016) issued by both Canadian federal and provincial tax authorities.

- Apollo Holdings BV 2019 Tax Return net operating loss carryback to 2018 tax year.

This is Exhibit “U” referred to in the Affidavit of Joseph L. Motes III affirmed by Joseph L. Motes III of the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on February 9, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

RJ REID

To: Andretta, Ralph[Ralph.Andretta@alliancedata.com]; Motes, Joseph[joseph.motes@alliancedata.com]; John Gerspach[jgerspach@adsmessaging.com]
From: Beberman, Perry[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6A651F2B24054DF2AE1B84278E2507AB-BEBERMAN, P]
Sent: Wed 9/1/2021 11:31:13 PM (UTC)
Subject: FW: TMA and Debt Raise

I spoke with KC from EYCA to ask whether Remainco "claiming" the net tax receivables would impact debt raise (or any key ratios embedded in convenents).

See below … bottom line, the approach we are suggesting will not impact the debt raise.

We can discuss more tomorrow.

From: K.C. Brechnitz <KC.Brechnitz@ey.com>
Sent: Wednesday, September 1, 2021 7:26 PM
To: Beberman, Perry <Perry.Beberman@alliancedata.com>
Cc: Geoff Ellis <Geoff.Ellis@ey.com>
Subject: TMA and Debt Raise

⚠ **External Email** ⚠

Perry – per our conversation on the debt raise and potential changes to the tax situation, my key thoughts are as follows –

1. Investors don't really underwrite tax receivables from the government – if the cash comes great but they don't count on it. So even if SpinCo was expecting to get it, it would not make much difference
2. Investors underwrite the projected cash flows of the business – the free cash we have been estimating is $50-$60mm per year (excluding any tax receipts) is the key. I did not see any big tax receipts in the projections – it's the operating cash flow that is important
3. Ratios – SpinCo is not likely to have any covenants with ratios that include Total Assets. The goal is the Term Loan B will have no covenants (and no ratios) and the Revolver will likely have an interest coverage ratio and a total leverage ratio, neither of which include Total Assets. Sometimes baskets for investments or dividends can be keyed to a % of Total Assets, but we can also have them drive off of EBITDA.

Ultimately, if the tax asset ends up going to RemainCo instead of SpinCo, I do not see this affecting the debt raise in any way. Even if there is a contra-asset scenario where SpinCo forwards the proceeds onto Remainco, we can easily build flexibility into the credit agreement for this to happen without friction.

Hope this helps!

K. C. Brechnitz | Senior Managing Director | Global Head of Capital Markets Advisory

Ernst & Young Capital Advisors, LLC
www.eyinvestmentbanking.com
Office: 704-335-4211 | Cell: 704-962-1669 | kc.brechnitz@ey.com

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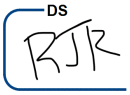
This is Exhibit “V” referred to in the Affidavit of Joseph L. Motes III affirmed by Joseph L. Motes III of the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on February 9, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

RJ REID

855
SEC Form 4

FORM 4

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

OMB APPROVAL	
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STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934 or Section 30(h) of the Investment Company Act of 1940

1. Name and Address of Reporting Person*	2. Issuer Name **and** Ticker or Trading Symbol	5. Relationship of Reporting Person(s) to Issuer (Check all applicable)
HORN CHARLES L	Loyalty Ventures Inc. [LYLT]	X Director; 10% Owner; X Officer (give title below); Other (specify below) — President & CEO
(Last) (First) (Middle): 7500 DALLAS PARKWAY, SUITE 700	3. Date of Earliest Transaction (Month/Day/Year): 11/09/2021	
(Street): PLANO TX 75024	4. If Amendment, Date of Original Filed (Month/Day/Year)	6. Individual or Joint/Group Filing (Check Applicable Line): X Form filed by One Reporting Person; Form filed by More than One Reporting Person
(City) (State) (Zip)		

Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

1. Title of Security (Instr. 3)	2. Transaction Date (Month/Day/Year)	2A. Deemed Execution Date, if any (Month/Day/Year)	3. Transaction Code (Instr. 8)		4. Securities Acquired (A) or Disposed Of (D) (Instr. 3, 4 and 5)			5. Amount of Securities Beneficially Owned Following Reported Transaction(s) (Instr. 3 and 4)	6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	7. Nature of Indirect Beneficial Ownership (Instr. 4)
			Code	V	Amount	(A) or (D)	Price			
Common Stock	11/09/2021		P		2,380	A	$42	4,900	D	
Common Stock	11/09/2021		P		0.957	A	$41.783	4,900.957	D	
Common Stock	11/10/2021		P		2,564.102	A	$39	7,465.059	D	
Common Stock	11/10/2021		P		1,333	A	$37.5	8,798.059	D	
Common Stock	11/10/2021		P		0.334	A	$37.37	8,798.393(1)	D	

Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned (e.g., puts, calls, warrants, options, convertible securities)

1. Title of Derivative Security (Instr. 3)	2. Conversion or Exercise Price of Derivative Security	3. Transaction Date (Month/Day/Year)	3A. Deemed Execution Date, if any (Month/Day/Year)	4. Transaction Code (Instr. 8)		5. Number of Derivative Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5)		6. Date Exercisable and Expiration Date (Month/Day/Year)		7. Title and Amount of Securities Underlying Derivative Security (Instr. 3 and 4)		8. Price of Derivative Security (Instr. 5)	9. Number of derivative Securities Beneficially Owned Following Reported Transaction(s) (Instr. 4)	10. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	11. Nature of Indirect Beneficial Ownership (Instr. 4)
				Code	V	(A)	(D)	Date Exercisable	Expiration Date	Title	Amount or Number of Shares				

Explanation of Responses:

1. The total number of securities beneficially owned includes 8,798.393 unrestricted shares, including 2,520 unrestricted shares resulting from the spinoff distribution by Alliance Data Systems Corporation on November 5, 2021.

Cynthia L. Hageman, Attorney in Fact — 11/10/2021

** Signature of Reporting Person — Date

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

* If the form is filed by more than one reporting person, *see* Instruction 4 (b)(v).

** Intentional misstatements or omissions of facts constitute Federal Criminal Violations *See* 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

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FORM 4

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

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STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934 or Section 30(h) of the Investment Company Act of 1940

1. Name and Address of Reporting Person*	2. Issuer Name **and** Ticker or Trading Symbol	5. Relationship of Reporting Person(s) to Issuer (Check all applicable)
HORN CHARLES L	Loyalty Ventures Inc. [LYLT]	X Director; 10% Owner
(Last) (First) (Middle)	3. Date of Earliest Transaction (Month/Day/Year)	X Officer (give title below); Other (specify below)
7500 DALLAS PARKWAY, SUITE 700	11/11/2021	President & CEO
(Street)	4. If Amendment, Date of Original Filed (Month/Day/Year)	6. Individual or Joint/Group Filing (Check Applicable Line)
PLANO TX 75024		X Form filed by One Reporting Person
(City) (State) (Zip)		Form filed by More than One Reporting Person

Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

1. Title of Security (Instr. 3)	2. Transaction Date (Month/Day/Year)	2A. Deemed Execution Date, if any (Month/Day/Year)	3. Transaction Code (Instr. 8)		4. Securities Acquired (A) or Disposed Of (D) (Instr. 3, 4 and 5)			5. Amount of Securities Beneficially Owned Following Reported Transaction(s) (Instr. 3 and 4)	6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	7. Nature of Indirect Beneficial Ownership (Instr. 4)
			Code	V	Amount	(A) or (D)	Price			
Common Stock	11/11/2021		P		2,857.142	A	$35	11,655.535(1)	D	

Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned (e.g., puts, calls, warrants, options, convertible securities)

1. Title of Derivative Security (Instr. 3)	2. Conversion or Exercise Price of Derivative Security	3. Transaction Date (Month/Day/Year)	3A. Deemed Execution Date, if any (Month/Day/Year)	4. Transaction Code (Instr. 8)		5. Number of Derivative Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5)		6. Date Exercisable and Expiration Date (Month/Day/Year)		7. Title and Amount of Securities Underlying Derivative Security (Instr. 3 and 4)		8. Price of Derivative Security (Instr. 5)	9. Number of derivative Securities Beneficially Owned Following Reported Transaction(s) (Instr. 4)	10. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	11. Nature of Indirect Beneficial Ownership (Instr. 4)
				Code	V	(A)	(D)	Date Exercisable	Expiration Date	Title	Amount or Number of Shares				

Explanation of Responses:

1. The total number of securities beneficially owned includes 11,655.535 unrestricted shares.

Cynthia L. Hageman, Attorney in Fact — 11/15/2021

** Signature of Reporting Person — Date

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

* If the form is filed by more than one reporting person, *see* Instruction 4 (b)(v).

** Intentional misstatements or omissions of facts constitute Federal Criminal Violations *See* 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

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UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

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STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934 or Section 30(h) of the Investment Company Act of 1940

1. Name and Address of Reporting Person*	2. Issuer Name **and** Ticker or Trading Symbol	5. Relationship of Reporting Person(s) to Issuer (Check all applicable)
HORN CHARLES L	Loyalty Ventures Inc. [LYLT]	X Director; 10% Owner; X Officer (give title below); Other (specify below) — President & CEO
(Last) (First) (Middle): 7500 DALLAS PARKWAY, SUITE 700	3. Date of Earliest Transaction (Month/Day/Year): 11/19/2021	
(Street): PLANO TX 75024	4. If Amendment, Date of Original Filed (Month/Day/Year)	6. Individual or Joint/Group Filing (Check Applicable Line): X Form filed by One Reporting Person; Form filed by More than One Reporting Person
(City) (State) (Zip)		

Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

1. Title of Security (Instr. 3)	2. Transaction Date (Month/Day/Year)	2A. Deemed Execution Date, if any (Month/Day/Year)	3. Transaction Code (Instr. 8)		4. Securities Acquired (A) or Disposed Of (D) (Instr. 3, 4 and 5)			5. Amount of Securities Beneficially Owned Following Reported Transaction(s) (Instr. 3 and 4)	6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	7. Nature of Indirect Beneficial Ownership (Instr. 4)
			Code	V	Amount	(A) or (D)	Price			
Common Stock	11/19/2021		P		1,538	A	$32.5	13,193.535	D	
Common Stock	11/19/2021		P		0.461	A	$32.47	13,193.996(1)	D	

Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned (e.g., puts, calls, warrants, options, convertible securities)

1. Title of Derivative Security (Instr. 3)	2. Conversion or Exercise Price of Derivative Security	3. Transaction Date (Month/Day/Year)	3A. Deemed Execution Date, if any (Month/Day/Year)	4. Transaction Code (Instr. 8)		5. Number of Derivative Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5)		6. Date Exercisable and Expiration Date (Month/Day/Year)		7. Title and Amount of Securities Underlying Derivative Security (Instr. 3 and 4)		8. Price of Derivative Security (Instr. 5)	9. Number of derivative Securities Beneficially Owned Following Reported Transaction(s) (Instr. 4)	10. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	11. Nature of Indirect Beneficial Ownership (Instr. 4)
				Code	V	(A)	(D)	Date Exercisable	Expiration Date	Title	Amount or Number of Shares				

Explanation of Responses:

1. The total number of securities beneficially owned includes 13,193.996 unrestricted shares.

Cynthia L. Hageman, Attorney in Fact — 11/22/2021

** Signature of Reporting Person — Date

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

* If the form is filed by more than one reporting person, *see* Instruction 4 (b)(v).

** Intentional misstatements or omissions of facts constitute Federal Criminal Violations *See* 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

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STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934 or Section 30(h) of the Investment Company Act of 1940

1. Name and Address of Reporting Person*	2. Issuer Name **and** Ticker or Trading Symbol	5. Relationship of Reporting Person(s) to Issuer (Check all applicable)
HORN CHARLES L	Loyalty Ventures Inc. [LYLT]	X Director; 10% Owner
(Last) (First) (Middle)	3. Date of Earliest Transaction (Month/Day/Year)	X Officer (give title below); Other (specify below)
7500 DALLAS PARKWAY, SUITE 700	11/26/2021	President & CEO
(Street)	4. If Amendment, Date of Original Filed (Month/Day/Year)	6. Individual or Joint/Group Filing (Check Applicable Line)
PLANO TX 75024		X Form filed by One Reporting Person
(City) (State) (Zip)		Form filed by More than One Reporting Person

Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

1. Title of Security (Instr. 3)	2. Transaction Date (Month/Day/Year)	2A. Deemed Execution Date, if any (Month/Day/Year)	3. Transaction Code (Instr. 8)		4. Securities Acquired (A) or Disposed Of (D) (Instr. 3, 4 and 5)			5. Amount of Securities Beneficially Owned Following Reported Transaction(s) (Instr. 3 and 4)	6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	7. Nature of Indirect Beneficial Ownership (Instr. 4)
			Code	V	Amount	(A) or (D)	Price			
Common Stock	11/26/2021		P		840.652	A	$29.7388(1)	14,034.648(2)	D	

Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned (e.g., puts, calls, warrants, options, convertible securities)

1. Title of Derivative Security (Instr. 3)	2. Conversion or Exercise Price of Derivative Security	3. Transaction Date (Month/Day/Year)	3A. Deemed Execution Date, if any (Month/Day/Year)	4. Transaction Code (Instr. 8)		5. Number of Derivative Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5)		6. Date Exercisable and Expiration Date (Month/Day/Year)		7. Title and Amount of Securities Underlying Derivative Security (Instr. 3 and 4)		8. Price of Derivative Security (Instr. 5)	9. Number of derivative Securities Beneficially Owned Following Reported Transaction(s) (Instr. 4)	10. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	11. Nature of Indirect Beneficial Ownership (Instr. 4)
				Code	V	(A)	(D)	Date Exercisable	Expiration Date	Title	Amount or Number of Shares				

Explanation of Responses:

1. The price reported in column 4 is a weighted average price. These shares were purchased in multiple transactions at prices ranging from $29.72 to $29.76, inclusive. The reporting person undertakes to provide to Loyalty Ventures Inc., any security holder of Loyalty Ventures Inc. or the staff of the Securities and Exchange Commission, upon request, full information regarding the number of shares purchased at each separate price within the range set forth herein.

2. The total number of securities beneficially owned includes 14,034.648 unrestricted shares.

Cynthia L. Hageman, Attorney in Fact — 11/29/2021

** Signature of Reporting Person — Date

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

* If the form is filed by more than one reporting person, *see* Instruction 4 (b)(v).

** Intentional misstatements or omissions of facts constitute Federal Criminal Violations *See* 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

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UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

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OMB Number:	3235-0287
Estimated average burden hours per response:	0.5

☐ Check this box if no longer subject to Section 16. Form 4 or Form 5 obligations may continue. *See* Instruction 1(b).

STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934 or Section 30(h) of the Investment Company Act of 1940

1. Name and Address of Reporting Person*	2. Issuer Name **and** Ticker or Trading Symbol	5. Relationship of Reporting Person(s) to Issuer (Check all applicable)
HORN CHARLES L	Loyalty Ventures Inc. [LYLT]	X Director; 10% Owner
(Last) (First) (Middle)	3. Date of Earliest Transaction (Month/Day/Year)	X Officer (give title below); Other (specify below)
7500 DALLAS PARKWAY, SUITE 700	11/29/2021	President & CEO
(Street)	4. If Amendment, Date of Original Filed (Month/Day/Year)	6. Individual or Joint/Group Filing (Check Applicable Line)
PLANO TX 75024		X Form filed by One Reporting Person
(City) (State) (Zip)		Form filed by More than One Reporting Person

Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

1. Title of Security (Instr. 3)	2. Transaction Date (Month/Day/Year)	2A. Deemed Execution Date, if any (Month/Day/Year)	3. Transaction Code (Instr. 8)		4. Securities Acquired (A) or Disposed Of (D) (Instr. 3, 4 and 5)			5. Amount of Securities Beneficially Owned Following Reported Transaction(s) (Instr. 3 and 4)	6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	7. Nature of Indirect Beneficial Ownership (Instr. 4)
			Code	V	Amount	(A) or (D)	Price			
Common Stock	11/29/2021		P		1,761.957	A	$28.3775(1)	15,796.605(2)	D	

Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned (e.g., puts, calls, warrants, options, convertible securities)

1. Title of Derivative Security (Instr. 3)	2. Conversion or Exercise Price of Derivative Security	3. Transaction Date (Month/Day/Year)	3A. Deemed Execution Date, if any (Month/Day/Year)	4. Transaction Code (Instr. 8)		5. Number of Derivative Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5)		6. Date Exercisable and Expiration Date (Month/Day/Year)		7. Title and Amount of Securities Underlying Derivative Security (Instr. 3 and 4)		8. Price of Derivative Security (Instr. 5)	9. Number of derivative Securities Beneficially Owned Following Reported Transaction(s) (Instr. 4)	10. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	11. Nature of Indirect Beneficial Ownership (Instr. 4)
				Code	V	(A)	(D)	Date Exercisable	Expiration Date	Title	Amount or Number of Shares				

Explanation of Responses:

1. The price reported in column 4 is a weighted average price. These shares were purchased in multiple transactions at prices ranging from $28.29 to $28.48, inclusive. The reporting person undertakes to provide to Loyalty Ventures Inc., any security holder of Loyalty Ventures Inc. or the staff of the Securities and Exchange Commission, upon request, full information regarding the number of shares purchased at each separate price within the range set forth herein.

2. The total number of securities beneficially owned includes 15,796.605 unrestricted shares.

Cynthia L. Hageman, Attorney in Fact — 11/30/2021

** Signature of Reporting Person — Date

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

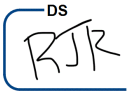
* If the form is filed by more than one reporting person, *see* Instruction 4 (b)(v).

** Intentional misstatements or omissions of facts constitute Federal Criminal Violations *See* 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, *see* Instruction 6 for procedure.

Persons who respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB Number.

This is Exhibit “W” referred to in the Affidavit of Joseph L. Motes III affirmed by Joseph L. Motes III of the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on February 9, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

RJ REID

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SEC Form 4

FORM 4

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

OMB APPROVAL	
OMB Number:	3235-0287
Estimated average burden hours per response:	0.5

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STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934 or Section 30(h) of the Investment Company Act of 1940

1. Name and Address of Reporting Person*	2. Issuer Name **and** Ticker or Trading Symbol	5. Relationship of Reporting Person(s) to Issuer (Check all applicable)
BALLOU ROGER H	Loyalty Ventures Inc. [LYLT]	X Director; 10% Owner; Officer (give title below); Other (specify below)
(Last) (First) (Middle): 7500 DALLAS PARKWAY, SUITE 700	3. Date of Earliest Transaction (Month/Day/Year): 11/11/2021	
(Street): PLANO TX 75024	4. If Amendment, Date of Original Filed (Month/Day/Year)	6. Individual or Joint/Group Filing (Check Applicable Line): X Form filed by One Reporting Person; Form filed by More than One Reporting Person
(City) (State) (Zip)		

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			Code	V	Amount	(A) or (D)	Price			
Common Stock	11/11/2021		P		2,932	A	$34.0878(1)	7,253(2)	D	

Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned (e.g., puts, calls, warrants, options, convertible securities)

1. Title of Derivative Security (Instr. 3)	2. Conversion or Exercise Price of Derivative Security	3. Transaction Date (Month/Day/Year)	3A. Deemed Execution Date, if any (Month/Day/Year)	4. Transaction Code (Instr. 8)		5. Number of Derivative Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5)		6. Date Exercisable and Expiration Date (Month/Day/Year)		7. Title and Amount of Securities Underlying Derivative Security (Instr. 3 and 4)		8. Price of Derivative Security (Instr. 5)	9. Number of derivative Securities Beneficially Owned Following Reported Transaction(s) (Instr. 4)	10. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	11. Nature of Indirect Beneficial Ownership (Instr. 4)
				Code	V	(A)	(D)	Date Exercisable	Expiration Date	Title	Amount or Number of Shares				

Explanation of Responses:

1. The price reported in column 4 is a weighted average price. These shares were purchased in multiple transactions at prices ranging from $34.015 to $34.16, inclusive. The reporting person undertakes to provide to Loyalty Ventures Inc., any security holder of Loyalty Ventures Inc. or the staff of the Securities and Exchange Commission, upon request, full information regarding the number of shares purchased at each separate price within the range set forth herein.

2. The total number of securities beneficially owned includes 7,253 unrestricted shares, including 4,321 unrestricted shares resulting from the spinoff distribution by Alliance Data Systems Corporation on November 5, 2021.

Cynthia L. Hageman, Attorney in Fact — 11/15/2021

** Signature of Reporting Person — Date

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

* If the form is filed by more than one reporting person, *see* Instruction 4 (b)(v).

** Intentional misstatements or omissions of facts constitute Federal Criminal Violations *See* 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, *see* Instruction 6 for procedure.

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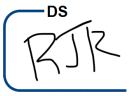
This is Exhibit “X” referred to in the Affidavit of Joseph L. Motes III affirmed by Joseph L. Motes III of the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on February 9, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

RJ REID

EX-99.2 3 exhibit_99-2.htm EXHIBIT 99.2

Exhibit 99.2

Forward-Looking Statements and Financial Measures

This presentation contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. Forward-looking statements give our expectations or forecasts of future events and can generally be identified by the use of words such as "believe," "expect," "anticipate," "estimate," "intend," "project," "plan," "likely," "may," "should" or other words or phrases of similar import. Similarly, statements that describe our business strategy, outlook, objectives, plans, intentions or goals also are forward-looking statements. Examples of forward-looking statements include, but are not limited to, statements we make regarding, and the guidance we give with respect to, our anticipated operating or financial results, including revenues, adjusted EBITDA and adjusted EBITDA margins for 2022 and the assumptions related thereto; the preliminary results of our interim impairment test and the related goodwill impairment charge; our significant growth potential, including through organic investments and/or tuck-in acquisitions; our plans to deploy resources in 2022; our ability to grow our business; and the impact of future economic conditions, including, but not limited to, fluctuation in currency exchange rates, market conditions and COVID-19 impacts related to reduction in demand from clients, supply chain disruption with respect to our rewards, disruptions in the airline or travel industries and labor shortages due to quarantine.

We believe that our expectations are based on reasonable assumptions. Forward-looking statements, however, are subject to a number of risks and uncertainties that could cause actual results to differ materially from the projections, anticipated results or other expectations expressed in this presentation, and no assurances can be given that our expectations will prove to have been correct. These risks and uncertainties include, but are not limited to, that actual results may differ materially from the preliminary results of our interim impairment test upon the completion of our procedures with respect to our annual financial statements and filing of our annual report on Form 10-K and the factors set forth in the Risk Factors section of both (1) our Registration Statement on Form 10-12B, and (2) any updates in Item 1A, or elsewhere, in our Quarterly Reports on Form 10-Q filed for periods subsequent to such Registration Statement or our Form 10-K for the most recently ended fiscal year when filed or any updates thereto. Our forward-looking statements speak only as of the date made, and we undertake no obligation, other than as required by applicable law, to update or revise any forward-looking statements, whether as a result of new information, subsequent events, anticipated or unanticipated circumstances or otherwise.

In addition to the results presented in accordance with generally accepted accounting principles, or GAAP, we may present financial measures that are non-GAAP measures, such as adjusted EBITDA, adjusted EBITDA margin and free cash flow. Adjusted EBITDA eliminates the non-cash depreciation of tangible assets and amortization of intangible assets, including certain intangible assets that were recognized in business combinations, and the non-cash effect of stock compensation expense. Adjusted EBITDA also eliminates the effect of gains on the sale of a business, goodwill impairment, strategic transaction costs and restructuring and other charges. Adjusted EBITDA margin represents adjusted EBITDA divided by revenue. Free cash flow represents cash flow from operations less capital expenditures. Free cash flow is a liquidity measure used by management to evaluate the amount of cash available for debt repayment, acquisition opportunities, and other corporate purposes. No reconciliation is provided with respect to forward looking annual guidance as we cannot reliably predict all necessary components or their impact to reconcile these non-GAAP measures without unreasonable effort. The events necessitating a non-GAAP adjustment are inherently unpredictable and may have a material impact on our future results. Reconciliations to the most directly comparable GAAP financial measures are available in our earnings press release, which is posted in the Press Releases section on our website (www.loyaltyventures.com).

2021 Key Takeaways

Clarity & Focus

- Spin complete, now a standalone public company included in the S&P SmallCap 600

Resilient Performance

- AIR MILES® Reward Program delivered solid performance and increased both Revenue and Adj. EBITDA, as well as sequential growth in miles issued across 2021
- BrandLoyalty navigated supply chain disruptions throughout 2021 and established alternatives for 2022

Investment Strategy in 2022 to Drive Long-Term Growth

- Improve consumer experience
- Accelerate digital innovation
- Enhance data and analytics capabilities for retailers and sponsors at both AIR MILES Reward Program and BrandLoyalty

2021 Summary of Financial Results

	Revenue	Adj. EBITDA[1]	Net (Loss) Income / Diluted EPS[2]
Q4	$239MM	$47MM	($56MM) ($2.27)
FY	$735MM	$166MM	$2MM $0.07

FY 2021

- Revenue decreased 4% year-over-year, including a challenging Q1 year-over-year comparison at BrandLoyalty
- Total Adj. EBITDA margin remained steady at ~23%
- Net (Loss) Income and Diluted EPS include $64 million, or $2.62 per share, of goodwill impairment and strategic transaction costs, respectively

Notes:
1. Adj. EBITDA excludes goodwill impairment and strategic transaction costs
2. Earnings (loss) per share ("EPS")

AIR MILES Reward Program Q4 Developments

Program Enhancements & Brand Refresh

- Strategic Program changes and a new visual identity resulted in an increase in digitally-active collectors

Flight Platform Relaunch

- Launched all-new flight booking program, featuring increased flexibility and value for Collectors, new airline partners and a re-designed digital experience
- Significant increase in airline tickets at launch

Card Linked Offers

- Launched card linked offers, introducing a further integration of payment and loyalty into one seamless customer experience that provides new ways for collectors to earn more AIR MILES reward miles while enabling another way for retailers to partner with the AIR MILES Reward Program
- Positive momentum with partner participation as well as Collectors linking and earning AIR MILES reward miles at participating retailers

AIR MILES Reward Program Partner Developments

Key Sponsor Signings

- Extended current sponsor agreements in the home improvement, beverage and electronics verticals

KENT NSLC SAMSUNG

Shopify

- Engaged Canadian small businesses by supporting the launch of the AIR MILES INCENTIVES® Shopify App

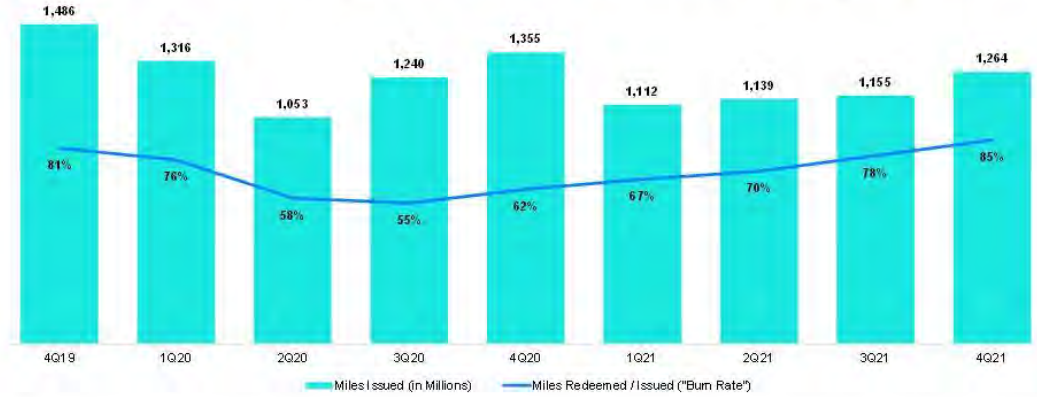
shopify

Card Linked Offers

- Time-limited new promotion features offers from some of Canada's favorite brands, including

SUBWAY H&M indigo.ca SEPHORA DSW DESIGNER SHOE WAREHOUSE

AIR MILES Reward Program Performance Highlights



- Issuance improved throughout the year despite two non-renewals, COVID restrictions and Omicron-related setback in Q4
- Burn rate was impacted by pent-up demand for travel as restrictions partially abated
- Redemption Settlement Assets (held in trust) fund future redemptions

BrandLoyalty Q4 Developments

Brand Refresh

- Revealed new visual identity, representing BrandLoyalty's innovation, relevance and creativity

Brand Loyalty

Disney Renewal

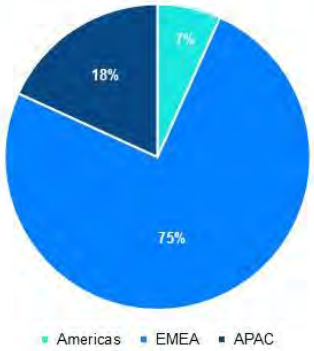
- Renewed relationship with Disney in key regions, enabling BrandLoyalty to offer loyalty promotions including The Walt Disney Company franchises to our retail clients

Supply Chain

- COVID-19 continued to impact ports, airports and rail terminals in key sourcing regions, causing deferrals of campaign-based programs into 2022
- Increased local sourcing, adjusted logistic routes and pre-booked capacity on ocean containers

BrandLoyalty Performance Highlights

2021 Revenue by Geography



2021 Campaign Statistics

Campaigns	185+
Retailers	140+
Countries	40+

- EMEA market continues to be strong
- Americas and APAC expected to contribute to future growth

Strategic Investments in 2022

$18MM
Baseline CapEx

$20-25MM
Additional CapEx investment and

$20-25MM
incremental P&L[1] investment in 2022 to accelerate growth, focused on three key areas

1. Engaging Consumers
2. Digital Innovation
3. Data & Analytics Capabilities

Notes:
1. Investment will be realized through both cost of redemptions (impacting net revenue) and operating expenses

Engaging Consumers

Accelerate investment to improve **time to reward** and the **overall Collector experience**, including merchandise attainability and value, travel platform ease of use and enhancement of Tier benefits

Deploy **new Real-Time Issuance capabilities** across the coalition, so Collectors can see their updated balance immediately following checkout

Brand Loyalty

Leveraging the **power of Disney franchises to improve engagement** between clients and shoppers

Introduced **sustainability initiatives** focused on carbon offsetting solutions, including the ability to convert voluntary carbon credits to a tradable environmental micro-currency

Digital Innovation

Expand digital reach, optimize Collector value and **improve overall Collector experience**

Capitalize on Canadians' return to travel with enhanced flight and car value and experience, including both redemption and credit card purchase

Deploy **automated CRM platform and personalization** to more sponsors

Brand Loyalty

Increasing monthly active users and time spent on retailers' digital platforms through solutions that **increase engagement** and give consumers the ability to win prizes

Launched Club Leaf, a suite of **carbon offsetting solutions including a B2C app** and various B2B carbon foot printing and compensation services

Design e-commerce loyalty campaigns that **build online ordering habits** and grow share of wallet

Data & Analytics Capabilities

	Leverage first party data across a wide range of retailers to better understand customer preferences, and **deliver personalized content and offers**	Cloud-based Reporting & Analytics suite accessible via Airmiles.AI with quick access to data and insights, **enabling better business decisions**	Machine-learning data solutions to **evaluate marketing and campaign performance**, and target customers with **1:1 product offers and recommendations**
Brand Loyalty	**Predicting and measuring shopper uplift** down to the segment of one	Supporting data sharing for **more targeted and impactful campaigns**	Using personalized communication to **activate shoppers with our campaigns**

Financial Results – Consolidated

($ in millions, except per share)	Q4 21	Q4 20	Q4 % Change	FY 21	FY 20	FY % Change
Total revenue	**$238.6**	**$230.9**	**3%**	**$735.3**	**$764.8**	**(4%)**
Operating expenses						
Cost of operations (exclusive of transaction costs and goodwill impairment separately below)	$200.3	$212.6	(6%)	$612.2	$679.6	(10%)
Goodwill impairment	50.0	-	nm	50.0	-	nm
Strategic transaction costs	17.7	0.1	nm	17.7	0.3	nm
Total operating expenses	$268.0	$212.7	26%	$679.9	$679.9	0%
Operating (loss) income	**($29.4)**	**$18.2**	**nm**	**$55.4**	**$84.9**	**(35%)**
Gain on sale of a business	-	-	nm	-	($10.9)	nm
Interest expense (income), net	5.8	(0.3)	nm	5.6	(0.8)	nm
(Loss) income before income taxes and loss (income) from investment in unconsolidated subsidiaries	($35.2)	$18.5	nm	$49.8	$96.6	(48%)
Provision for income taxes	$20.6	$4.0	nm	$52.2	$21.3	nm
Loss (income) from investment in unconsolidated subsidiaries – related party, net of tax	-	0.0	nm	(4.1)	0.2	nm
Net (loss) income	**($55.8)**	**$14.5**	**nm**	**$1.7**	**$75.1**	**(98%)**
Net (loss) income per share - Diluted	($2.27)	$0.59	nm	$0.07	$3.05	(98%)
Weighted average shares - Diluted	24.6	24.6		24.6	24.6	

Financial Results – Segments

($ in millions)	Q4 21	Q4 20	Q4 % Change	FY 21	FY 20	FY % Change
AIR MILES Reward Program[(1)]	$70.6	$69.8	1%	$284.7	$277.1	3%
BrandLoyalty	168.0	161.1	4%	450.6	487.7	(8%)
Corporate	(0.0)	-	nm	(0.0)	-	nm
Total Revenue	**$238.6**	**$230.9**	**3%**	**$735.3**	**$764.8**	**(4%)**
AIR MILES Reward Program	$34.1	$30.1	13%	$147.8	$144.0	3%
BrandLoyalty	16.9	14.3	18%	32.1	42.2	(24%)
Corporate	(3.6)	(3.2)	13%	(13.9)	(12.8)	9%
Total Adj. EBITDA	**$47.4**	**$41.2**	**15%**	**$166.0**	**$173.4**	**(4%)**

Notes:
1. In accordance with ASC 606, "Revenue from contracts with customers", redemption revenue for our AIR MILES Reward Program is presented net of cost of redemptions.

2022 Consolidated Outlook

Revenue

$MM

Adj. EBITDA

$MM

Key Commentary

Outlook based on expectations for a post-COVID recovery

Adj. EBITDA and CapEx investments for Collector value proposition enhancement

More contracted revenue today vs year ago, but ***higher costs*** due to advance block purchases of shipping availability and use of different manufacturing sites/modalities

Year End 2021 Liquidity & 2021 Free Cash Flow

Year End 2021 Liquidity ($ in millions)	
Cash and Cash Equivalents	$168
Revolver Capacity[1]	$137
Liquidity	$305

2021 Free Cash Flow ($ in millions, figures may not total due to rounding)	
Net Cash Provided by Operating Activities	$180
Less: CapEx	($18)
Free Cash Flow	$161

2022 Free Cash Flow priorities include reinvesting in the business, deleveraging and tuck-in M&A

Notes:
1. $150MM revolver; no amounts borrowed, but adjusted for letters of credit

880

Summary

1. Newly independent and committed to creating value across all our stakeholders
2. Leading loyalty businesses will benefit from targeted, strategic investments in 2022
3. Positioning Loyalty Ventures for growth in 2023 and beyond

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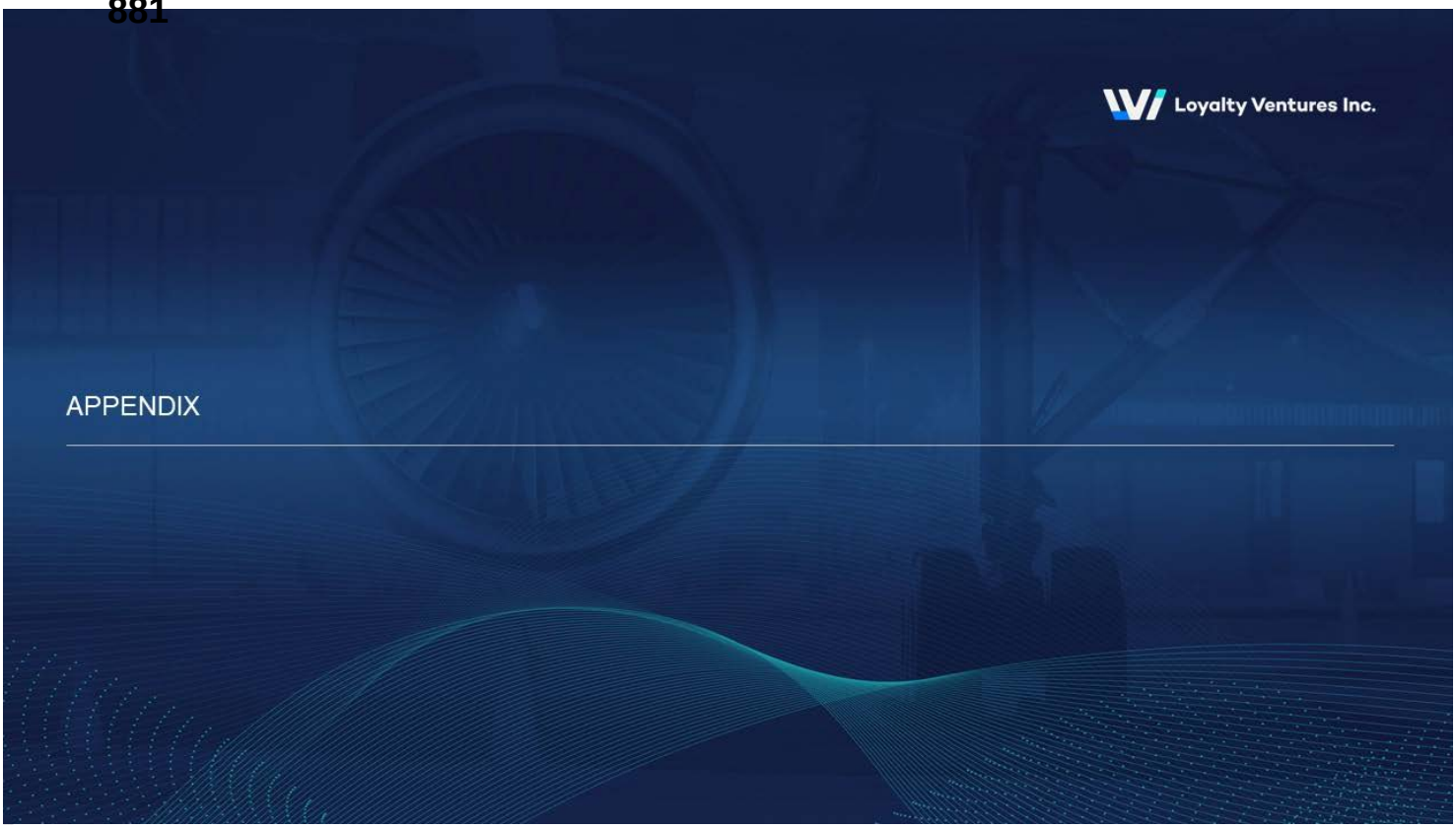


Taxes

2021 Taxes

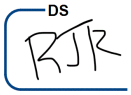
- AIR MILES Reward Program and BrandLoyalty tax rates in FY21 ranged from ~25% to ~28%
- Currently non-deductible U.S. expenses, including interest expense and corporate overhead, goodwill impairment and Canadian withholding taxes associated with payments to the former parent negatively impacted our effective tax rate
- Cash taxes of ~$39MM impacted by Canadian withholding taxes

2022 Taxes

- AIR MILES Reward Program and BrandLoyalty tax rates estimated to range from ~25% to ~28%
- U.S. expenses including interest expense and corporate overhead will create possible future tax deductions but are estimated to result in an effective tax rate of ~50%, and cash taxes of ~$30MM to $37MM

883

This is Exhibit “Y” referred to in the Affidavit of Joseph L. Motes III affirmed by Joseph L. Motes III of the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on February 9, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

RJ REID

Cassels

July 14, 2023

Via Courier and E-mail

rjacobs@cassels.com
tel: +1 416 860 6465

Bread Financial Holdings, Inc.
7500 Dallas Parkway, Suite 700
Plano, Texas
75024
Attention: Joseph L. Motes III

generalcounsel@alliancedata.com
generalcounsel@breadfinancial.com

With a copy to:

Bread Financial Holdings, Inc.
3095 Loyalty Circle
Columbus, Ohio
43219
Attention: Joseph L. Motes III

generalcounsel@alliancedata.com
generalcounsel@breadfinancial.com

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

AND RE: NOTICE OF DISCLAIMER OF AGREEMENT

Dear Sir/Madam:

As you may be aware, on March 10, 2023, LoyaltyOne, Co. ("**LoyaltyOne**") obtained protection under the *Companies' Creditors Arrangement Act*, RSC 1985 c. C-36, as amended (the "**CCAA**") from the Ontario Superior Court of Justice (Commercial List). We are counsel for LoyaltyOne in connection with this CCAA proceeding (the "**CCAA Proceeding**").

Please find enclosed a Notice by Debtor Company to Disclaim or Resiliate an Agreement, which is being delivered to you in connection with the CCAA Proceeding pursuant to section 32 of the CCAA.

Yours truly,

Cassels Brock & Blackwell LLP

Ryan Jacobs

Enclosure

cc: Jane Dietrich, Natalie Levine, Jeremy Bornstein, *Cassels Brock & Blackwell LLP*
Brendan O'Neill, Chris Armstrong, Andrew Harmes, *Goodmans LLP*
Al Hutchens, *Alvarez & Marsal Canada ULC*
Louis Goldberg, Ben Kaminetzky, Brian Resnick, *Davis Polk & Wardwell LLP*
Ashley Taylor, Maria Konyukhova, *Stikeman Elliott LLP*

FORM 4

NOTICE BY DEBTOR COMPANY TO DISCLAIM OR RESILIATE AN AGREEMENT

To: **Bread Financial Holdings, Inc. (f/k/a Alliance Data Systems Corporation)**

Take notice that

1. Proceedings under the *Companies' Creditors Arrangement Act* (the "**CCAA**") in respect of LoyaltyOne, Co. (the "**Applicant**"), were commenced on the 10th day of March 2023. Pursuant to paragraph 12(c) of the Amended and Restated Initial Order dated March 20, 2023 of the Ontario Superior Court of Justice (Commercial List), the Applicant is permitted to, among other things, disclaim any agreements or arrangements with the Applicant of any nature whatsoever as the Applicant deems appropriate, in accordance with section 32 of the CCAA.

2. In accordance with subsection 32(1) of the CCAA, the Applicant hereby gives you notice of its intention to disclaim or resiliate the following agreement:

   > the Transition Services Agreement between Alliance Data Systems Corporation and Loyalty Ventures Inc. ("LVI") dated as of November 5, 2021, in respect of that portion that was assigned by LVI to the Applicant pursuant to a letter agreement between LVI and the Applicant dated March 9, 2023.

3. In accordance with subsection 32(2) of the Act, any party to the agreement may, within 15 days after the day on which this notice is given and with notice to the other parties to the agreement and to the Monitor, apply to court for an order that the agreement is not to be disclaimed or resiliated.

4. In accordance with paragraph 32(5)(a) of the Act, if no application for an order is made in accordance with subsection 32(2) of the Act, the agreement is disclaimed or resiliated on the 14th day of August, 2023, being 30 days after the day on which this notice has been given.

Dated at Toronto, Ontario on July 14, 2023.

LoyaltyOne, Co., as debtor company, by KSV Restructuring Inc. in its capacity as the court-appointed Monitor of the Applicant and not in its personal capacity

_____

Per: Noah Goldstein, Managing Director

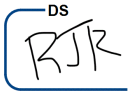
The Monitor approves the proposed disclaimer or resiliation.

Dated at Toronto, Ontario on July 14, 2023.

KSV Restructuring Inc., in its capacity as the court-appointed Monitor of the Applicant and not in its personal capacity.

Per: Noah Goldstein, Managing Director

This is Exhibit “Z” referred to in the Affidavit of Joseph L. Motes III affirmed by Joseph L. Motes III of the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on February 9, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

RJ REID

From:	Maria Konyukhova
To:	Bornstein, Jeremy; generalcounsel@breadfinancial.com; generalcounsel@alliancedata.com
Cc:	Jacobs, Ryan; Dietrich, Jane; Levine, Natalie; O"Neill,Brendan; Armstrong, Christopher; Harmes, Andrew; ahutchens@alvarezandmarsal.com; louis.goldberg@davispolk.com; ben.kaminetzky@davispolk.com; brian.resnick@davispolk.com; Ashley Taylor
Subject:	RE: LoyaltyOne - Disclaimer Notice
Date:	Thursday, July 27, 2023 10:38:10 AM
Attachments:	image001.png

Hi Ryan et al.

We are in receipt of the Notice by Debtor Company to Disclaim or Resiliate an Agreement delivered by KSV Restructuring Inc., in its capacity as the court-appointed Monitor of LoyaltyOne, Co. ("**LoyaltyOne**"), to Bread Financial Holdings Inc. ("**Bread**") with respect to the Transition Services Agreement between Alliance Data Systems Corporation and Loyalty Ventures Inc. ("**LVI**") dated as of November 5, 2021 (the "**TSA**"), in respect of that portion that was purportedly assigned by LVI to LoyaltyOne pursuant to a letter agreement between LVI and LoyaltyOne dated March 9, 2023.

Bread disagrees with LoyaltyOne's ability to disclaim all or a portion of the TSA. However, given that the obligations of the parties under the TSA have expired or been rendered inoperative through the sale of the LoyaltyOne business to BMO, Bread does not intend to oppose the disclaimer. But Bread's position with respect to the TSA is without prejudice to Bread's rights to assert Bread's rights with respect to the Tax Matters Agreement dated as of November 5, 2021, between Bread, on behalf of itself and the members of the ADS Group, and LVI, on behalf of itself and the members of the Loyalty Ventures Group including LoyaltyOne, and any other agreements entered into in connection with the November 2021 separation transaction.

Maria Konyukhova

Direct: 416-869-5230
Mobile: 416-319-1632
Email: mkonyukhova@stikeman.com

From: Bornstein, Jeremy <jbornstein@cassels.com>
Sent: Friday, July 14, 2023 4:08 PM
To: generalcounsel@breadfinancial.com; generalcounsel@alliancedata.com
Cc: Jacobs, Ryan <rjacobs@cassels.com>; Dietrich, Jane <jdietrich@cassels.com>; Levine, Natalie <nlevine@cassels.com>; O'Neill,Brendan <boneill@goodmans.ca>; Armstrong, Christopher <carmstrong@goodmans.ca>; Harmes, Andrew <aharmes@goodmans.ca>; ahutchens@alvarezandmarsal.com; louis.goldberg@davispolk.com; ben.kaminetzky@davispolk.com; brian.resnick@davispolk.com; Ashley Taylor <ATAYLOR@stikeman.com>; Maria Konyukhova <MKonyukhova@stikeman.com>
Subject: LoyaltyOne - Disclaimer Notice

Joseph,

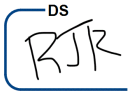
Please see attached correspondence.

JEREMY BORNSTEIN
Partner
t: +1 416 869 5386

e: jbornstein@cassels.com

Cassels Brock & Blackwell LLP | **cassels.com**
Suite 3200, Bay Adelaide Centre – North Tower
40 Temperance St.
Toronto, ON M5H 0B4 Canada

This is Exhibit “AA” referred to in the Affidavit of Joseph L. Motes III affirmed by Joseph L. Motes III of the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on February 9, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

RJ REID

Electronically issued / Délivré par voie électronique : 18-Oct-2023
Toronto Superior Court of Justice / Cour supérieure de justice
Court File No./N° du dossier du greffe : CV-23-00707936-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N :

LOYALTYONE, CO.

Plaintiff

- and -

BREAD FINANCIAL HOLDINGS, INC. and JOSEPH L. MOTES III

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: October 18, 2023

Issued by: _____
Local Registrar

Address of court office: Superior Court of Justice
330 University Avenue
Toronto, ON M1H 1R7

TO: Bread Financial Holdings, Inc.
3095 Loyalty Circle
Columbus, Ohio 43219
United States of America

AND TO: Joseph L. Motes III
6238 Mercedes Ave.
Dallas, Texas 75214
United States of America

CLAIM

1. The Plaintiff LoyaltyOne Co. ("**LoyaltyOne**") claims:

   (a) damages in an amount sufficient to purchase US$775 million in Canadian dollars from a bank in Ontario listed in Schedule I to the *Bank Act*, S.C. 1991, c. 46, as amended, at the close of business on the first day on which the bank quotes a Canadian dollar rate for purchase of United States currency following the date of judgment in this proceeding, on a joint and several basis:

      (i) as against the Defendant Joseph L. Motes III ("**Motes**") for breach of his fiduciary duty and breach of his duty of care to LoyaltyOne; and

      (ii) as against the Defendant Bread Financial Holdings, Inc. ("**Bread**"), which was previously known as Alliance Data Systems Corporation ("**ADS**"), for knowingly causing, encouraging, inducing, participating in, assisting, and receiving the benefits of Motes's breaches of his duties to LoyaltyOne;

   (b) prejudgment and postjudgment interest in accordance with sections 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C-43, as amended;

   (c) costs of this proceeding, plus all applicable taxes; and

   (d) such further and other relief as to this Honourable Court may seem just.

Overview

2. The AIR MILES® Reward Program ("**AIR MILES**") was successfully operated by LoyaltyOne for over 30 years as a full-service and outsourced loyalty program which helped

clients acquire and retain customers through the issuance and redemption of "Reward Miles". Prior to its sale on June 1, 2023, AIR MILES had 10 million active collector accounts and employed approximately 750 people.

3. The Defendant Bread, then known as ADS, was the ultimate corporate parent and shareholder of LoyaltyOne until the Spin Transaction (defined below) was completed on November 5, 2021. Motes was the general counsel of ADS and, until the same date and at all other relevant times, also the sole director of LoyaltyOne.

4. In addition to LoyaltyOne, ADS had other subsidiaries that operated distinct businesses in a variety of economic and geographic markets, including a private label credit card and banking business (the "**Card Business**").

5. In late 2018, ADS made a determination to focus on what it perceived to be its core business – the Card Business. As a result, ADS attempted to monetize the AIR MILES business through a sale of LoyaltyOne. That attempt was unsuccessful. ADS received no satisfactory offers.

6. Accordingly, ADS developed a different strategy to divest itself of LoyaltyOne and the AIR MILES business and, in that process, to strip them of their value for the benefit of ADS and to the direct corresponding detriment of LoyaltyOne. To that end, ADS and Motes caused LoyaltyOne and related corporations to:

(a) guarantee and distribute to ADS the proceeds of term loans in the amount of US$675 million; and

(b) pay a dividend to ADS in the amount of US$100 million.

7. Immediately after these transactions occurred, ADS divested itself or "spun-out" the newly impoverished affected subsidiaries, including LoyaltyOne (the "**Spin Transaction**"). This value-stripping scheme, orchestrated by ADS and implemented by Motes at ADS's direction, was directly contrary to the best interests of LoyaltyOne and its stakeholders. It was also a clear breach of the fiduciary duty and duty of care owed by Motes as a director of LoyaltyOne.

8. Eighteen months after the Spin Transaction, LoyaltyOne entered into insolvency proceedings under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c C-36, as amended, (the "**CCAA**") and was sold for approximately US$160 million – substantially less than its value before the Spin Transaction and significantly less than the liabilities of LoyaltyOne.

9. LoyaltyOne brings this action for full compensation and restitution for the harm caused by ADS (now Bread) and Motes.

The Parties

10. LoyaltyOne is a Nova Scotia unlimited liability company incorporated under the *Companies Act*, R.S.N.S. 1989, c. 81, as amended. Its sole member is LVI Lux Financing, a Luxembourg-based entity, which is itself held indirectly by Loyalty Ventures Inc. ("**LVI**").

11. LoyaltyOne's registered office is the office of its Nova Scotia counsel, located at 600 – 1741 Lower Water Street, Halifax. However, before the Sale Transaction (defined below) under the CCAA, LoyaltyOne's primary place of business and headquarters were in Toronto.

12. LoyaltyOne is an applicant in a proceeding commenced pursuant to the CCAA on March 10, 2023 (the "**CCAA Proceeding**").

13. Bread is a company incorporated under the laws of Delaware, with its headquarters in the city of Columbus, Ohio. Before the Spin Transaction, Bread was the ultimate parent of a portfolio of companies, including LoyaltyOne, which provided integrated outsourced marketing services, analytics, and creative services.

14. Motes is an individual residing in the City of Dallas, Texas. Since June 2019, Motes has been Executive Vice President, Chief Administrative Officer, Secretary, and General Counsel of Bread. At all material times until November 5, 2021, Motes was the sole director of LoyaltyOne.

15. On November 5, 2021, Motes resigned from the board of directors of LoyaltyOne. Following the Spin Transaction, Motes continued in his prior positions with ADS, now Bread.

AIR MILES

16. Prior to commencing the CCAA Proceeding, LoyaltyOne operated the AIR MILES business. Originally launched in Canada in 1992 and acquired by ADS in 1998, the AIR MILES loyalty program allowed collectors to redeem Reward Miles for in-store purchases, travel, merchandise, donations, or other rewards.

The First Dividend

17. In late 2018, ADS decided to focus on its Card Business as its core business. Following that determination, ADS embarked on a strategy to maximize the profitability of the Card Business while leveraging and then divesting itself of its other business lines, including LoyaltyOne and a US-based marketing business known as “Epsilon”.

18. On July 1, 2019, ADS sold the Epsilon business to Publicis Groupe S.A. ("**PGSA**"). Pursuant to the sale agreement, ADS granted PGSA an uncapped indemnity in connection with an ongoing US Department of Justice ("**DOJ**") investigation into Epsilon's data sales practices.

19. In December 2020, PGSA gave notice to ADS that it would be calling upon that indemnity and, subsequently, required payment of US$150 million in connection with that indemnity to settle with the DOJ. Consistent with its practice of maximizing the Card Business and depleting the value of non-core subsidiaries, ADS funded a large portion of the resulting obligation to PGSA by causing LoyaltyOne, through the direction of Motes, to pay a dividend in the amount of $107.5 million to ADS in January 2021 (the "**First Dividend**").

20. The First Dividend had a material negative impact on LoyaltyOne's liquidity and future viability and, cumulatively with the Spin Transaction, led to LoyaltyOne's ultimate insolvency.

The Spin Transaction

21. In 2020, ADS marketed LoyaltyOne for sale. It received expressions of interest from several prospective purchasers, but none of those offers were accepted.

22. In early 2021, ADS pivoted to a sale of the LoyaltyOne business – the Spin Transaction – pursuant to which ADS would:

(a) spin off a number of subsidiaries, including LoyaltyOne (the "**Spun-Out Subsidiaries**") from the ADS corporate group to be held by a newly incorporated holding company, LVI; and

(b) cause the Spun-Out Subsidiaries to enter into a credit agreement to borrow funds, to become responsible for repayment of those funds, and to transfer those funds to ADS, along with significant dividends, before completing the Spin Transaction.

23. The purpose of the Spin Transaction was to perpetrate a value-stripping exercise against LoyaltyOne and the other Spun-Out Subsidiaries for the benefit of ADS and the corresponding detriment of LoyaltyOne.

24. ADS engaged Davis Polk & Wardwell LLP ("**Davis Polk**") to assist it with structuring the Spin Transaction and prepare the required agreements. None of the Spun-Out Subsidiaries had independent legal counsel in connection with the Spin Transaction.

25. The agreements prepared by Davis Polk at the behest of ADS to effect the Spin Transaction were not balanced. Rather, they included terms that were significantly more favourable to ADS than the Spun-Out Subsidiaries and were, correspondingly, prejudicial to the Spun-Out Subsidiaries.

26. The prejudicial design of the Spin Transaction was instigated deliberately by ADS. Not only did Davis Polk operate under the instructions of ADS, but at all times ADS asserted and maintained control of all sides of the Spin Transaction, including by overruling or ignoring the concerns and objections raised by ADS's own employees.

The Second Dividend

27. On October 21, 2021, and as part of the Spin Transaction, Motes, at the direction of ADS, caused LoyaltyOne to declare a dividend in the amount of US$68 million (plus associated taxes), which, along with proceeds from other subsidiaries in the cumulative amount of US$100 million,

was ultimately up-streamed to ADS (the "**Second Dividend**" and, together with the First Dividend, the "**Dividends**").

28. The Second Dividend, like the First Dividend, had a negative impact on LoyaltyOne's liquidity and future viability, and it contributed to the cause of LoyaltyOne's insolvency and the commencement of the CCAA Proceeding. The only purpose of the Second Dividend was to appropriate LoyaltyOne's remaining cash before ADS discarded LoyaltyOne in the final steps of the Spin Transaction.

Credit Agreement, Guarantee and Additional Agreements

29. As part of the Spin Transaction, on November 3, 2021, at the direction of ADS, Motes caused LVI to enter into a senior secured credit agreement (the "**Credit Agreement**") with a syndicate of lenders pursuant to which LVI borrowed US$675 million as term loans on such date. The same day, at the direction of ADS, Motes caused LoyaltyOne to execute a guarantee of that new debt (the "**Guarantee**"). LoyaltyOne had never previously been a guarantor of ADS's debt.

30. Thereafter, at the direction of ADS, Motes caused LVI to pay the proceeds of the Credit Agreement to ADS under a so-called contribution agreement, resulting in none of the term loan proceeds of the Credit Agreement being available for working capital purposes for LVI or LoyaltyOne.

31. On November 5, 2021, the remaining agreements relating to the Spin Transaction were executed (the "**Additional Agreements**"). At the direction of ADS and Motes, Charles Horn executed the Additional Agreements on behalf of LVI. LoyaltyOne was not a signatory or party to any of the Additional Agreements.

Effect of the Spin Transaction

32. ADS knowingly received the term loan proceeds of the Credit Agreement and the Dividends for its benefit, and to the corresponding detriment of LoyaltyOne, as a direct result of the actions of ADS and Motes.

33. LoyaltyOne's financial condition was predictably and severely impaired by the Spin Transaction. During the year following the closing of the Spin Transaction, the remaining cash reserves and cash flows of LoyaltyOne were used directly or indirectly to pay the large quarterly obligations of principal and interest due under the Credit Agreement as well as all LVI corporate overhead costs and expenses necessary for it to operate as a public company and complete the separation from ADS.

The CCAA Proceeding

34. On March 10, 2023, LoyaltyOne applied for, and the Court issued, an Order granting LoyaltyOne protection under the CCAA (the "**Initial Order**"). The Initial Order also appointed KSV Restructuring Inc. as monitor of LoyaltyOne (the "**Monitor**").

35. On March 20, 2023, the Court issued Orders that, among other things, approved a sale and investment solicitation process (the "**SISP**") in respect of LoyaltyOne's business and assets. Pursuant to the SISP, LoyaltyOne sold substantially all of its operating assets to two affiliates of the Bank of Montreal pursuant to an asset purchase agreement approved by the Court on May 12, 2023, which closed on June 1, 2023 (the "**Sale Transaction**").

36. On May 12, 2023, the Court issued an Order (the "**Ancillary Relief Order**") which provided, among other things, that upon the closing of the Sale Transaction:

(a) LoyaltyOne's directors and officers were deemed to have resigned (subject to certain limited exceptions); and

(b) the Monitor was authorized and empowered to cause LoyaltyOne to perform such functions or duties to facilitate or assist the realization of LoyaltyOne's remaining assets and initiate, prosecute, and/or continue the prosecution of any and all proceedings.

The Claims

37. The Spin Transaction was, in substance, simply a value-stripping scheme orchestrated and implemented by ADS and Motes for the benefit of ADS and to the corresponding detriment of LoyaltyOne.

38. As the sole director and therefore a fiduciary of LoyaltyOne, Motes, among other things, had a duty to LoyaltyOne to act honestly and in good faith with a view to the best interests of LoyaltyOne. Motes also had a duty to LoyaltyOne to exercise the care, diligence, and skill that a reasonably prudent person would exercise in comparable circumstances. Motes breached his fiduciary duty and duty of care to LoyaltyOne by, among other things, authorizing the payment of the Second Dividend and authorizing the Guarantee and associated security agreements that limited LoyaltyOne's ability to raise further independent funds, all in circumstances where doing so was unequivocally not in the best interests of LoyaltyOne and, in fact, favoured the interests of ADS over the interests of LoyaltyOne and its other stakeholders.

39. ADS was aware of the duties owed by Motes to LoyaltyOne, but nevertheless knowingly caused, encouraged, assisted, participated in, and received the benefits of the breaches of those duties by Motes. As the recipient of the Second Dividend and the term loan proceeds of the Credit

Agreement, ADS also deliberately influenced, encouraged, induced, caused, or directed Motes to authorize the Second Dividend and the Guarantee for ADS's benefit and to the corresponding detriment of LoyaltyOne.

40. ADS, now Bread, and Motes are jointly and severally liable to LoyaltyOne for damages in the amount of the Canadian dollar equivalent of US$775 million.

Service and Location of Trial

41. The Plaintiff is entitled to serve this statement of claim on Defendants who reside outside of Ontario without a court order pursuant to rules 17.02(g) and 17.02(p) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194.

42. The Plaintiff requests that this action be tried in Toronto.

October 18, 2023

CASSELS BROCK & BLACKWELL LLP
Suite 3200, Bay Adelaide Centre – North Tower
40 Temperance Street
Toronto, ON M5H 0B4

Timothy Pinos LSO #: 20027U
Tel: 416.869.5784
tpinos@cassels.com

Alan Merskey LSO#: 41377I
Tel: 416.860.2948
amerskey@cassels.com

John M. Picone LSO #: 58406N
Tel: 416.640.6041
jpicone@cassels.com

Lawyers for the Plaintiff

LOYALTYONE, CO. and BREAD FINANCIAL HOLDINGS, INC. *et al.*
Plaintiff Defendants

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT
TORONTO

STATEMENT OF CLAIM

CASSELS BROCK & BLACKWELL LLP
Suite 3200, Bay Adelaide Centre – North Tower
40 Temperance Street
Toronto, ON M5H 0B4

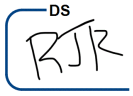
Timothy Pinos LSO #: 20027U
Tel: 416.869.5784
tpinos@cassels.com

Alan Merskey LSO#: 41377I
Tel: 416.860.2948
amerskey@cassels.com

John M. Picone LSO#: 58406N
Tel: 416.640.6041
jpicone@cassels.com

Lawyers for the Plaintiff

This is Exhibit “BB” referred to in the Affidavit of Joseph L. Motes III affirmed by Joseph L. Motes III of the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on February 9, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

RJ REID

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

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

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.

Applicant

NOTICE TO DISCLAIM OR RESILIATE AN AGREEMENT

TO: Loyalty Ventures Inc. and Bread Financial Services, Inc.

TAKE NOTICE THAT:

1. Proceedings under the *Companies' Creditors Arrangement Act* (the "Act") in respect of LoyaltyOne, Co. were commenced on the 10th day of March, 2023.

2. In accordance with subsection 32(1) of the Act, LoyaltyOne, Co. gives you notice of its intention to disclaim or resiliate the following agreement, without prejudice to its position that the agreement does not bind LoyaltyOne, Co. and/or is otherwise unenforceable and void as against LoyaltyOne, Co., in whole or in part:

   Tax Matters Agreement between Alliance Data Systems Corporation, on behalf of itself and the members of the ADS Group, and Loyalty Ventures Inc., on behalf of itself and the members of the Loyalty Ventures Group, dated as of November 5, 2021.

3. In accordance with subsection 32(2) of the Act, any party to the agreement may, within 15 days after the day on which this notice is given and with notice to the other parties to the agreement and to the Monitor, apply to court for an order that the agreement is not to be disclaimed or resiliated.

4. In accordance with paragraph 32(5)(a) of the Act, if no application for an order is made in accordance with subsection 32(2) of the Act, the agreement is disclaimed or resiliated on the 26th day of November, 2023, being 30 days after the day on which this notice has been given.

5. For greater certainty, this notice to disclaim or resiliate an agreement does not constitute any acknowledgment that the above agreement is binding on, or enforceable against, in whole or in part, LoyaltyOne, Co.

Dated at Toronto, Canada, on October 27, 2023.

KSV Restructuring Inc.

LoyaltyOne, Co.
by KSV Restructuring Inc. in its capacity as Monitor
and not in its personal or corporate capacity

The Monitor approves the proposed disclaimer or resiliation.
Dated at Toronto, Canada, on October 27, 2023.

KSV Restructuring Inc.

KSV Restructuring Inc.
in its capacity as Monitor
and not in its personal or corporate capacity

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

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

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.

APPLICANT

AFFIDAVIT OF STEVEN D. SOLOMON
(affirmed February 9, 2024)

I, Steven D. Solomon, of Incline Village in the State of Nevada AFFIRM AND SAY:

1. I am a professor of corporate law at the University of California with over 25 years of experience advising and educating on Delaware law.

2. I have been retained by Stikeman Elliott LLP on behalf of their client, Bread Financial Holdings, Inc. ("**Bread**") to provide an expert opinion on the law of Delaware as it pertains to certain matters in dispute between Bread and LoyaltyOne, Co. Attached as **Exhibit "A"** to this affidavit is a copy of the Expert Report of Steven D. Solomon dated February 9, 2024 (the "**Solomon Report**")

3. My qualifications are detailed at the outset of the Solomon Report as well as in my curriculum vitae which is attached to the report as Exhibit A. The instruction letter I received from Stikeman Elliott LLP is attached as Exhibit B to the Solomon Report.

4. The information and documents I relied upon in reaching the conclusions set out in the Solomon Report are listed in Exhibit C to the Solomon Report.

910

5. I have completed the Solomon Report in compliance with my duties as an expert to the Ontario Superior Court of Justice. An executed copy of my Form 53 – Acknowledgment of Expert's Duty in this matter is attached the Solomon Report as Exhibit D.

AFFIRMED remotely by Steven D. Solomon stated as being located in the City of Tel Aviv, in the Country of Israel, before me at the City of Toronto, in the Province of Ontario, this 9th day of February, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely

DocuSigned by:
FB5E31A9B41548B...

Robert J Reid LSO#88760P
Commissioner for Taking Affidavits

DocuSigned by:
Steven D. Solomon
3CB07D9F6F474C2...

Steven D. Solomon

EXHIBIT "A"

referred to in the Affidavit of

Steven D. Solomon

Affirmed February 9, 2024

DS

A Commissioner for Taking Affidavits

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

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

EXPERT REPORT OF PROFESSOR STEVEN DAVIDOFF SOLOMON

DATED 9 FEBRUARY 2024

Table of Contents

I. Introduction

1. I have been retained by Stikeman Elliott LLP ("Counsel"), on behalf of Bread Financial Holdings, Inc. ("Bread" f/k/a Alliance Data Systems Corporation ("ADS")), to provide expert evidence on questions of Delaware law.

2. I understand that these proceedings arise from the November 2021 separation (the "Separation and Distribution Transaction") of ADS's LoyaltyOne segment, consisting of its Canadian AIR MILES® Reward Program and BrandLoyalty businesses, into an independent, publicly traded company, Loyalty Ventures, Inc. ("LVI"). As part of the Separation and Distribution Transaction, the parties entered into a Tax Matters Agreement dated November 5, 2021 (the "Tax Matters Agreement"). The Tax Matters Agreement is governed by the laws of the State of Delaware.

3. In March 2023, LVI and its Canadian subsidiary, LoyaltyOne Co. ("LoyaltyOne"), filed for creditor protection in the U.S. and Canada respectively. Through a court process, LoyaltyOne sold substantially all of its business assets in June 2023. At the end of October 2023, LoyaltyOne served a Notice of Disclaimer on Bread seeking to disclaim the Tax Matters Agreement. Shortly thereafter and in the alternative, LoyaltyOne and KSV Restructuring Inc., in its capacity as monitor, served motion materials on Bread seeking a determination that the provisions in the Tax Matters Agreement requiring LoyaltyOne to pay Bread an amount equivalent to the Tax Refund, are a transfer at undervalue and are void and unenforceable by Bread against LoyaltyOne.[1] Bread has denied these allegations. Bread has brought its own motion opposing the Notice of Disclaimer and is in the process of responding to LoyaltyOne's motion. I understand Bread seeks to enforce the Tax Matters Agreement as a valid contractual obligation.[2]

[1] In The Matter of a Plan of Compromise or Arrangement of Loyaltyone, Co., Amended Notice of Motion (Enforceability of Tax Matters Agreement), December 5, 2023, CV-23-00696017-00C. Ontario Superior Court of Justice.
[2] In The Matter of a Plan of Compromise or Arrangement of Loyaltyone, Co., Notice of Motion (Motion to Set Aside Disclaimer), November 13, 2023, CV-23-00696017-00C. Ontario Superior Court of Justice.

4. In connection with this proceeding, Counsel has asked me, in a letter dated January 30, 2024,[3] to address the following questions:

a. Please provide an overview of spin transactions under Delaware law, including:

i. Whether spin transactions are common under Delaware law;

ii. The typical purpose of a spin transaction under Delaware law; and

iii. The typical structure of a spin transaction under Delaware law.

b. Under Delaware law, does a corporate parent have the authority to bind a subsidiary to an agreement?

i. If so, how and why is this the case?

c. What are the indicia of unconscionability under Delaware law?

i. In what circumstances, if any, have Delaware courts found spin transactions to be unconscionable?

ii. In what circumstances, if any, have Delaware courts found a specific corporate agreement(s) used to implement a spin transaction to be unconscionable?

d. Under Delaware Law, does the language of the Tax Matters Agreement, and in particular section 12(b) and its reference to section 2.08(c) of the Separation and Distribution Agreement, impose equitable obligations on the Loyalty Ventures Group (as defined therein) in respect of certain tax refunds received by a group member?

5. As I detail more extensively in this Report, my responses to the above questions are as follows:

a. Spins are customary and common transactions under Delaware law which are intended to create value for shareholders. Parties to a spin-off generally enter into

[3] *See* Letter, Maria Konyukhova to Steven Solomon, Re: LoyaltyOne, Co., et al. v. Bread Financial Holdings, Inc., January 30, 2024 ("Expert Instructions"), attached hereto as Exhibit B to this Report.

a tax matters agreement that governs the rights, responsibilities and obligations of the parent and spin-off company after the spin-off with respect to taxes.

b. A parent company can bind a subsidiary to a contract by executing that contract on behalf of a subsidiary. Delaware courts have regularly held that the act of the parent signing on behalf of itself and a subsidiary or affiliate is sufficient evidence that the subsidiary or affiliate granted agency authority to the parent.

c. Unconscionability has procedural and substantive indicia. A claim of unconscionability has a high bar to meet generally and is rarely found when the parties are commercial entities. In respect of spin-offs, the Delaware Court of Chancery has held that it is "nonsensical" to view spin-off agreements as procedurally unconscionable and I was unable to identify any Delaware law cases where a court found a spin-off agreement to be substantively unconscionable.

d. Section 12(b) of the Tax Matters Agreement created an agency relationship between Loyalty Ventures Group and Bread which requires any member of the Loyalty Ventures Group to promptly pay over any sums received by Loyalty Ventures Group under Section 2.08(c) of the Separation and Distribution Agreement[4] to Bread. The failure to make such payment would accordingly be a breach of an equitable obligation under Delaware law.

6. I reserve the right to update this report and any opinions contained herein to the extent new information is disclosed in these proceedings or otherwise based on any new developments. I have not been asked to make any assumptions by Counsel for purposes of the opinions I render in this report. I reserve the right to update this report based on information and developments which require any new assumptions.

II. Background

7. I am the Alexander F. and May T. Morrison Professor of Law at the University of California Berkeley School of Law. I am also a fellow at the American Corporate Law Institute,

[4] Separation and Distribution Agreement by and between Alliance Data Systems Corporation and Loyalty Ventures, Inc., November 3, 2021 ("Separation Agreement").

the American College of Governance Counsel, and the European Corporate Governance Initiative. I graduated from University of Pennsylvania in 1992 with a Bachelor of Arts degree. I received my J.D. from Columbia University School of Law in 1995, and a Masters of Finance from London Business School in 2005. I have been admitted to the New York bar since 1996.

8. I teach or have taught classes in Business Associations, Mergers & Acquisitions ("M&A"), Securities Regulation, and Law, Business & Accounting. I also teach a seminar on Advanced Topics in Delaware Law which I co-teach with Vice Chancellor Lori Will of the Delaware Chancery Court.

9. My academic research focuses on the intersection of law, economics, and finance, with a particular focus on Delaware law and economic principles as applied to M&A, corporate law, and capital markets. I have written and been published extensively on these topics. In the past years, seven of my law review articles have been selected by scholars in the field as being among the "top 10" articles published in corporate and securities law in their respective years. Additionally, I have written for other national publications, such as *The Atlantic*, testified before the U.S. Senate, and frequently been quoted in the national media on issues related to capital markets and disclosure. Starting from 2007, I have been the author of a regular column for *The New York Times* as the "Deal Professor," which primarily focuses on corporate issues.

10. Before becoming a law professor, I was a corporate attorney for almost a decade practicing at the law firm of Shearman & Sterling and the London law firm of Freshfields Bruckhaus Deringer. I practiced at Shearman & Sterling from 1995 to 2002 and at Freshfields Bruckhaus Deringer from 2002 to 2004. From 2000 to 2004, I practiced in London. In my practice, I regularly represented public companies, private companies, and other firms involved in a wide array of corporate matters involving Delaware law. In all, I worked on over $100 billion worth of transactions. I also regularly advised corporate entities on issues associated with acquisitions, divestitures, and asset transfers, including advising clients on Delaware law and M&A issues (including spin-offs).

11. I have also written extensively on M&A and Delaware law (including spin-offs).[5] My book on corporate law titled *Gods at War: Shotgun Takeovers, Government by Deal and the*

[5] *See* Exhibit A.

Private Equity Implosion extensively addresses these issues in the context of the 2008 financial crisis.[6] I have also edited three scholarly books on M&A and Delaware law. The first of these was the two-volume *Law & Economics of Mergers & Acquisitions*, the second is *The Research Handbook on Mergers & Acquisitions*, and the third is *The Corporate Contract in Changing Times: Is the Law Keeping Up?* I am a co-author of a casebook titled "Mergers and Acquisitions, Law, Theory, and Practice."[7] The book—in its third edition—aims to provide those involved in M&A (i.e., practitioners and law students seeking to practice in the area) with knowledge regarding custom and practices within the transacting community, including Delaware law issues associated with M&A transactions.

12. Since becoming a law professor, I have regularly consulted and spoken on practical and theoretical issues involving Delaware law and M&A, and securities regulation at law schools and practitioner-oriented events, including to the Delaware bar. I have three times been named one of the 100 most influential governance professionals and institutions in the country by the National Association of Corporate Directors. I was also named as one of the Top 10 Most-Cited Corporate & Securities Law Professors according to data prepared by Professor Brian Leiter of the University of Chicago Law School.[8] I am also one of the top 10 most-cited academics at the University of California Berkeley School of Law.

13. My writings are regularly relied upon by Delaware courts to decide legal cases. For example, in *In re Trulia, Inc. Stockholder Litigation*, the Delaware Court of Chancery held that it would not award a fee for a certain type of settlement in merger litigation known as "disclosure only" settlements.[9] The court relied upon my article analyzing disclosure related to merger litigation, "Confronting the Peppercorn Settlement in Merger Litigation: An Empirical Analysis and a Proposal for Reform"[10] for its conclusion. In addition, I was an expert in the Delaware

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[6] Steven M. Davidoff Solomon, GODS AT WAR: SHOTGUN TAKEOVERS, GOVERNMENT BY DEAL AND THE PRIVATE EQUITY IMPLOSION (John Wiley & Sons, Inc., 2009).
[7] Claire A. Hill, Brian J. M. Quinn, and Steven M. Davidoff Solomon, MERGERS AND ACQUISITIONS, LAW, THEORY, AND PRACTICE, 3rd ed. (West Academic Publishing, 2023) (hereinafter, "M&A Casebook").
[8] Brian Leiter, "20 Most-Cited Corporate & Securities Law Faculty in the U.S., 2016-2020 (CORRECTED 10/20/21)," BRIAN LEITER'S LAW SCHOOL REPORTS, October 20, 2021, available at https://leiterlawschool.typepad.com/leiter/2021/10/20-most-cited-corporate-securities-law-faculty-in-the-us-2016-2020.html (accessed on January 22, 2024).
[9] Decision, *In re Trulia, Inc. Stockholder Litigation*, 129 A.3d 884 (Del. Ch. January 22, 2016), pp. 9–10, 22–23.
[10] Jill E. Fisch, Sean J. Griffith, and Steven Davidoff Solomon, *Confronting the Peppercorn Settlement in Merger Litigation: An Empirical Analysis and a Proposal for Reform*, TEXAS L. REV. 93, no. 3, 2015, pp. 557–624.

Court of Chancery matter of *AB Stable VIII LLC v. MAPS Hotel and Resorts One LLC et al*.[11] The case concerned a buyer attempting to renege on its purchase of a private company by claiming a material adverse change had occurred. Vice Chancellor Laster relied upon my empirical and theoretical analysis of the purchase agreement's material adverse change clause in finding that no material adverse change had occurred. Finally, in the matter of *HControl Holdings LLC et al. v. Antin Infrastructure Partners S.A.S. et al.*, the court relied extensively on my analysis of the drafting choices of the parties.[12]

14. My further qualifications are detailed in my curriculum vitae, which is annexed as **Exhibit A** to the Solomon Report. My Instructions are **Exhibit B** to the Solomon Report. In the course of my engagement, I have reviewed and considered the documents set forth in the list annexed hereto at **Exhibit C**. In addition, I have relied upon my prior education, professional experience, and legal work.

III. Opinions

A. Overview of Spin Transactions under Delaware Law

1. Spin transactions are common under Delaware law.

15. Spin transactions (also known as spin-offs) have been a prominent part of corporate life for Delaware incorporated companies. Many well-known Delaware corporations, including AT&T, Disney, Hewlett-Packard, Time Warner, and PepsiCo, have conducted spin transactions. Some of the separated businesses have themselves gone on to become prominent companies. Time Warner Cable, for example, is a spin of Time Warner; Time Warner Cable had market capitalization exceeding $50 billion at the end of 2015.[13]

[11] Memorandum Opinion, *AB Stable VIII LLC v. MAPS Hotel and Resorts One LLC et al.*, Case No. C.A. 2020-0310-JTL (Del. Ch. November 30, 2022), p. 144.
[12] Letter Decision, *HControl Holdings LLC et al v. Antin Infrastructure Partners S.A.S. et al.*, Case No. 2023-0283 (Del. Ch. July 13, 2023), p. 6.
[13] Time Warner announced the spinoff of Time Warner Cable (TWC) on April 30, 2008, and the transaction closed on March 12, 2009. The transaction size was $ 24.8 billion. *See S&P Capital IQ*. Before its acquisition by Charter Communications in May 2016, TWC had a 2015 year-end market cap of $52.6 billion. *See Refinitiv*.

16. Not only are spin transactions prominent, they are common capital markets events under Delaware law. In 2023, prominent spins occurred such as General Electric's spin of GE Healthcare Technologies, Inc. valued at $21.4 billion. There are also prominent spins that were announced in 2023 and are still pending (as of the time of this report) such as Lionsgate's spin of its studio and film library into a new company valued at $4.6 billion. Figure 1 sets forth the number of completed and pending spin transactions in the United States (under Delaware law) and their aggregate value for the five-year period 2019–2023:

Figure 1
Spinoffs Under Delaware Law
2019 – 2023

Year[1]	Number of Spinoffs[2]	Total Transaction Value (*millions*)
2019	14	$14,800.41
2020	16	$39,730.70
2021	20	$129,686.97
2022	24	$39,027.32
2023	6	$2,859.03

Source: *S&P Capital IQ*

Note:
[1] Year is as of the announcement date of the transaction.
[2] Spinoffs without a target state of incorporation or are not incorporated in Delaware are excluded.

17. As Figure 1 shows, spins are an important and common component of U.S. capital markets. As one recent article has noted, in recent years spins "[have] provid[ed] much-needed activity in lackluster US equity capital markets, taking units public to unlock value and slim down their businesses."[14]

[14] Yigin Shen, *Wave of Corporate Spinoffs Fills a Void of Large US Listings*, Bloomberg, May 24, 2023, available at https://www.bloomberg.com/news/articles/2023-05-24/wave-of-corporate-spinoffs-fills-the-void-of-large-us-listings (last accessed Jan. 28, 2024).

2. The purpose of a spin transaction under Delaware law is to create value for shareholders.

18. The purpose of a spin transaction is to create value for shareholders of the Parent company (also sometimes referred to as RemainCo).[15] A spin creates shareholder value by creating separate, publicly traded businesses. Investors can then invest in these separate businesses while management can focus on each business more particularly.

19. Spins create value for shareholders due to a multiplicity of documented benefits. These include:

> ***Unlocking Shareholder Value.*** A spin creates two post-separation, "pure play" business units which stockholders may value more highly than the combined conglomerate company.
>
> ***Improving Management Focus***. Once separated, each business's management team can focus exclusively on the business itself and not on the needs of the other or combined unit.
>
> ***Improving Stock Market Performance/Diversification***. The separate companies will draw distinct investor bases who seek specific investments and diversification. The separation of the businesses may result in enhanced stock market performance due to greater investor and manager focus. This can be particularly true if the separate businesses have different geographical profiles for investors.
>
> ***Eliminating Conflicts Between Business Units***. While the need to have two separate companies can increase costs, it can also eliminate costs. For example, one business may not be able to have certain customers or suppliers due to the operations of the other business. Expansion opportunities and growth plans may also be affected by the needs of the other business. If the businesses are separated, these barriers are eliminated.
>
> ***Facilitating the Sale of a Business***. A potential acquiror may want to purchase one business but not the other. Separating out the businesses may provide a more tax-efficient mechanism for the separated business to be acquired.
>
> ***Facilitating Borrowing***. A business unit may be able to borrow at lower interest rates if it has a higher credit profile than the separated business.
>
> ***Removing Regulatory Burdens***. The separated businesses may be under a different regulatory regime which can allow them to fine-tune their business approach. This can

[15] Young Ran (Christine) Kim, Geeyoung Min, *Insulation By Separation: When Dual-Class Stock Met Corporate Spin-Offs*, 10 UC IRVINE L. REV. 1, 12 (2019) ("All things considered, managers' ultimate goal in pursuing spin-offs, at least nominally, is always to increase shareholder value.").

> also reduce regulatory burdens by removing regulation that is not applicable to the business.[16]

20. In addition to these benefits, spin transactions create tax efficiencies. The spin-off is typically structured so it is tax-free to shareholders.[17] In other words, shareholders do not typically pay tax on the shares received in the spun-off business ("SpinCo"). This structure permits shareholders to defer gain in either or both businesses and to refocus their portfolios in a tax efficient manner—holding shares of the business they prefer without tax while selling other parts at a tax appropriate time.

21. The value created by spins to shareholders and companies has been extensively studied.[18] Academics have found that the announcement of a spin-off generally results in an increase in the parent's stock price.[19] Moreover, the combined value of the stock of the parent and spun-off company often exceeds the value of the parent stock before the spin-off.[20] One meta study of 26 academic papers on spin-offs found sizable wealth effects associated with the announcements of corporate spin-offs (meaning that shareholders believed that these transactions created value). This meta study found a statistically significant positive average abnormal return of 3.02% during the event window among the studies included. The meta study also found that returns are higher for larger spin-offs, for divestments that are tax or regulatory friendly, and for spin-offs that lead to the divestiture of a non-related division.[21] In determining what drives these wealth

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[16] *See generally* Steven I. Glover, BUSINESS SEPARATION TRANSACTIONS: SPIN-OFFS, SUBSIDIARY IPOS AND TRACKING STOCK, § 2.02[2] (Purposes of Spin-Off Transactions) (available on LexisNexis); PRACTICAL LAW CORPORATE AND SECURITIES, SPINOFFS: OVERVIEW, Westlaw (last accessed Jan. 28, 2024). *See also Spinoff Guide 2022*, Wachtell Lipton, Rosen & Katz at 3-5, available at https://www.wlrk.com/docs/Spin-Off_Guide_-_2022.pdf.

[17] This is permitted so long as the requirements of IRC Section 355 are met. *See* Gregory N. Kidder, *Basics of U.S. Tax Free Spinoffs Under IRC 355*, 5 INTL. TAX. 438 (2011).

[18] *See* Patricia Anslinger, Sheila Bonini, and Michael Patsalos-Fox, *Doing the Spin-Out,* THE MCKINSEY QUARTERLY No. 1, pp. 98-105 (2000); Patricia Anslinger, Steven J. Klepper, and Somu Subramaniam, *Breaking Up Is Good to Do*, 1999 THE MCKINSEY QUARTERLY No. 1, pp. 16-27 (1999). *See also* Stuart C. Gilson, CREATING VALUE THROUGH CORPORATE RESTRUCTURING (John Wiley & Sons 2001).

[19] *See* Gailen L. Hite and James E. Owers, *Security Price Reactions Around Corporate Spin-Off Announcements*, 12 J. FIN. ECON. 409 (1983); James A. Miles and James D. Rosenfeld, *The Effect of Voluntary Spin-Off Announcements on Shareholder Wealth*, 38 J. FIN. 1597 (1983); Katherine Schipper and Abbie Smith; *Effects of Recontracting on Shareholder Wealth: The Case of Voluntary Spin-Offs*, 12 J. FIN. ECON. 437 (1983); Lane Daley, Vikas Mehrotra, and Ranjini Sivakumar, *Corporate Focus and Value Creation Evidence from Spinoffs*, 45(2) J. FIN. ECON. 257 (1997); John J. McConnell, Steven E. Sibley, and Wei Xu, *The Stock Price Performance of Spin-Off Subsidiaries, Their Parents, and the Spin-Off ETF, 2001-2013*, 144 J. PORT. MAN. 2015 (Fall 2015).

[20] *See Id*.

[21] Chris Veld and Yulia V. Veld-Merkoulova, *Value Creation Through Spin-Offs: A Review of the Empirical Evidence*, INTERNATIONAL JOURNAL OF MANAGEMENT REVIEWS (2009).

effects, another study found that a spin-off creates gains through improvements in cash flow and operating performance.[22] Studies have also found that spin-offs reduce informational asymmetries to investors[23] as well as provide other efficiency benefits, including enhancing management focus and quality.[24]

22. The value of spin-offs is also reflected in the demand of the market. For example, at the end of 2023 the Bloomberg US Spin-Off Index had earned a return of more than 568% since 2004, compared to a return of 518% for the S&P 500 over the same period (2004-2023).[25] There are also exchange traded funds like the Invesco S&P Spin-off ETF which permits investors to invest in spin-offs exclusively.

3. The Typical Structure of a Spin Transaction under Delaware Law

23. A spin-off transaction under Delaware law follows a customary and usual structure. More particularly, in a typical spin-off transaction:

> a parent company (Parent) spins off its subsidiary by distributing all of that subsidiary's stock to Parent's stockholders. After the transaction, both Parent and the spun-off entity (SpinCo) have separate and independent existences with the stockholders of Parent owning the stock of Parent and, initially, the stock of SpinCo.[26]

24. As such, in the typical spin-off transaction, a publicly-traded company (i.e., Parent also known as RemainCo), has a private division or subsidiary (SpinCo) constituting a separate business or asset that Parent wishes to separate from the company into a separate publicly traded company. Parent will dividend out the shares of SpinCo with the result that there are now two

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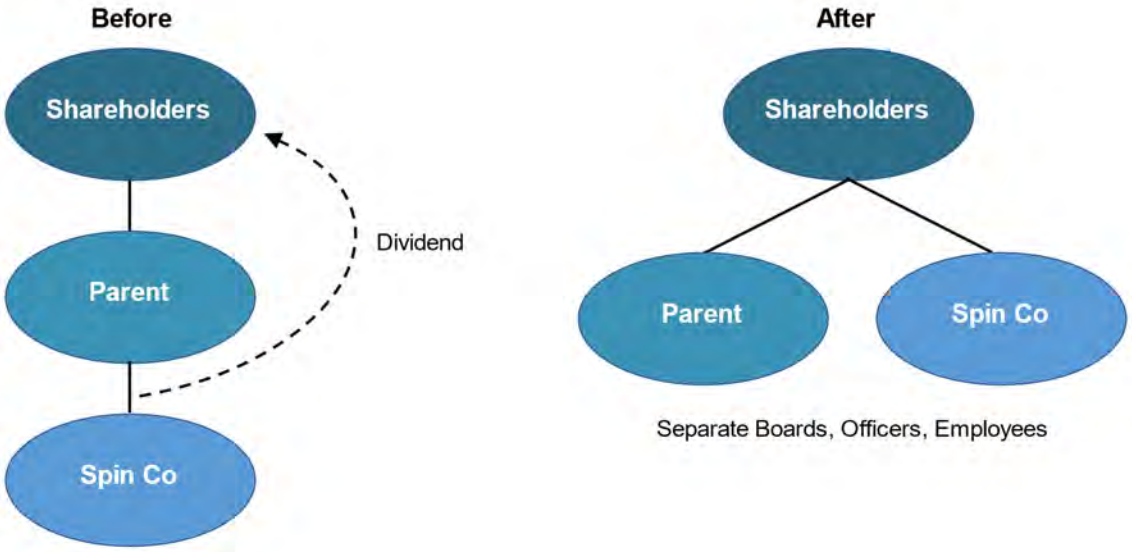
[22] Ranjan D'Mello, Sudha Krishnaswami, and Patrick J. Larkin, *Do Corporate Spinoffs Lower Cost of Equity?*. Available at SSRN: https://ssrn.com/abstract=492962 or http://dx.doi.org/10.2139/ssrn.492962.
[23] Sudha Krishnaswami and Venkat Subramaniam, *Information Asymmetry, Valuation, and the Corporate Spin-off Decision*, 53 J. FIN. ECON. 73–112; John L. Campbell, Michael L. Ettredge, Feng Guo, and Zac Wiebe, *Information Asymmetry in Spinoffs: The Role of Incremental Disclosure* (April 14, 2020), available at SSRN: https://ssrn.com/abstract=3220724 or http://dx.doi.org/10.2139/ssrn.3220724.
[24] Eric G. Wruck and Karen H. Wruck, *Restructuring Top Management: Evidence From Corporate Spinoffs* (October 2001), Dice Center Working Paper No. 2001-15, available at SSRN: https://ssrn.com/abstract=285336; Debra J. Aron, *Using the Capital Market as a Monitor: Corporate Spinoffs in an Agency Framework*, 22 RAND J. ECON. 505 (1991).
[25] The Bloomberg US Spin-Off Index cumulative return is calculated from Bloomberg closing price data from February 6, 2004 to December 29, 2023. The S&P 500 cumulative return is based on Refinitiv total return data over the same time period.
[26] *See Spinoffs: Overview*. *See also Spin-off Guide 2022*, Wachtell Lipton, at 1 ("A spin-off involves the separation of a company's businesses through the creation of one or more separate, publicly traded companies.").

publicly-traded businesses that are owned by the same shareholders of Parent (at least initially).[27] Figure 2 sets forth the structure of a common spin-off:

Figure 2
Structure of a Common Spinoff



25. A typical spin-off transaction can be completed in about six to nine months, including a few months primarily focused on the Securities and Exchange Commission ("SEC") filing and distribution process. As part of the separation, the SpinCo must be established as an independent business. This means that assets and liabilities in disparate subsidiaries may need to be collected and transferred.[28] The infrastructure for an independent business must also be created. Employees need to be transferred and a new management team for SpinCo appointed.[29] Other tasks include:

- ***Organizational Documents***. The governing documents of SpinCo under Delaware law must be drafted. These documents include the Certificate of Incorporation and the By-laws.

- ***Audited Financial Statements***. Separate audited historical financial statements for SpinCo must be prepared. Pro forma financial statements will also need to be prepared.

[27] *See Spin-off Guide 2022*, at 6.
[28] *Spin-off Guide 2022*, at 17-23.
[29] *Spin-off Guide 2022*, at 23-32.

- ***Stockholder Approvals***. A spin-off generally does not require shareholder approval under Delaware law. This is because the spin-off is conducted through a dividend authorized by the Parent board of directors. However, if shareholder approval is necessary, a proxy statement on Schedule 14A will need to be prepared, filed with the SEC, and mailed to Parent shareholders. A special meeting will then be held for Parent shareholders to approve the transaction.

- ***Other SEC Documents***. A Form 10 under Section 12(b) or Section 12(g) of the Securities Exchange Act of 1934, as amended, must also be filed with the SEC in order to register SpinCo securities distributed to Parent shareholders.

- ***Debt and Other Contractual Consents***. It is common to allocate the debt of the combined businesses among Parent and SpinCo. A standard method of allocating debt in a spin-off is for SpinCo to assume new debt and pay a dividend to Parent prior to the spin as part of this reallocation.[30] Contracts and debt instruments may need to be transferred among the businesses. Often Parent will need to obtain the consent from its creditors, or other third parties.

- ***Corporate Authorization***. The board of Parent must approve the transaction and authorized representatives of both Parent and SpinCo must execute all transaction agreements. Separately, the Parent board will approve the distribution of SpinCo's stock to Parent's stockholders, the relevant SEC filings, as well as set the record date and distribution date for SpinCo stock.[31]

26. A spin-off transaction is the full legal separation of Parent into two businesses—Parent (RemainCo) and SpinCo. As one law firm writes, "[i]n a typical 100% spin-off, all shares of the spin-off company are distributed to the shareholders of the parent as a dividend. This results in a full separation of the two entities in a single transaction."[32] The consequence of this full separation is that neither party has any continuing obligations to each other unless they arise contractually. Accordingly, in a spin the parties will negotiate a set of agreements which collectively set forth the terms and arrangements of the entire spin and any on-going relationship of the Parent and SpinCo (if any).

27. The primary document utilized by the parties in a spin transaction is often termed a distribution and separation agreement or just a separation agreement. This document sets forth the basic terms and conditions of the spin-off, including:

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[30] *Webcast: The Art of the Spin-off*, Jan. 28, 2021 at 15, available at https://www.gibsondunn.com/webcast-the-art-of-the-spin-off/ (last accessed Feb. 7, 2024).
[31] *See generally Spinoffs: Overview*. *See also Spin-off Guide 2022*, *passim*.
[32] *See Spinoffs: Overview*.

- The assets and liabilities to be allocated to SpinCo;
- Cross-indemnifications for liabilities;
- Tax-related covenants and indemnifications;
- The mechanics of the distribution; and
- Conditions to completion of the distribution.[33]

28. Other agreements that document the operational relationships between Parent and SpinCo or other aspects of a spin-off include:

- A tax allocation agreement;
- An employment matters agreement;
- Intellectual property agreements; and
- A transitional services agreement.[34]

29. Each of these agreements is common in a spin transaction, follows a customary and usual format, are negotiated as a whole, and collectively these agreements set forth the terms of the spin. For example, one law firm writes with respect to the tax matters agreement:

> In connection with the separation, parties generally enter into a tax matters agreement that governs the rights, responsibilities and obligations of the parent and spin-off company after the spin-off with respect to taxes, including taxes, if any, imposed on the spin-off or related transactions (such as any internal restructuring transactions undertaken in anticipation of the distribution). The tax matters agreement allocates tax liabilities between the parent and the spin-off company.[35]

30. This structure for the tax agreement is echoed in another law firm memo:

> The Tax Matters Agreement has two basic functions. The first is to govern ParentCo's and SpinCo's respective rights, responsibilities, and obligations after the separation and distribution with respect to tax liabilities and benefits arising in the ordinary course of business during the pre-spin period, including the division of tax attributes, the preparation and filing of tax returns, the control of audits, and other tax matters. The second is to safeguard the tax-free treatment of the spin-off and to allocate responsibility for the resulting taxes should the spin-off ultimately be found to be taxable.[36]

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[33] *Spinoffs: Overview*.
[34] *Spinoffs: Overview*.
[35] *Spin-Off Guide 2022*, at 41.
[36] Cathy A. Birkeland, Mark D. Gerstein, and Laurence J. Stein, *Spin-offs Unraveled*, Latham & Watkins LLP, Oct. 31, 2019, Harvard Law School Forum on Corporate Governance, available at https://corpgov.law.harvard.edu/2019/10/31/spin-offs-unraveled/.

31. These agreements are negotiated together to collectively allocate the benefits and the burdens of the spin between Parent and SpinCo, and thus are typically read together as the entire bargain of the parties concerning the spin.[37] In each case, each of these agreements is designed to separate out the existing business and effect the spin. In this vein, the agreements will carefully document the allocation of assets and liabilities, continued indemnification, the allocation of future assets and liabilities from the historical company, and any other continuing obligations of each company (and their subsidiaries) to each other. In this regard, because the separated businesses are independent, these agreements will set forth and delineate the scope of the relationship of the separated businesses. However, while the agreements are carefully delineated as the law firm Latham & Watkins writes with respect to the tax matters agreement, "[t]he agreement typically does not have a symmetrical set of restrictions on ParentCo, since ParentCo is already incentivized not to cause the spin-off to be taxable given that ParentCo is the liable party vis-à-vis the IRS for any tax liabilities resulting from the spin-off being taxable."[38] This applies equally to the other spin-related agreements which are designed to fulfill specific purposes and not be symmetrical in all cases.

B. Under Delaware law, does a corporate parent have the authority to bind a subsidiary to an agreement?

32. Under Delaware law, a corporate parent has the authority to and can bind a subsidiary or affiliate to an agreement.[39] This is not only under Delaware law but under black letter principles

[37] *Spin-off Guide 2022*, at 37 ("A parent typically enters into a number of agreements with the spin-off company to implement the spin-off and establish a framework for their relationship following completion of the spin-off. Typically, these include a separation and distribution agreement, a transition services agreement, an employee matters agreement and a tax matters agreement. In some cases, certain of these agreements may be combined (*e.g.*, employee matters may be addressed in the separation and distribution agreement), or alternatively may appear in separate agreements."). This was true of the LoyaltyOne spin-off as the Separation Agreement specifically stipulated that the various agreements, including the Tax Matters Agreement, constituted the complete bargain of the parties concerning the spin. *See* Separation Agreement, at § 6.08 ("This Agreement and the other Distribution Documents constitute the entire understanding of the parties with respect to the subject matter hereof and thereof . . . ").

[38] Cathy A. Birkeland, Mark D. Gerstein, and Laurence J. Stein, *Spin-offs Unraveled*, Latham & Watkins LLP, Oct. 31, 2019, Harvard Law School Forum on Corporate Governance, available at https://corpgov.law.harvard.edu/2019/10/31/spin-offs-unraveled/.

[39] An affiliate is generally considered by reference to the U.S. federal securities law definition as "a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified." *See* 17 CFR § 230.405 - Definitions of terms. By definition, an affiliate includes subsidiaries.

of agency law which provide actual authority to the parent to act on behalf of the subsidiary or affiliate. Moreover, Delaware courts have found such authority and agency established based solely on the act of a parent signing on behalf of a subsidiary or affiliate.

33. Under Delaware law, "[t]here are three distinct bases on which the common law of agency attributes the legal consequences of one person's action to another person: actual authority, apparent authority, and respondeat superior."[40] For these purposes, actual authority is the applicable authority Delaware looks to in the first instance for the authority of parent to bind the subsidiary. Under Delaware law, "[a]ctual authority. . . is created by a principal's manifestation to an agent that, as reasonably understood by the agent, expresses the principal's assent that the agent take action on the principal's behalf."[41] Thus, "[a]n agent who has actual authority holds power as a result of a voluntary conferral by the principal and is privileged, in relation to the principal, to exercise that power."[42]

34. Under these Delaware law principles, a subsidiary can provide implied or explicit consent for the actions of the parent to enter into a transaction on behalf of the subsidiary or affiliate. As the law firm Weil Gotshal notes, this commonly occurs:

> Contrary to popular opinion, it is possible to be contractually bound to an agreement without being a specifically named party to that agreement and without ever having actually signed the agreement on your own behalf. Indeed, it is not uncommon for parent companies to enter into agreements (particularly "releases"), on their own behalf, and on behalf of their "affiliates."[43]

35. Delaware courts have upheld these type of contracts and releases against the subsidiary or affiliate based solely on the parent signing for the subsidiary or affiliate.[44] In this regard, Delaware courts have regularly held that the act of the Parent signing itself on behalf of the

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[40] Hospitalists of Del., LLC v. Lutz, 2012 WL 3679219, at *17 n.102 (Del. Ch. Aug. 28, 2012).
[41] Sarissa Capital Domestic Fund LP v. Innoviva, Inc., 2017 WL 6209597, at *16 (Del. Ch. Dec. 8, 2017).
[42] RESTATEMENT (THIRD) OF AGENCY § 1.01(c). Apparent authority, in turn, "is the power held by an agent or other actor to affect a principal's legal relations with third parties when a third party reasonably believes the actor has authority to act on behalf of the principal and that belief is traceable to the principal's manifestations." *Id.* I refer to the Restatement of Agency and Contracts in this report as these are regularly accepted authorities in Delaware courts and under Delaware law. *See also* Vichi v. Koninklijke Philips Electronics, N.V., 85 A.3d 725, at 799 (Del. Ch. 2014) citing RESTATEMENT (THIRD) OF AGENCY § 2.03 (2006).
[43] Glenn D. West, *You May be Bound by the Contractual Company You Keep—A Cautionary Tale About the Use of the Term "Affiliate" in an Entity's Release of Claims*, Weil, Gotshal & Manges LLP, Oct. 10, 2016, https://privateequity.weil.com/features/may-bound-contractual-company-keep-cautionary-tale-use-term-affiliate-entitys-release-claims/ (last accessed January 28, 2024).
[44] *See, e.g.*, Geier v. Mozido, LLC, C.A. No. 10931-VCS, 2016 WL 5462437 (Del Ch. Sept. 29, 2016) (deciding under New York law that a release signed on behalf of affiliates bound those affiliates).

subsidiary or affiliate is sufficient evidence of the grant of agency authority necessary to bind the subsidiary. Delaware courts have applied this agency doctrine broadly to permit a parent to bind future subsidiaries and affiliates which are not incorporated at the time the contract is signed on that subsidiaries' behalf.[45]

36. For example, in *MicroStrategy Inc. v. Acacia Research Corp.*,[46] a Delaware Chancery Court held that a parent could bind an affiliate to a contract including future affiliates. In *MicroStrategy*, Microstrategy and Acacia Research Corp. ("ARC") settled a patent litigation. As part of the settlement agreement, ARC granted MicroStrategy a broad release "on behalf of themselves and their Affiliates."[47] The release covered any claims that ARC had asserted or could have asserted in the settled action, plus any claims related to the patents litigated in the matter.

37. After the settlement agreement was executed, ARC formed a new subsidiary called DAS. DAS subsequently asserted a claim against MicroStrategy with respect to a subsequently acquired patent. MicroStrategy sued ARC and DAS in Delaware Chancery Court for breach of the settlement agreement.

38. DAS argued in Delaware court that it could not have breached the settlement agreement because ARC had not formed DAS until after the time the settlement agreement was executed. The Delaware court rejected this argument. The court held that since the Settlement Agreement bound "any entity which either party [i.e., ARC] now or hereafter, directly or indirectly, owns or controls ...."[48] The Parent had thus bound the subsidiary (DAS) and therefore was bound by the Settlement Agreement:

> Because DAS is concededly a wholly-owned subsidiary of ARC and, as such, an Affiliate of ARC under § 1.2, DAS is bound by § 5.2(ii) to the same extent as ARC, even if it was not formed until after the Effective Date.[49]

[45] *See* discussion *infra*.
[46] 2010 WL 5550455 (Del. Ch. Dec. 30, 2010).
[47] 2010 WL 5550455, at *2.
[48] *Id*.
[49] 2010 WL 5550455, at *12.

39. Other Delaware courts have held similarly and found that a parent can bind a subsidiary or affiliate by executing a contract on its behalf.[50] In such cases the Parent acts as an agent for the subsidiary and binds it under this agency authority.

40. The binding of the subsidiary to the contract makes it a party to the contract. The subsidiary is thus bound by the contract to the third party and the third party will have an independent legal claim against the subsidiary for any breach of contract. There is no need to bring in Parent as a party in this instance since subsidiary's obligations run directly to the third party.[51]

C. What are the indicia of unconscionability under Delaware law?

41. Delaware law recognizes that a contract can be an unconscionable contract of adhesion and thus unenforceable. More specifically, under Delaware law "[i]f the court as a matter of law finds the contract or any clause of the contract to have been unconscionable at the time it was made, the court may refuse to enforce the contract or it may enforce the remainder of the contract without the unconscionable clause."[52]

42. Whether a contract is unconscionable is determined as of the time it was entered into.[53] The determination of unconscionability turns on "the totality of the circumstances."[54]

43. In assessing whether a contract is unconscionable, the Delaware Courts have set forth ten indicia of unconscionability. These are:

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[50] *See, e.g.*, Symbiont.io, Inc. v. Ipreo Holdings, LLC, 2021 WL 3575709 (Del Ch. 2021). In addition to agency authority, principles of estoppel may also apply to bind a party to an agreement. *See* Fla. Chem. v. Flotek Indus., 262 A.3d 1066, 1090 ("Under principles of estoppel, a forum selection provision can bind the non-signatory if (i) the non-signatory accepted a direct benefit from the agreement or (ii) the non-signatory had a close relationship to the agreement, a signatory to the agreement controlled the non-signatory, and the circumstances establish that the signatory agreed to the forum selection provision on behalf of its controlled affiliate." (citing Sustainability P'rs LLC v. Jacobs, 2020 WL 3119034, at *6)).

[51] NAF Holdings, LLC v. Li & Fung (Trading) Limited, 118 A.3d 175, 176 (Del. 2015) ("[A] party to a commercial contract who sues to enforce its contractual rights can bring a direct contract action under Delaware law.").

[52] 6 Del. C. § 2–302.

[53] Lecates v. Hertrich Pontiac Buick Co., 515 A.2d 163, 173 (Del. Super. 1986). *See* RESTATEMENT (SECOND) OF CONTRACTS § 208 (1981) ("If a contract or term thereof is unconscionable at the time the contract is made a court may refuse to enforce the contract....").

[54] *See* RESTATEMENT (SECOND) OF CONTRACTS § 208, cmt. a ("The determination that a contract or term is or is not unconscionable is made in light of its setting, purpose and effect.").

1. The use of printed form or boilerplate contracts drawn skillfully by the party in the strongest economic position, which establish industry wide standards offered on a take it or leave it basis to the party in a weaker economic position;
2. a significant cost-price disparity or excessive price;
3. a denial of basic rights and remedies to a buyer of consumer goods;
4. the inclusion of penalty clauses;
5. the circumstances surrounding the execution of the contract, including its commercial setting, its purpose and actual effect;
6. the hiding of clauses which are disadvantageous to one party in a mass of fine print trivia or in places which are inconspicuous to the party signing the contract;
7. phrasing clauses in language that is incomprehensible to a layman or that divert his attention from the problems raised by them or the rights given up through them;
8. an overall imbalance in the obligations and rights imposed by the bargain;
9. exploitation of the underprivileged, unsophisticated, uneducated and the illiterate; and
10. inequality of bargaining or economic power.[55]

44. These factors have been viewed as both substantive and procedural. As one Delaware court has stated:

> The concept of substantive unconscionability tests the substance of the exchange. An agreement is substantively unconscionable if the terms evidence a gross imbalance that "shocks the conscience." In more modern terms, it means a bargain on terms "so extreme as to appear unconscionable according to the mores and business practices of the time and place."
>
> The concept of procedural unconscionability examines the procedures that led to the contract with the goal of evaluating whether seemingly lopsided terms might have resulted from arms'-length bargaining. Courts focus on the relative bargaining strength of the parties and whether the weaker party could make a meaningful choice. The concept is "broadly conceived to encompass not only the employment of sharp bargaining practices and the use of fine print and convoluted language, but a lack of understanding and an inequity of bargaining power."
>
> The two dimensions of unconscionability do not function as separate elements of a two prong test. The analysis is unitary, and "it is generally agreed that if more of one is present, then less of the other is required."[56]

45. Delaware courts have stated that the six substantive unconscionability factors referred to above are:

- A significant cost-price disparity or excessive price;
- The denial of basic rights and remedies;

[55] *See* Fritz v. Nationwide Mut. Ins. Co., 1990 WL 186448, at *4-5 (Del. Ch. Nov. 26, 1990). *See also* James v. National Financial, LLC, 132 A.3d 799, 814-15 (Del. 2016).
[56] James v. National Financial, LLC, 132 A.3d 799, 814-15 (Del. 2016).

- Penalty clauses;
- The placement of disadvantageous clauses in inconspicuous locations or among fine print trivia;
- The phrasing of disadvantageous clauses in confusing language or in a manner that obscures the problems they raise; and
- An overall imbalance in the obligations and rights imposed by the bargain.[57]

46. In this list, "the first factor tests for a threshold indication of fundamental unfairness. The second and third factors examine two types of contract terms where overreaching may occur. The fourth and fifth factors ask about other types of contract terms and whether they are adequately disclosed and comprehensible. The sixth factor examines the agreement as a whole."[58]

47. The other four factors have been determined by the Delaware courts to be of procedural unconscionability. They are:

- Inequality of bargaining or economic power;
- Exploitation of the underprivileged, unsophisticated, uneducated, and illiterate;
- The use of printed form or boilerplate contracts drawn skillfully by the party in the strongest economic position, which establish industry-wide standards offered on a take it or leave it basis to the party in a weaker economic position; and
- The circumstances surrounding the execution of the contract, including its commercial setting, its purpose, and actual effect.[59]

48. As one court has explained "these factors help a court test the degree to which a seemingly disproportionate outcome could have resulted from legitimate, arms'-length bargaining."[60] However "[a] court rarely will intervene when the contracting parties are both commercial entities or otherwise sophisticated. By contrast, a court may be more concerned where the contracting process involved significant inequalities of bargaining power, economic power, or sophistication, particularly between a business and a consumer. An aggravated version

[57] *Id*. at 815-816 (footnotes and citations omitted).
[58] *Id*. at 815-816.
[59] *Id*. at 826.
[60] *Id*. at 826.

of this scenario arises when one of the parties is an individual who is underprivileged, uneducated, or illiterate."[61]

49. While Delaware recognizes the claim of unconscionability, Delaware courts have set a high bar to find this standard met. Delaware courts have stated that the test of unconscionability is only met where "no man in his senses and not under delusion would make on the one hand, and as no honest or fair man would accept, on the other."[62] Delaware courts have also held that "mere disparity between the bargaining powers of parties to a contract will not support a finding of unconscionability."[63] Instead, "[f]or a contract clause to be unconscionable, its terms must be 'so one-sided as to be oppressive.'"[64] In this regard, unconscionability is "a concept that is used sparingly".[65] Moreover, mere allegations of unconscionability are insufficient as the burden to prove unconscionability is on the person claiming it. Instead:

> An unsupported conclusory allegation . . . that a contract is unenforceable as unconscionable is not enough. Sufficient facts surrounding the "commercial setting, purpose and effect" of a contract at the time it was made should be alleged so that the court may form a judgment as to the existence of a valid claim of unconscionability . . .[66]

1. In what circumstances, if any, have Delaware courts found spin transactions to be unconscionable?

2. In what circumstances, if any, have Delaware courts found a specific corporate agreement(s) used to implement a spin transaction to be unconscionable?

50. In order to inform the answer to these two questions, I used the Westlaw legal database to identify Delaware law cases from any year that mentioned both spin-off transactions and the

[61] *Id*. *See also* Terrell v. Kiromic Biopharma, Inc., 297 A.3d 610,960 (Del Ch. 2023) ("[c]ourts are particularly reluctant to find unconscionability in contracts between sophisticated [parties].")
[62] Tulowitzki v. Atlantic Richfield Co., 396 A.2d 956, 960 (Del. 1978). This standard has also been phrased as being "practices of the business community." ("'The business-practices-of-the-community test asks whether the terms are so extreme as to appear unconscionable according to the mores and business practices of the time and place.'" *Id*.).
[63] Ketler v. PFPA, LLC, 132 A.3d 746, 748 (Del. 2016).
[64] James v. National Financial, LLC, 132 A.3d 799, 814 (Del. 2016).
[65] Ketler v. PFPA, LLC, 132 A.3d 746, 748 (Del. 2016).
[66] Tulowitzki v. Atlantic Richfield Co., 396 A.2d 956, 961 (Del. 1978), citing Patterson v. Walker-Thomas Furniture, Inc., 277 A.2d 111, 114 (D. C. 1971).

doctrine of unconscionability. I identified only one relevant case involving allegations of unconscionability in the context of a spin transaction or the agreements entered into in connection with a spin. This case was *Chemours Co. v. DowDupont, Inc.*[67]

51. In *DowDuPont*, Chemours was spun-off from DuPont in 2015. The terms of the spin-off were provided by contract, including a separation agreement under Delaware law (the "Chemours Separation Agreement"). The Chemours Separation Agreement assigned Chemours certain historical environmental liabilities, including a duty to indemnify DuPont for any damage it may incur relating to those liabilities. Chemours sued seeking to limit its indemnification obligations under the Chemours Separation Agreement.

52. DuPont then brought a motion to dismiss Chemours' claims since the parties were subject to arbitration under the Chemours Separation Agreement. Chemours disputed this motion claiming that Chemours "did not consent to any terms of the Separation Agreement, and thus the arbitration provisions are unenforcable [*sic*], contractually; alternatively, it argues that the arbitration provisions are unconscionable, and thus void."[68]

53. The Delaware court applied the factors I outlined from the Delaware courts in the preceding subsection[69] and granted the motion to dismiss and held that the Chemours Separation Agreement was a valid contract on "straightforward application of settled law."[70]

54. In this regard, the Court rejected Chemours' unconscionability claim. It rejected Chemours' claims for substantive unconscionability as the arbitration clause at issue was not unduly unfair and Supreme Court jurisprudence indicated such clauses should be upheld. It then addressed the procedural unconscionability argument stating that the clause at issue:

> cannot be procedurally unconscionable because such a finding cannot be squared with settled Delaware law that "[w]holly-owned subsidiary corporations are expected to operate for the benefit of their parent corporations; that is why they are created." To the extent the First Amended Complaint does allege sufficient facts to infer procedural unconscionability in a typical commercial setting, that is, one involving separate enterprises each negotiating in its own interest, the spirit of procedural unconscionability—an "examin[ation] [of] the procedures that led to the contract with the goal of evaluating whether seemingly lopsided terms might have resulted from arms'-length bargaining"—is wholly inconsistent with the

[67] 2020 WL 1527783 (Del. Ch. 2020).
[68] *Id*. at 1.
[69] *Id*. at n. 145-147, citing James v. Nat'l Fin., LLC, 132 A.3d 799, 815 (Del. Ch. 2016).
[70] *Id*. at 1.

> routine enforcement of parent-subsidiary contracts. Such contracts are routinely enforced not because they reflect arms'-length bargaining between a parent and its subsidiary—which of course they do not—but because the parent determines they are desirable for the parent, and subsidiary fiduciaries "are obligated only to manage the affairs of the subsidiary in the best interests of the parent and its shareholders." Delaware law enforces these admittedly non-consenual contracts because they allow the corporate machinery to run smoothly—to find such a contract unenforceable based on procedural unconscionability would be nonsensical, because their presumptive validity acknowledges that they are not the product of fair bargaining. Therefore, to the extent Chemours has directly challenged the procedural unconscionability of the [arbitration clause], its challenge fails as a matter of law.[71]

55. Thus, in the one case to address unconscionability and spin-offs under Delaware law, the Delaware court held that a separation agreement (and presumably the other spin-related agreements) were not unconscionable because they were between a parent and subsidiary and thus presumptively enforceable even if they were not subject to arms-length bargaining.[72] This Delaware holding is consistent with my own understanding, practice, and study: Delaware has never found a case of unconscionability in connection with a spin transaction or an agreement entered into in connection with a spin transaction. These results are consistent with the high bar for a finding of unconscionability, particularly with regard to a contract among sophisticated or commercial parties as between a parent and subsidiary and as *Chemours* shows.

D. Under Delaware Law, does the language of the Tax Matters Agreement, and in particular Section 12(b) and its reference to Section 2.08(c) of the Separation and Distribution Agreement, impose equitable obligations on the Loyalty Ventures Group (as defined therein) in respect of certain tax refunds received by a group member?

56. Under Delaware law, the language in the Tax Matters Agreement created an agency/principal relationship between Loyalty Ventures Group, as agent, on behalf of the Bread Group, as principal. As a result of that agency relationship, the Loyalty Group had the duties of an agent, including fiduciary duties, to the Bread Group. These agency duties required the Loyalty Ventures Group to promptly pay tax refunds subject to the Tax Matters Agreement to the Bread Group. If the Loyalty Group failed to pay these amounts, the typical remedy in

[71] *Id*. at 14.
[72] *See also* Anadarko Petroleum Corp. v. Panhandle Eastern Corp., 1987 WL 16508, at *4 (Del. Ch. Sept. 8, 1987), *aff'd*, 545 A.2d 1171 (Del. 1988) (stating that there is "no authority for the proposition that, when the parties to a spin-off have continuing contractual relations, those contracts must be negotiated at arms length.").

Delaware is an equitable one: the Delaware court to impose a constructive trust upon the owed amount due to Loyalty Group's breach of the agency relationship.

57. The relevant language of Section 12(b) of the Tax Matters Agreement states that:

> Treatment of Payments. To the extent permitted by Applicable Tax Law, any payment made by ADS or any member of the ADS Group to Loyalty Ventures or any member of the Loyalty Ventures Group, or by Loyalty Ventures or any member of the Loyalty Ventures Group to ADS or any member of the ADS Group, pursuant to this Agreement, the Separation Agreement or any other Distribution Document that relates to Taxable periods (or portions thereof) ending on or before the Distribution Date shall be treated by the parties hereto for all Tax purposes as a distribution by Loyalty Ventures to ADS, or a capital contribution from ADS to Loyalty Ventures, as the case may be; provided, however, that notwithstanding anything to the contrary in this Section 12(b), any payment made pursuant to Section 2.08(c) of the Separation Agreement shall instead be treated as if the party required to make a payment of received amounts had received such amounts as agent for the other party . . . .[73] (underlining added)

58. The language of Section 12(b) requires that Loyalty Ventures hold any amounts received under Section 2.08(c) of the Separation Agreement "as agent for the other party." This language is reinforced by Section 2.08(c) of the Separation Agreement which states that:

> As between ADS and Loyalty Ventures (and the members of their respective Groups) all payments received after the Distribution Date by either party (or member of its Group) that relate to a business, asset or Liability of the other party (or member of its Group), shall be held by such party for the use and benefit and at the expense of the party entitled thereto.[74]

59. Under Delaware law the agreement of the parties that Loyalty Ventures would act as an "agent" created an agency relationship. More specifically, an agency relationship is one "which results from the manifestation of consent by one person to another that the other shall act on his behalf and subject to his control, and consent by the other so to act."[75] The parties here specifically stipulated that ach party would serve as an agent for any sums received under Section 2.08(c) of the Separation Agreement, thereby creating such an agency relationship.

60. As an agent, Loyalty Ventures "has a duty to pay money collected to the principal upon demand by him. . ."[76] Moreover, "[u]nless otherwise agreed, an agent who has received goods or

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[73] Tax Matters Agreement, at § 12(b).
[74] Separation Agreement, at § 2.08(c).
[75] RESTATEMENT (SECOND) OF AGENCY § 1. *See also* Fisher v. Townsends, Inc., 695 A.2d 53, 57 (Del. 1997).
[76] RESTATEMENT (SECOND) OF AGENCY § 427, cmt. b (1958) ("Unless the agent has a lien upon the proceeds or is otherwise entitled only to a part of the amount collected, the agent.").

money for the principal has a duty to use care to keep them safely until they are remitted or delivered to the principal, and to deliver them to the principal upon his demand when the amount due him has been ascertained."[77] In addition to these specific duties, Loyalty Ventures also has fiduciary duties as an agent (and when acting under this agency relationship).[78]

61. An example of this is seen in the Delaware case of *Optimis Corp. v. Atkins*.[79] In that case the defendants served in an arbitration as representative plaintiffs in a derivative suit on behalf of the company. When the arbitrator awarded a judgment in favor of the plaintiffs, the defendants failed to turn over an award to the company. The court held that the defendants had served as agents of the company in the arbitration and thus had an agency relationship with the company. On this basis the Delaware court held that:

> once they obtained the Award, Defendants breached their duty to return it to Optimis's board. As explained, Defendants lacked any authority over, or right to possess, the monetized Award. Even when acting outside of the scope of their authority or term of their relationship, agents owe a duty to their principal to return property they receive on the principal's behalf and a duty "to refrain from conduct that is likely to damage the principal's enterprise." "An agent has a duty, subject to any agreement with the principal, not to deal with the principal's property so that it appears to be the agent's property." Even if an agent has the authority to collect money for the principal, she has a duty to return it to the principal on demand. And Defendants "continue[d] to have a duty" to act in accordance with the "custom and practice" of derivative plaintiffs and in "the nature of" Defendants' role as derivative plaintiffs.[80]

62. Thus, the failure of an agent to pay over monies due to the principal gives rise to an equitable cause of action which can be brought by the principal. If the court finds that the agent has breached its duties, the Delaware courts may grant a "constructive trust" over the proceeds. In Delaware, the elements for the imposition of a constructive trust are "(1) a confidential or fiduciary relationship, (2) a promise, (3) a transfer in reliance on such promise, and (4) unjust enrichment."[81] This is paradigmatically the case where an agent retains funds owed to the

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[77] RESTATEMENT (SECOND) OF AGENCY § 427. *See also* Fisher v. Townsends, Inc., 695 A.2d 53, 57 (Del. 1997), citing Phansalkar v. Anderson Weinroth & Co., L.P., 344 F.3d 184 (2d Cir. 2003) (affirming a trial court decision which found that an investment banker breached fiduciary duty by withholding from employer cash and securities received from clients that belonged to employer).

[78] Metro Ambulance, Inc. v. E. Med. Billing, Inc., 1995 WL 409015, at *3 (Del.Ch. July 5, 1995).

[79] 2023 WL 3745306 (Del. Ch. 2023).

[80] *Id*. at *19.

[81] Vornado PS v. Primestone Investment Partners, 821 A.2d 296 (Del. Ch. Dec. 19, 2002), citing Perry v. Perry, 235 A.D.2d 817, 652 N.Y.S.2d 163, 164 (1997). *See also* Triton Const. Co., Inc. v. Eastern Shore Elec. Services, Inc., 2009 WL 1387115, at *28 (Del. Ch. 2009).

principal. As the Delaware court has stated "[a] constructive trust is one imposed by a court of equity as a remedy to correct the unlawful vesting, or assertion of, legal title."[82]

63. An example of the application of this doctrine is from the Delaware case of *B.A.S.S. Group, LLC v. Coastal Supply Co., Inc*.[83] In that case, the Delaware court held that the keeping of embezzled funds by an agent constituted a case of unjust enrichment. The court stated that in such case "the typical remedy for unjust enrichment is restitution. A constructive trust is simply a form of restitution in specie."[84] The court further stated that:

> A constructive trust may be imposed "upon specific property [or] identifiable proceeds of specific property, and even money so long as it resides in an identifiable fund to which the plaintiff can trace equitable ownership." If the unjustly obtained funds can be traced into specific property, then a constructive trust can be imposed on the property, regardless of the culpability of the party possessing the property, provided that the person or entity that received the funds was not a bona fide purchaser for value.[85]

64. This finding—that an agent's failure to pay monies held as an agent for the principal creates not only a duty to return the money but grounds for the imposition of a constructive trust—has been held repeatedly in Delaware.[86]

IV. Declaration and Statement of Truth

65. I understand that my duty is to help the Court on matters within my expertise. This duty is paramount and overrides any obligation to the parties from whom I have received instructions and by whom I am being paid. I have complied and will continue to comply with that duty.

I am aware of the applicable requirements of Form 53, and my duty as an expert as set out in Rule 4.1 of the Rules of Civil Procedure. I have executed a copy of Form 53 Acknowledgement of Expert Duty and attached it as **Exhibit D** to this report.

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[82] *Id*.
[83] 2009 WL 1743730 (Del. Ch. 2009).
[84] *Id*. at * 7.
[85] *Id*. *See also* Triton Const. Co., Inc. v. Eastern Shore Elec. Services, Inc., 2009 WL 1387115, at *28 (Del. Ch. 2009); Nash v. Schock, 1997 WL 770706 (Del. Ch. 1997).
[86] *See* cases cited in this subsection.

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Dated: 9 February 2024

Steven Davidoff Solomon
675 Tyner Way
Incline Village, NV 89451

Exhibit A

Steven Davidoff Solomon

Dated January 2024

Academic Appointment/Work

University of California, Berkeley School of Law 2014-
Alexander F. and May T. Morrison Professor of Law

- Teach Business Associations, Mergers & Acquisitions, and Law, Accounting/Economics and Business Workshop (have also taught Contracts & Securities Regulation)
  - Co-taught with Erwin Chemerinsky Civil Liberties in a Pandemic
  - Co-teach with Professor Mark Brilliant From Wall Street to Main Street, an undergraduate U.C. Berkeley class
- Affiliated Faculty, Center for Jewish Studies
- Fellow, American College of Governance Counsel
- Faculty Co-Director, Berkeley Center for Law & Business (2014-2022)
  - During my tenure, the Center had ten employees, conducted over 50 programs and conferences a year and operated the executive education program for the law school. In my five-year tenure as co-director I grew revenues from 300K a year to approximately $4 million per year (and from two employees to ten).
- Co-Founder Berkeley Antisemitism Initiative
- Selected Honors
  - Named three times one of the 100 most influential governance professionals in the country by the National Association of Corporate Directors
  - Seven articles selected as one of the year's top 10 corporate and securities articles in the annual poll of corporate law professors
  - Top 10 Most-Cited Corporate & Securities Law Professors 2013-2017; 2016-2020 (per Sisk report)
  - Top 10 Most-Cited U.C. Berkeley, School of Law Professors 2013-2017; 2016-2020 (per Sisk report)
- Member American Law Institute, European Corporate Governance Initiative, Academic Freedom Alliance

Tel Aviv University, Buchmann Faculty of Law Spring, 2022
Visiting Professor

Social Capital Suvretta Holdings Corp. IV 2021-2023
Director, Chair of Audit, Compensation and Nominating Committees

The New York Times 2007-2021
"Deal Professor" Columnist for N.Y. Times DealBook

- Weekly print columnist for The New York Times
- On-line columnist for N.Y. Times DealBook

Other Academic Appointments

The Ohio State University Michael E. Moritz College of Law 2011-2014
Fisher College of Business (By Courtesy)
Professor of Law

University of Connecticut School of Law 2008-2011
Professor of Law

Wayne State University School of Law 2006-2008
Assistant Professor of Law

Entrepreneurial Endeavors

Yowlo, PBC 2021-

Co-founded financial analytics firm with U.C. Berkeley Haas Professor providing high-end financial tools to retail investors. Yowlo, PBC is cash flow positive and has contracted with Microsoft to license certain of its powerful analytics.

Wasabi Sushi Co. 1996-

Founding partner of Wasabi Sushi Co, a fast-casual restaurant chain. Wasabi Sushi has raised over $3 million dollars in capital and is currently cash flow positive. It's flagship restaurant remained at Tysons's Corner in Virginia.

Scholarship

Casebooks

MERGERS & ACQUISITIONS: LAW, THEORY & PRACTICE (1ST ED. WEST 2016) (2ND ED. WEST 2019) (3RD ED. WEST 2023) (with Claire Hill and Brian Quinn)

Books

THE CORPORATE CONTRACT IN CHANGING TIMES: IS THE LAW KEEPING UP? (UNIV. CHICAGO 2019) (Edited volume) (with Randall Thomas)

RESEARCH HANDBOOK ON MERGERS AND ACQUISITIONS (Elgar 2016) (Edited volume) (with Claire Hill)

THE LAW AND ECONOMICS OF MERGERS AND ACQUISITIONS (Elgar 2013) (Edited volume) (with Claire Hill)

GODS AT WAR: SHOTGUN TAKEOVERS, GOVERNMENT BY DEAL, AND THE PRIVATE EQUITY IMPLOSION (John Wiley & Sons, Inc. 2009)

Book Chapters

Dual Class Stock (with Jill Fisch) in JEFFREY N. GORDON & WOLF-GEORG RINGE (EDS.), THE OXFORD HANDBOOK OF CORPORATE LAW AND GOVERNANCE (Oxford Forthcoming 2024)

National Securities Implications in M&A (with Cathy Hwang) in JEFFREY N. GORDON & WOLF-GEORG RINGE (EDS.), THE OXFORD HANDBOOK OF CORPORATE LAW AND GOVERNANCE (Oxford Forthcoming 2024)

The Rise and Fall of Delaware's Takeover Standards (with Randall Thomas) in STEVEN DAVIDOFF SOLOMON & RANDALL THOMAS (EDS.), THE CORPORATE CONTRACT IN CHANGING TIMES: IS THE LAW KEEPING UP? (Univ. Chicago 2019)

What Do We Know About Law Firm Quality in M&A Litigation? (with Randall Thomas) in JESSICA ERICKSON, ET AL. (EDS.), RESEARCH HANDBOOK ON REPRESENTATIVE SHAREHOLDER LITIGATION (Elgar 2018)

Mergers & Acquisitions: A Cyclical and Legal Phenomenon (with B. Quinn and C. Hill) in CLAIRE HILL & STEVEN DAVIDOFF SOLOMON (EDS.), RESEARCH HANDBOOK ON THE ECONOMICS OF CORPORATION LAW (Elgar 2016)

Takeover Theory and the Law and Economics Movement, in CLAIRE HILL & BRETT MCDONNELL (EDS.), RESEARCH HANDBOOK ON THE ECONOMICS OF CORPORATION LAW (Elgar Press 2012)

The Private Equity Contract, in DOUGLAS CUMMING (ED.), THE OXFORD HANDBOOK OF PRIVATE EQUITY (Oxford University Press 2012)

Fairness Opinions in Mergers and Acquisitions, in H. KENT BAKER (ED.), THE ART OF CAPITAL RESTRUCTURING (John Wiley & Sons 2011) (with Anil K. Makhija and Rajesh P. Narayanan)

Fairness Opinions: Thoughts, Perspectives and Legal Doctrine, in WOLFGANG ESSLER & SEBASTIAN LOBE (EDS.), FAIRNESS OPINIONS (2008)

Working Articles

As California goes, so goes the nation? Gender quotas and the legislation of non-economic values (with Felix von Meyerinck, Alexandra Niessen-Ruenzi and Markus Schmid), revise and resubmit *Journal of Accounting and Economics*

Peer Reviewed Articles

Universal Demand Laws Did Not Increase Management Entrenchment, CRITICAL FINANCE REVIEW (forthcoming 2024) (with Byung Hyun Ahn and Panos Patatoukas),

Does Voluntary Financial Disclosure Matter? The Case of Fairness Opinions, 68(3) JOURNAL OF LAW AND ECONOMICS (2023) (with Adam Badawi and Matt Cain)

Representations and Warranties Insurance in Mergers and Acquisitions, REVIEW OF ACCOUNTING STUDIES (Sept. 2022) (with Omri Even-Tov & James Ryans)

Placement Agents and Private Equity: Information Production or Influence Peddling?, 55(4) J. FIN. & QUANT. ANAL. 1095 (2020) (with Matt Cain and Stephen McKeon)

An Empirical Study of Special Litigation Committees, 60 J. CORP. FIN. 101543 (2020) (with CV Krishnan and Randall Thomas)

The Myth of Morrison: Securities Fraud Litigation Against Foreign Issuers, 74 THE BUSINESS LAWYER 967 (2019) (with Robert Bartlett, Matt Cain, and Jill Fisch)

What Happened in 1998? The Demise of the Small IPO and the Investing Preferences of Mutual Funds, 47 J. CORP. FIN. 151 (2017) (with Robert Bartlett and Paul Rose)

Top Defense Counsel in Mergers & Acquisitions, 45 J. CORP. FIN. 480 (2017) (with CV Krishnan and Randall Thomas)

Do Takeover Laws Matter? Evidence from 50 Years of Hostile Takeovers, 124(3) J. FIN. ECON. 464 (2017) (with Matt Cain and Stephen McKeon)

Who are the Top Law Firms? Assessing the Value of Plaintiffs' Law Firms in Merger Litigation, 18(1) AM. LAW AND ECON. REV. 122 (2016) (with Randall Thomas and CNV Krishnan)

Delaware's Competitive Reach, 9(1) JOURNAL EMP. LEG. STUD. 92 (2012) (with Matt Cain) (Selected as one of the year's top 10 corporate and securities articles in the annual poll of corporate law professors)

Law Review Articles

Do Social Movements Spur Corporate Change? The Rise of "MeToo Termination Rights" in CEO Contracts, 98 INDIANA L. J 125 (2022) (with Rachel S. Arnow-Richman and James Hicks)

The Future or Fancy? An Empirical Study of Public Benefit Corporations, 11 HARV. BUS L. REV. 114 (2021) (with Michael B. Dorff and James Hicks)

Does Revlon Matter: An Empirical and Theoretical Analysis, 108 CALIFORNIA L. REV. 1683 (2020) (with Matt D. Cain, Sean Griffith and Robert Jackson, Jr.) (winner of the John L. Weinberg/IRRCI Research Award Competition) (Selected as one of the year's top 10 corporate and securities articles in the annual poll of corporate law professors)

The New Titans of Wall Street: A Theoretical Framework for Passive Investors, 168 U. PENN. L. REV. 17 (2019) (with Jill Fisch & Assaf Hamdani) (Selected as one of the year's top 10 corporate and securities articles in the annual poll of corporate law professors)

Is Say on Pay All About Pay? The Impact of Firm Performance, 8 HARV. BUS. L. REV. 101 (2018) (with Jill Fisch and Darius Palia)

Settling the Staggered Board Debate, 166 U. PENN. L. REV. 1475 (2018) (with Yakov Amihud & Markus Schmid) reprinted in 30 J. APP. CORP. FIN. 61 (2018) (Selected as one of the year's top 10 corporate and securities articles in the annual poll of corporate law professors)

Transactional Administration, 106 GEORGETOWN L. REV. 1097 (2018) (with David Zaring)

The Shifting Tides of Merger Litigation, 71 VAND. L. REV. 603 (2018) (with Matt Cain, Jill Fisch and Randall Thomas)

How Corporate Governance is Made: The Case of the Golden Leash, 164 U. PENN. L. REV. 649 (2016) (with Matt Cain, Jill Fisch and Sean Griffith) (Selected as one of the year's top 10 corporate and securities articles in the annual poll of corporate law professors)

The Disappearing IPO and the Lifecycle of Small Firms, 6 HARV. BUS. L. REV. 83 (2016) (with Paul Rose)

Confronting the Peppercorn Settlement in Merger Litigation: An Empirical Analysis and a Proposal for Reform, 93 TEX. L. REV.557 (2015) (with Sean Griffith and Jill Fisch) (selected for reprint in 57 Corp. Practice Comm. 493 (2015)) (Selected as one of the year's top 10 corporate and securities articles in the annual poll of corporate law professors)

A Great Game: The Dynamics of State Competition and Litigation, 100 IOWA L. REV. 165 (2015) (with Matt Cain) (Selected as one of the year's top 10 corporate and securities articles in the annual poll of corporate law professors)

After the Deal: Fannie, Freddie and the Financial Crisis, 95 BOSTON U. L. REV. 371 (2015) (with David Zaring)

Broken Promises: Private Equity Bid Failures and the Limits of Contract, 40 J. CORP. LAW 565 (2015) (with Matt Cain and Antonio Macias) (selected as best paper from over 80 submissions at the George Washington C-LEAF Business and Financial Law Junior Faculty Workshop; selected to be presented at American Finance Association 2012 meeting)

Do Outside Directors Face Labor Market Consequences? A Natural Experiment from the Financial Crisis, 4 HARV. BUS. L. REV. 53 (2014) (with Andrew Lund and Robert Schonlau)

Computerization and the ABACUS: Reputation, Trust, and Fiduciary Duties in Investment Banking, 37(3) J. CORP. LAW 101 (2012) (with Alan D. Morrison and William J. Wilhelm)

Form Over Substance? Management Buy-Outs and the Value of Corporate Process, 36 DEL. J. CORP. L. 849 (2011) (with Matt Cain) (Symposium organized around article) (selected for reprint in 54 Corp. Practice Comm. 793 (2012-13))

Regulation by Deal: The Government's Response to the Financial Crisis, 61 ADMIN. L. REV. 463 (2009) (with David Zaring)

The Failure of Private Equity, 82 S. CAL. L. REV. 481 (2009)

Regulating Listings in a Global Market, 86 N.C. L. REV. 101 (2007) (selected for reprint in 50 Corp. Practice Comm. 959 (2009))

Black Market Capital, 2008 COLUM. BUS. L. REV. 172

The SEC and the Failure of Federal Takeover Regulation, 34 FLA. ST. U. L. REV. 211 (2007)

Fairness Opinions, 55 AM. U.L.REV. 1557 (2006) (cited in HA Liquidating Trust v. Credit Suisse Securities LLC, -- F.3d. -- (7th Cir. 2008) (Easterbrook, J.))

Getting U.S. Security Holders to the Party: The SEC's Cross-Border Release Five Years On, 12 U. PENN J. INT'L ECON. L. 455 (2005) (with Brett Carron)

Symposium Articles (Includes Full Length Law Review Articles Placed as Symposium Pieces)

Extending Dual Class Stock: A Proposal (forthcoming THEORETICAL INQUIRIES IN LAW) (with David J. Berger and Jill Fisch)

Synthetic Governance (forthcoming COLUM. BUS. L. REV.) (with Jill Fisch, Panos N. Patatoukas and Byung Hyun Ahn)

Should Corporations Have a Purpose?, 99 TEX. L. REV 1311 (2021) (with Jill Fisch)

Centros, California's "Women on Boards" Statute and the Scope of the Internal Affairs Doctrine, 20 EUR. BUS. ORG. L. REV. 493 (2020) (with Jill Fisch)

Mootness Fees, 72 VAND. L. REV. 1777 (2019) (with Matt Cain Jill Fisch, Randall Thomas)

The Problem of Sunsets, 99 B.U. LAW REV. 1057 (2019) (with Jill Fisch)

Lock-up Creep, 38 J. CORP. L. 681 (2013) (with Christina Sautter)

Limits of Disclosure, 36 SEATTLE U. L. REV. 599 (2013) (with Claire Hill)

Airgas and the Value of Strategic Decision-Making, 2012 COLUM. BUS. L. REV. 502

Uncomfortable Embrace: Federal Corporate Ownership Amidst the Financial Crisis, 95 MINN. L. REV. 1733 (2011)

Rhetoric and Reality: A Historical Perspective on the SEC's Regulation of Foreign Private Issuers, 79 CINC. L. REV. 619 (2010)

Paradigm Shift: Securities Regulation in the New Millennium, 2 BROOK. J. CORP. FIN. & COM. L. 340 (2008) (included as a paper presented at the AALS annual meeting of the securities regulation section and selected for inclusion in the Securities Law Review 2009 as one of the top papers in the field of securities regulation in 2008)

Selected Other Writings

On Peter Henning, 68 WAYNE L. REV. 339 (2023)

Is The Staggered Board Debate Really Settled?: A Coda, 168 U. PA. L. REV. ONLINE 113 (2020), http://www.pennlawreview.com/online/168-UPa-L-Rev-Online-113.pdf (with Yakov Amihud, Markus Schmid)

What CEOs Get Wrong About Activist Investors, HARVARD BUSINESS REVIEW (May 2018) (with Frank Partnoy)

Frank & Steve's Excellent Corporate Raiding Adventure, THE ATLANTIC MONTHLY (May 2017) (with Frank Partnoy)

Tenure Voting and the U.S. Public Company, 72(2) THE BUSINESS LAWYER 295 (2017) (with David Berger & Aaron Benjamin)

Yearly Takeover Litigation Reports (2011-2015), available at http://papers.ssrn.com/sol3/cf_dev/AbsByAuth.cfm?per_id=576465#reg

Section 632: An Expanded Basis of Federal Jurisdiction for National Banks, 123 BANKING L.J. 687 (2006)

A Comparative Study of the Jewish and the United States Constitutional Law of Capital Punishment, 3 ILSA J. INT'L & COMP. L. 93 (Fall 1996)

Education

London Business School
Masters in Finance, Sept 2005

Columbia University School of Law
Juris Doctor, May 1995, Harlan Fiske Stone Scholar

University of Pennsylvania
Bachelor of Arts, History, *Cum Laude* with Distinction, May 1992
Honors Thesis: *Raphael Lemkin and the Conceptual Evolution of Genocide*

Other Work Experience

Freshfields Bruckhaus Deringer 2002-2004
Senior Associate, U.S. Corporate Group (London)

Shearman & Sterling
Senior Associate, Mergers and Acquisitions Department (New York/London) 1995-2002

Testimony, Presentations, Conferences and Panels

Testimony

Filling Gaps and Black Holes: Restructuring the Financial Regulatory Apparatus for the Next Crisis, Testimony before the U.S. Senate Committee on Homeland Security and Governmental Affairs, Where Were the Watchdogs? The Financial Crisis and the Breakdown of Financial Governance (January 2009)

Presentations

Twitter: A Case Study in Contractual Certainty, USC Law and Economics Workshop (Jan. 2024).

ESG and Corporate Purpose: The Real Deal or Fraud?, Bairadi Corporate Lecture, Wayne State Law School (Sept. 2022)

Identifying Corporate Governance Effects: The Case of Universal Demand Laws, ECGI & Bar Ilan University (June 2022)

Does Voluntary Financial Disclosure Matter? The Case of Fairness Opinions in M&A, Notre Dame Law and Economics Colloquium (Oct 2022); American Law and Economics Associations Annual Meeting (Oct 2021)

Should Corporations Have a Purpose?, Duke Law School Faculty Workshop (Nov. 2020); Harvard Law and Economics Workshop (Oct. 2020); Stanford Law and Economics Workshop (Oct. 2020); Duke Law and Economics Workshop (Apr. 2020)

Does Revlon Matter, Corporate Law Academic Workshop (Jun. 2020); Harvard Law School Law and Economics Workshop (Nov. 2019); London School of Economics (Oct. 2019); University of California, Los Angeles (Sept. 2019); National Business Law Scholars Conference (Jun. 2019); BYU Winter Deals Conference (Feb. 2019)

As California goes, so goes the nation? Gender quotas and the legislation of non-economic values, American Law and Economics Associations Annual Meeting (May 2019)

The Problem of Sunsets, U. Penn. Law and Economics Roundtable (May 2019), Boston University School of Law (Nov. 2018)

Mootness Fees, Institute for Law and Economic Policy, San Juan, Puerto Rico (Apr. 2019)

The Myth of Morrison, University of Texas, Austin School of Law (Oct. 2018)

The New Titans of Wall Street, Vanderbilt Law School (Jan. 2018); Boston University School of Law (Nov. 2018); Northwestern Law School (Oct. 2018); University of Wisconsin Law School (Oct. 2018); U. Penn. Law and Economics Roundtable (May 2018); NYU Law and Economics Roundtable (Apr. 2018)

Settling the Staggered Board Debate, Penn/NYU Conference on Law and Finance (Apr. 2018)

An Empirical Study of Special Litigation Committees, American Law and Economics Associations Annual Meeting (May 2018); University of California Los Angeles (Oct. 2017).

Does the Staggered Board Affect Firm Value?, Hebrew University, Jerusalem School of Law (May 2017); 2017 GSU CEAR-Finance Conference (May 2017)

Top Defense Counsel in Mergers & Acquisitions, American Law and Economics Association Annual Meeting (May 2017), Chicago Kent School of Law (2016)

How Corporate Governance is Made: The Case of the Golden Leash, University of Pennsylvania School of Law, Law and Economics Roundtable (Dec. 2015); Willamette Law School (Sept. 2015); Southwestern Law School (Oct. 2015); American Law and Economics Association Annual Meeting (May 2015); Tel Aviv University School of Law, Law and Economics Workshop (Mar. 2015)

After the Deal: Fannie, Freddie and the Financial Crisis, University of San Diego School of Law (Nov. 2014)

Fairness Opinions as Magic Pieces of Paper, American Society of Appraisers-CICBV Business Valuation Conference (Oct. 2014)

Do Takeover Laws Matter? Evidence from 45 Years of Hostile Takeovers, University of Southern California (Sept. 2016); University of California Los Angeles (Oct. 2015); American Law and Economics Association Annual Meeting (May 2014)

Placement Agents and Private Equity: Information Production or Influence Peddling?, American Law and Economics Association Annual Meeting (May 2014)

The Disappearing IPO and the Lifecycle of Small Firms, U.C. Irvine, School of Law (Jan. 2015); Conference of Empirical Legal Studies (Nov. 2014); Fordham University Law School (Nov. 2013)

Deficits of Disclosure, USC Law and Economics Workshop (Nov. 2012)

A Great Game: The Dynamics of State Competition and Litigation, University of Pennsylvania, Institute for Law & Economics Roundtable (Apr. 2013); University of California, Berkeley School of Law (2013); Minnesota Law School (Jan. 2012); American Law and Economics Association Annual Meeting (May 2012); University of Virginia School of Law (Dec. 2011); Vanderbilt Law School (Nov. 2011)

Broken Promises: Private Equity Bid Failures and the Limits of Contract, Minnesota Law School (Mar. 2012); George Washington C-LEAF Business and Financial Law Junior Faculty Workshop (Feb. 2012); Suffolk Law School (Sept 2011); Midwest Corporate Legal Scholars Conference (Jun. 2011); Denver Law School (Jan. 2011); Argentum Conference, Stockholm, Sweden (Oct. 2010); Fordham Law School (Apr. 2010)

Form Over Substance? Management Buy-Outs and the Value of Corporate Process, Widener Law School (Apr. 2011); Conf. Emp. Legal Studies (Nov. 2010); SEALS (Aug. 2010); Midwest Corporate Law Colloquium (Jun. 2010); Delaware Bar Association CLE (May 2010)

Delaware's Competitive Reach: An Empirical Analysis of Public Company Merger Agreements, University of Pennsylvania Law School (Feb. 2012); Stanford Law School (Oct. 2009)

Regulation by Deal: The Government's Response to the Financial Crisis, University of Pennsylvania, Institute for Law & Economics Roundtable (May 2009)

Private Equity: Past, Present and Future, Keynote Presentation, Private Equity M&A Section, ABA Business Section Annual Meeting in Vancouver (Apr. 2009)

The Failure of Private Equity, Illinois Corporate Law Colloquium, University of Illinois School of Law (Nov. 2008); Widener University School of Law, 2008 Widener Scholar in Residence in Corporate Law (Oct. 2008); The James E. Rogers College of Law at The University of Arizona (Fall 2008)

Paradigm Shift: Securities Regulation in the New Millennium, AALS Annual Meeting, Securities Regulation Section (Jan. 2008)

Regulating Listings in a Global Market, University of Connecticut Law School Faculty Workshop (Dec. 2007)

Black Market Capital, Brooklyn Law School Faculty Workshop (Sept. 2007)

Academic Conferences and Symposiums

Extending Dual Class Shares, Controlling Shareholders and Control-Enhancing Mechanisms, Tel Aviv Law School (Jan. 2023)

Commentator, Conference on Empirical Legal Studies, Claremont-McKenna (Nov. 2019)

Commentator, *Centros and European Company Law: Twenty Years of Living Dangerously*, 3rd Annual Oxford Business Law Blog Conference, Oxford University (Mar. 2019)

Commentator, NYU / Penn Conference on Law & Finance (Feb. 2019)

Presenter, Institutional Investor Activism in the Trump Era: Responses to a Changing Landscape, Boston University School of Law (Nov. 2018)

Co-Founder and Organizing Committee, National Business Law Scholars Conference (2008-2018)

Organizer, *Corporate Law Symposium at U.C. Berkeley* (2016 & 2018)

IP & Dealmaking, Art & Science of the IP Deal, University of Washington School of Law (Apr. 2017) (Keynote Speech)

The Rise and Fall of Delaware's Takeover Standards, Can Delaware Be Dethroned? Evaluating Delaware's Dominance of Corporate Law, UCLA Law School (Feb. 2017)

The Dealmaking State: Executive Power in the Trump Administration, Financial Regulation Roundtable, George Mason Law School (Aug & Dec. 2016)

Presenter, *Fairness Opinions as Magic Pieces of Paper*, ASA-CICBV Business Valuation Conference (Nov. 2014)

Panel Participant, *Texas Tech Conference on Multi-Jurisdiction Deal Litigation* (Apr. 2014)

Panel Participant, University of Virginia Law & Business Law Review Symposium on Corporate Governance (Feb. 2014)

Presenter, *University of San Diego-Oxford Media and Markets Conference*, Proliferation of Stakeholders and Audiences (Jan. 2014)

Does Plaintiffs' Law Firm Market Share reflect Performance?, Corporate and Securities Litigation Workshop (Nov. 2013)

Confronting the Peppercorn Settlement in Merger Litigation: An Empirical Analysis and a Proposal for Reform, Corporate and Securities Litigation Workshop (Nov. 2013)

Do Outside Directors Face Labor Market Consequences? A Natural Experiment from the Financial Crisis, American Law and Economics Association Annual Meeting (May 2013)

Lock-up Creep, Ten Years After Omnicare: The Evolving Market for Deal Protection Devices, University of Iowa College of Law (Feb. 2013)

Deficits of Disclosure, Berle IV, *The Future of Financial/Securities Markets*, Seattle University School of Law (Jun. 2012)

Presenter, *Airgas and the Value of Strategic Decision-Making*, The Delaware Court of Chancery: Change and Continuity, Columbia University School of Law (Nov. 2011)

Symposium Organizer, *Irreconcilable Differences: Director, Manager and Shareholder Conflicts in Takeovers*, Widener Law School (Apr. 2011).

Presenter, *The Social Dimension of Regulatory Capture*, Fordham Journal of Corporate & Financial Law Symposium, Regulatory Capture (Feb. 2010)

Presenter, *Form Over Substance? Management Buy-Outs and the Value of Corporate Process*, Yale University School of Law, Conference of Empirical Legal Studies (Nov. 2010)

Presenter, *Uncomfortable Embrace: Federal Corporate Ownership Amidst the Financial Crisis*, University of Minnesota Law School, Government Ethics & Bailouts: The Past, Present, & Future (Oct. 2010)

Presenter, *Rhetoric and Reality: A Historical Perspective on the SEC's Regulation of Foreign Private Issuers*, University of Cincinnati Law School, Globalization of Securities Regulation Symposium (Feb. 2010)

Commentator, *Conference on Executive Compensation*, Vanderbilt Law School (Feb. 2010)

Presenter, *Fear, Fraud and the Future of Financial Regulation*, New York Law School (Apr.2009)

Presenter, *Private Equity: Past, Present and Future*, The Rise (and Fall?) of the New Shareholder: Sovereign Wealth Funds, Hedge Funds, and Private Equity, Villanova University School of Law (Mar. 2009)

Moderator, *The Subprime Crisis: Going Forward*, Commentator, Containing Global Contagion and Systemic Risk, University of Connecticut School of Law (November 2008)

Panelist, *The State of the Global Mergers & Acquisitions (M&A) Marketplace*, The History and Future of U.S. and Global Takeover Regulation: The Williams Act 40 Years On, Georgetown Law School (May 2008)

Discussant, *Securities Regulation, Corporate Governance, and Corporate Finance: Global Markets, Law, and Culture*, International Conference on Law and Society in the 21st Century: Joint Annual Meetings of LSA and the Research Committee on Sociology of Law (July 25, 2007)

Moderator and Organizer, *How Much is Enough? U.S. Securities Regulation in the Face of Global Capital Markets*, ABILA International Law Weekend 2006 (Oct 27, 2006)

Presenter, *Oh, The Places You'll Go! European Takeover Law*, ABILA International Law Weekend 2006 (Oct 27, 2006)

Panels, Roundtables and Practitioner Conferences

Organizer, Annual Symposium on Corporate Governance (2016-2021)

Organizer, Annual M&A and Antitrust Litigation Conference (2015-2022)

Organizer, Yearly M&A Roundtable with Kirkland & Ellis (2012-2018)

Panelist, M&A Law, Hebrew University, Jerusalem (April 2017)

Commenter, *The Eclipse of the Shareholder Paradigm*, U. Penn Law and Economics Corporate Roundtable (Apr. 2015)

Panelist, *Innovation in State Securities Regulation*, NASAA Public Policy Conference (Apr. 2015)

Panelist, Honoring Chief Justices Strine & Steele at NYU School of Law (May 2014)

Panelist, *NACD Leading Minds of Governance* (Dec. 2013)

Moderator, *Hedge Fund Activism Panel*, Second Annual DealBook Conference, (Nov. 2013)

Panelist, *Securities Litigation Update*, 2013 Ohio Securities Conference (Oct. 2013)

Panelist, *Business Litigation and the Supreme Court*, Institute for Law and Economic Policy, (Apr. 2013)

Panelist, *The JOBS Act, and the Future of Small Business Finance and the U.S. Equity Markets*, AALS (Jan. 2013)

Panelist, *Securities Litigation Update*, 2012 Ohio Securities Conference (Oct. 2012)

Panelist, *The JOBS Act*, Council of Institutional Investors Fall Conference, (Oct. 2012)

Panelist, *Good, Bad or Stupid? Debating the STOCK and JOBS Act at the National Business Law Scholars Conference*, National Business Law Scholars Conference, (Jun. 2012)

Panelist, *Selling the Deal*, Tulane 24th Corporate Law Institute (Mar. 2012)

Panelist, *The New Internationalism: Regulatory Practices and Global Private Equity Opportunities*, Columbia Business School Private Equity & Venture Capital Conference (Jan. 2010)

Panelist, *Revisiting the Conventional Wisdom of Poison Pills and other Anti-Takeover Defenses*, Forum for Institutional Investors (Oct. 2009)

Participant, *Proxy Access Roundtable, Harvard Law School*, Harvard Law School Program on Corporate Governance (Oct. 2009)

Participant, *The Research Roundtable on Corporate Governance*, Searle Center on Law, Regulation, and Economic Growth at Northwestern University School of Law (April 2009).

Panelist, *Delaware Law Developments and Issues*, 27th Annual Federal Securities Institute (Feb. 2009) (with Justice Jack B. Jacobs and Vice Chancellor Donald F. Parsons)

Panelist, *Broken Deals: Who's to Blame?*, Mergers, Acquisitions and Split-offs class, taught by Prof. Robert C. Clark and Vice Chancellor Leo E. Strine, Jr., Harvard Law School (November 2008)

Significant University Service

Merit review advisory committee; strategic committee (chair); hiring committee; other committee service available upon request
Chair, U.C. Berkeley Chancellor's Committee on Jewish Life
Referee: Journal of Law, Economics & Organizations, Journal of Empirical Legal Studies, Review of Financial Studies. Confidential reviews also provided to California, Harvard, Stanford and Yale law reviews.
Area Coordinator (Corporate Governance): American Law and Economics Annual Meeting (2017, 2019).

PhD/JSD Committees

Silvia R. Fregoni, J.S.D. (Member)
Kimberlyn K. George, Accounting Haas (Member)
Young S. Yoon, Accounting Haas (Member)
Stephen Walker, Accounting Haas (Member)
Ogi Radic, Sociology (Member)
Huanting Wu, J.S.D. (Chair)
Amit Elazari, J.S.D. (Chair)
Tristan Fitzgerald, Finance Haas (Member)
Margaret Fong, Accounting Haas (Member)

Lukasz Langer, Accounting Haas (Member)
Alvaro Pereira, J.S.D. (Chair)
Samuel Tan, Accounting Haas (Member), Assistant Professor, Singapore Management University
Cait Unkovic, J.S.P. Program (Chair)

Selected Outside Service

Member of Review Committee, The University of Auckland,
the Department of Commercial Law (2020)
Member, Board of Directors, Israel Institute
Member, Board of Directors, Academic Engagement Network

Bar Admissions

New York State
U.S. District Court: Southern District of New York

Cases where expert deposition taken, testimony given or expert report filed (in last five years):

1. Tang Capital Partners, LP v. BRC Inc., Case No. 1:22-cv-03476 (S.D.N.Y)
2. Misty Snow v. Align Technology, Inc., No. 21-cv-03269-VC (N.D. Cal.)
3. Nortek, Inc. v. ITT, LLC, Civ. No. 7:21-cv-3999 (S.D.N.Y)
4. Funicular Funds LP., v. Pioneer Merger Corp., et al., Civ. No. l:22-cv-10986 (S.D.N.Y.)
5. Murchinson Ltd., et al v. Nano Dimension Ltd., Civil Case 70343-08-23 (Lod Dist. Ct.)
6. Nayani v. LifeStance Health Group, Inc., et al., 1:22-cv-6833-JSR (S.D.N.Y.)
7. Murchinson Ltd., et al v. Nano Dimension Ltd., Civil Case 57198-03-23 (Lod Dist. Ct. Israel)
8. Nano Dimension Ltd. v. Murchinson, Ltd., et al., Civ. No. 1:23-cv-02566-JLR (S.D.N.Y)
9. HControl Holdings LLC, et al. v. Antin Infrastructure Partners S.A.S. and OTI Parent LLC, CA No. 2023-0283 (Del. Ch.)
10. Chodniewicz et al. v. Art.com, Inc. et al., Case No. RG19001604 (Superior Court of Ca, Alameda County)
11. Halevi v. Teva Pharmaceutical Industries Ltd. et al., Derivative Action 57051-10-20, and related actions (Tel-Aviv District Court)
12. Tornetta v. Maffei, et al., CA No. 2019-0649 (Del. Ch.)
13. CEL Dynamic Growth Fund v. Happy Starlight Limited and Zhang Bing, HKIAC/A21081 (Hong Kong arbitration)
14. Karri v. Oclaro, Inc., et al., Case No. 3:18-cv-03435 (N.C. Cal.)
15. Roberts v. Zuora, Inc. et al., Case No. 3:19-cv-03422 (N.D. Cal.)
16. Advantest America, Inc., and Advantest Test Solutions, Inc. v. Samer Kabbani, Lattice Innovation, Inc., AEM Holdings LTD, and Wavem US Inc.," Case No. 1200057839 (JAMS arbitration)
17. The Successor Agency to the Former Emeryville Redevelopment Agency and the City of Emeryville v. Swagelok Company, et al. (Case No. 3:17-cv-00308-WHO, N.D. Cal.)
18. Dyal Capital Partners, L.P. et al. v. JANA Partners, LLC, Index No. 650630/2020 (Supreme Court of the State of New York, County of New York)
19. Xerox Corporation v. Travelers Casualty and Surety Company of America, Index No. 653549/2019) (Supreme Court of the State of New York, County of New York)
20. Petersen Energía Inversora, S.A.U. and Petersen Energía, S.A.U. v. Argentine Republic and YPF S.A., 1:15-cv-02739-LAP and Eton Park Capital Management L.P., Eton Park Master Fund, Ltd., Eton Park Fund, L.P. v. Argentine Republic, and YPF S.A. 1:16-cv-08569-LAP (S.D.N.Y.)
21. Securities and Exchange Commission v. Anatoly Hurgin, et al., Case No. 1:19-cv-05705 (S.D.N.Y.)
22. Cypress Partners, LLC v. Philip R. Shawe, et al.. No. 654101/2018 (N.Y. Sup. Ct.)
23. In re Teva Securities Litigation, 3:17-cv-00558-SRU (D. Conn.)
24. Casey M. Frank v. John v. Arabia, et al., Case No. 24-C-19-5518 (Baltimore City, MD)
25. The Boeing Company, et al. v. Embraer S.A., Yaborã Indústria Aeronáutica S.A., et al. (arbitration)
26. Ulisses Cardinot v. Arco Platform Limited, et al. (arbitration)
27. Caruso v. Modany, Case No. 1:18-cv-02182-JPH-TAB (D. Indiana)
28. In re WeWork Litigation, C.A. 2020-0258-JTL (Del. Ch.)
29. Hope Solo v. United States Soccer Federation, Inc. (United States Olympic and Paralympic Committee arbitration)
30. HC2 Holdings Inc. v. Paul, Weiss, Rifkind, Wharton & Garrison LLP, JAMS Ref No. 1425032485 (arbitration)
31. In re Novo Nordisk Securities Litigation, No. 3:17-cv-00209 (D.N.J.)
32. Hussein v. Razin, et al. (Sup. Ct. Cal. Orange Cty. No. 30-2013-00679600-CU-NP-CJC)
33. PersonalizationMall.com, LLC v. Tolaney (DuPage Cty. Ill, No. 2015 MR 1726/2017 MR 381)
34. AB Stable VIII LLC v. MAPS Hotels and Resorts One LLC, et al. (Del. Ch., C.A. 2020-0310-JTL)
35. Joy Global Inc. v. Columbia Casualty Company, et al., Case No. 18-cv-2034 (E.D. Wis.)
36. Starz Acquisition, LLC, et al. v. Allied World Assurance Company. (U.S.) Inc., et al., Case No. 18STCV04283 (Sup. Ct. Cal., Los Angeles)
37. McLaren Holdings Limited v (1) US Bank Trustees Limited and (2) Mr Simon Gaul (In the High Court of Justice Business and Property Courts of England and Wales Financial List)
38. Alex Spizz, as Chapter 7 Trustee for Ampal-American Israel Corp. v. Irit Eluz, Case No. 14-02110 (S.D.N.Y.)
39. Cypress Partners Investments, LLC v. Philip R. Shawe, et al. (arbitration proceeding)

Exhibit B

Maria Konyukhova
Direct: +1 416 869 5230
Mobile: +1 416 319 1632
MKonyukhova@stikeman.com

PRIVILEGED AND CONFIDENTIAL

January 30, 2024
File No.: 1540421001

By Email

Steven Solomon
Solomon Advisory Services LLC
675 Tyner Way
Incline Village, NV 89451

Dear Mr. Solomon

Re: LoyaltyOne, Co., et al. v. Bread Financial Holdings, Inc.

We write further to the letter of retainer dated January 23, 2024 wherein we retained you, on behalf of our client Bread Financial Holdings, Inc. ("**Bread**"), as an independent expert to advise and, as necessary, provide an expert opinion in relation to certain Delaware law matters in dispute between Bread and LoyaltyOne, Co. arising from:

1. the tax matters agreement between Alliance Data Systems Corporation (now Bread) on behalf of itself and members of the ADS Group and Loyalty Ventures Inc. on behalf of itself and members of the Loyalty Ventures Group dated November 5, 2021 (the "**Tax Matters Agreement**"); and

2. the separation and distribution agreement between Alliance Data Systems Corporation (now Bread) and Loyalty Ventures Inc. dated November 3, 2021 (the "**Separation and Distribution Agreement**").

Questions

The purpose of this letter to request your expert opinion on the following issues:

1. Please provide an overview of spin transactions under Delaware law, including:
    a. whether spin transactions are common under Delaware law;
    b. the typical purpose of a spin transaction under Delaware law; and
    c. the typical structure of a spin transaction under Delaware law.

2. Under Delaware law, does a corporate parent have the authority to bind a subsidiary to an agreement?
    a. If so, how and why is this the case?

3. What are the indicia of unconscionability under Delaware law?

a. In what circumstances, if any, have Delaware courts found spin transactions to be unconscionable?

b. In what circumstances, if any, have Delaware courts found a specific corporate agreement(s) used to implement a spin transaction to be unconscionable?

4. Under Delaware Law, does the language of the Tax Matters Agreement, and in particular section 12(b) and its reference to section 2.08(c) of the Separation and Distribution Agreement, impose equitable obligations on the Loyalty Ventures Group (as defined therein) in respect of certain tax refunds received by a group member?

Instructions

Under our *Rules of Civil Procedure,* your report is required to contain the following information:

1. Your name, address and area of expertise.

2. Your qualifications and employment and educational experiences in your area of expertise. We ask you to attach your curriculum vitae to your final report.

3. The instructions provided to you in relation to the proceeding.

4. The nature of the opinion being sought and each issue in the proceeding to which the opinion relates.

5. Your opinion respecting each issue and, where there is a range of opinions given, a summary of the range and the reasons for your opinion within that range.

6. Your reasons for your opinion, including:

    a. a description of the factual assumptions on which the opinion is based;

    b. a description of any research conducted by you that led you to form your opinion; and

    c. a list of every document, if any, relied on by you in forming your opinion.

7. An acknowledgement of expert's duty (Form 53) signed by you.

The last item, Form 53, contains an acknowledgment by you of your duty as an expert as set out in Rule 4.1 of the *Rules of Civil Procedure.* In particular, you have the following duties in providing evidence in this proceeding:

a. to provide opinion evidence that is fair, objective and non-partisan;

b. to provide opinion evidence that is related only to matters that are within your area of expertise; and

c. to provide such additional assistance as the court may reasonably require, to determine a matter in issue.

These duties prevail over any other obligation which you may owe to Bread on whose behalf you will be engaged. We are enclosing a copy of Form 53 for you to sign, as well as Rule 4.1. of the *Rules of Civil Procedure.*

Documents

We have provided you with a copy of the Tax Matters Agreement, the Separation and Distribution Agreement, the Motion Record of LoyaltyOne, Co. filed November 9, 2023, and the Notice of Motion of Bread filed November 13, 2023.

If for any reason you believe that you require any additional information to provide your opinion in respect of the above issues, please advise us.

If you have any questions about the issues identified above, please do not hesitate to contact us.

Yours truly,

Maria Konyukhova

/sc

cc: Eliot Kolers, *Stikeman Elliott LLP*
Ashley Taylor, *Stikeman Elliott LLP*
Lesley Mercer, *Stikeman Elliott LLP*
RJ Reid, *Stikeman Elliott LLP*

Exhibit C

Documents Considered List

Academic Articles

- Patricia Anslinger, Sheila Bonini, and Michael Patsalos-Fox, *Doing the Spin-Out*, 1 McKinsey Quart. 98 (2000)
- Patricia Anslinger, Steven J. Klepper, and Somu Subramaniam, *Breaking Up is Good to Do*, 1 McKinsey Quart. 16 (1999)
- Debra J. Aron, *Using the Capital Market as a Monitor: Corporate Spinoffs in an Agency Framework*, 22 Rand J. Econ. 505 (1991)
- John L. Campbell, Michael L. Ettredge, Feng Guo, and Zac Wiebe, *Information Asymmetry in Spinoffs: The Role of Incremental Disclosure*, (2020), https://ssrn.com/abstract=3220724
- Lane Daley, Vikas Mehrotra, and Ranjini Sivakumar, *Corporate Focus and Value Creation Evidence from Spinoffs*, 45 J. Fin. Econ. 257 (1997)
- Ranjan D'Mello et al., *Do Corporate Spinoffs Lower Cost of Equity?* (2004), https://ssrn.com/abstract=492962
- Jill E. Fisch et al., *Confronting the Peppercorn Settlement in Merger Litigation: An Empirical Analysis and a Proposal for Reform*, 93 Tx. L. Rev. 557 (2015)
- Gregory N. Kidder, Basics of U.S. Tax Free Spin-Offs Under Section 355, 5 Intl. Tax. 438 (2011)
- Gailen L. Hite and James E. Owers, *Security Price Reactions Around Corporate Spin-Off Announcements*, 12 J. Fin. Econ. 409 (1983)
- Young Ran Kim and Geeyoung Min, *Insulation By Separation: When Dual-Class Stock Met Corporate Spin-Offs*, 10 UC Irvine L. Rev. 1 (2019)
- Sudha Krishnaswami and Venkat Subramaniam, *Information Asymmetry, Valuation, and the Corporate Spin-Off Decision*, 53 J. Fin. Econ. 73 (1999)
- John J. McConnell, Steven E. Sibley, and Wei Xu, *The Stock Price Performance of Spin-Off Subsidiaries, Their Parents, and the Spin-Off ETF, 2001-2013*, 144 J. Port. Man. 143 (2015)
- James A. Miles and James D. Rosenfeld, *The Effect of Voluntary Spin-Off Announcements on Shareholder Wealth*, 38 J. Fin. 1597 (1983)
- Katherine Schipper and Abbie Smith, *Effects of Recontracting on Shareholder Wealth: The Case of Voluntary Spin-Offs*, 12 J. Fin. Econ. 437 (1983)

- Chris Veld and Yulia V. Veld-Merkoulova, *Value Creation Through Spin-Offs: A Review of the Empirical Evidence*, INTERNATIONAL JOURNAL OF MANAGEMENT REVIEWS (2008)
- Eric G. Wruck and Karen H. Wruck, *Restructuring Top Management: Evidence from Corporate Spinoffs*, 20 J. LAB. ECON. S176-S218 (2002)

Books and Book Chapters

- Claire A. Hill, Brian J. M, Quinn and Steven M. Davidoff Solomon, MERGERS AND ACQUISITIONS, LAW, THEORY, AND PRACTICE (3rd ed. 2023)
- Steven M. Davidoff Solomon, GODS AT WAR: SHOTGUN TAKEOVERS, GOVERNMENT BY DEAL AND THE PRIVATE EQUITY IMPLOSION (2009)
- Stuart C. Gilson, CREATING VALUE THROUGH CORPORATE RESTRUCTURING (2001)
- PRACTICAL LAW CORPORATE AND SECURITIES, SPINOFFS: OVERVIEW, Westlaw
- Steven I. Glover, BUSINESS SEPARATION TRANSACTIONS: SPIN-OFFS, SUBSIDIARY IPOS AND TRACKING STOCK, § 2.02[2] (Purposes of Spin-Off Transactions)

Legal Cases

- OptimisCorp v. Atkins, 2023 WL 3745306 (Del. Ch. Jun. 1, 2023)
- AB Stable VIII LLC v. Maps Hotels and Resorts One LLC, 2022 WL 7024929 (Del. Ch. Nov. 30, 2022)
- Anadarko Petroleum Corp. v. Panhandle Eastern Corp., 1987 WL 16508 (Del. Ch. Sept. 8, 1987)
- B.A.S.S. Group, LLC v. Coastal Supply Co., Inc., 2009 WL 174730 (Del. Ch. Jun. 19, 2009)
- Chemours Company v. DowDuPont Inc., 2020 WL 1527783 (Del. Ch. Mar. 30, 2020)
- Fisher v. Townsends, Inc., 695 A.2d 53 (Del. Supr. Jun. 11, 1997)
- Florida Chemical Company, LLC v. Flotek Industries, Inc., 262 A.3d 1066 (Del. Ch. Aug. 17, 2021)
- Fritz v. Nationwide Mut. Ins. Co., 1990 WL 186448 (Del. Ch. Nov. 26, 1990)
- Geier v. Mozido, LLC, 2016 WL 5462437 (Del. Ch. Sep. 29, 2016)
- HControl Holdings LLC v. Antin Infrastructure Partners S.A.S., 2023 WL 4559848 (Del. Ch. Jul. 13, 2023)

- Hospitalists of Delaware, LLC v. Lutz, 2012 WL 3679219 (Del. Ch. Aug. 28, 2012)
- In re Trulia, Inc. Stockholder Litigation, 129 A.3d 884 (Del. Ch. Jan. 22, 2016)
- James v. National Financial, LLC, 132 A.3d 799 (Del. Ch. Mar. 14, 2016)
- Ketler v. PFPA, LLC, 132 A.3d 746 (Del. Supr. Jan. 15, 2016)
- Lecates v. Hertrich Pontiac Buick Co., 515 A.2d 163 (Del. Super. Apr. 24, 1986)
- Metro Ambulance, Inc. v. Eastern Medical Billing, Inc., 1995 WL 409015 (Del.Ch. Jul. 5, 1995)
- MicroStrategy Inc. v. Acacia Research Corp., WL 5550455 (Del. Ch. Dec. 30, 2010)
- NAF Holdings, LLC v. Li & Fung (Trading) Limited, 118 A.3d 175 (Del. 2015)
- Nash v. Schock, 1997 WL 770706 (Del. Ch. Dec. 3, 1997)
- Patterson v. Walker-Thomas Furniture Co., 277 A.2d 111 (D. Col. May 10, 1971)
- Perry v. Perry, 235 A.D.2d 817 (1997)
- Phansalkar v. Anderson Weinroth & Co., L.P., 344 F.3d 184 (2d Cir. Sep. 16, 2003)
- Sarissa Capital Domestic Fund LP et al. v. Innoviva, Inc., 2017 WL 6209597 (Del. Ch. Dec. 8, 2017)
- Sustainability Partners LLC v. Jacobs, 2020 WL 3119034 (Del. Ch. Jun. 11, 2020)
- Symbiont.io, Inc. v. Ipreo Holdings, LLC, 2021 WL 3575709 (Del. Ch. Aug. 13, 2021)
- Terrell v. Kiromic Biopharma, Inc., 297 A.3d 610 (Del. Supr. May 4, 2023)
- Triton Const. Co., Inc. v. Eastern Shore Elec. Services, Inc., WL 1387115 (Del. Ch. May 18, 2009)
- Tulowitzki v. Atlantic Richfield Co., 396 A.2d 956 (Del. Supr. Nov. 1, 1978)
- Vichi v. Koninklijke Philips Electronics, N.V., 85 A.3d 725 (Del. Ch. Feb. 18, 2014)
- Vornado PS v. Primestone Partners, 821 A.2d 296 (Del. Ch. Dec. 19, 2002)

Case Materials

- Separation and Distribution Agreement by and between Alliance Data Systems Corporation and Loyalty Ventures, Inc., dated November 3, 2021
- Tax Matters Agreement between Alliance Data Systems Corporation, on behalf of itself and the members of the ADS Group, and Loyalty Ventures Inc., on behalf of itself and the members of the Loyalty Ventures Group, dated November 5, 2021

Data

- *Bloomberg*
- *S&P Capital IQ*
- *Refinitiv*

Legal Documents

- Amended Notice of Motion (Enforceability of Tax Matters Agreement), In the Matter of a Plan of Compromise or Arrangement of Loyaltyone, Co., CV-23-00696017-00C, (Ont. Super. Dec. 5, 2023)
- Notice of Motion (Motion to Set Aside Disclaimer), In The Matter of a Plan of Compromise or Arrangement of Loyaltyone, Co., CV-23-00696017-00C (Ont. Super. Nov. 13, 2023)

Code Sections

- 6 Del.C. § 2–302
- 17 CFR § 230.405 - Definitions of terms

Restatements

- RESTATEMENT (SECOND) OF AGENCY § 427 (1958)
- RESTATEMENT (SECOND) OF AGENCY § 1 (1958)
- RESTATEMENT (SECOND) OF CONTRACTS § 208 (1981)
- RESTATEMENT (THIRD) OF AGENCY § 1.01 (2006)
- RESTATEMENT (THIRD) OF AGENCY § 2.03 (2006)

Websites and Online Content

- Brian Leiter, *20 Most-Cited Corporate & Securities Law Faculty in the U.S., 2016-2020 (CORRECTED 10/20/21)*, BRIAN LEITER'S L. SCH. REPORTS (2021), https://leiterlawschool.typepad.com/leiter/2021/10/20-most-cited-corporate-securities-law-faculty-in-the-us-2016-2020.html
- Cathy A. Birkeland, Mark D. Gerstein, and Laurence J. Stein, *Spin-Offs Unraveled*, Harv. L. Sch. Forum on Corporate Governance (2019), https://corpgov.law.harvard.edu/2019/10/31/spin-offs-unraveled/

- Glenn D. West, *You May be Bound by the Contractual Company You Keep—A Cautionary Tale About the Use of the Term 'Affiliate' in an Entity's Release of Claims*, Glob. Priv. Eq. Watch (2016), https://privateequity.weil.com/features/may-bound-contractual-company-keep-cautionary-tale-use-term-affiliate-entitys-release-claims/
- Wachtell, Lipton, Rosen & Katz, *Spin-Off Guide* (2022), https://www.wlrk.com/docs/Spin-Off_Guide_-_2022.pdf
- *Webcast: The Art of the Spin-off*, Jan. 28, 2021 at 15, available at https://www.gibsondunn.com/webcast-the-art-of-the-spin-off/
- Yigin Shen, *Wave of Corporate Spinoffs Fills a Void of Large US Listings*, Bloomberg (2023), https://www.bloomberg.com/news/articles/2023-05-24/wave-of-corporate-spinoffs-fills-the-void-of-large-us-listings

Other Materials

- Letter, Maria Konyukhova to Steven Solomon, Re: LoyaltyOne, Co., et al. v. Bread Financial Holdings, Inc, January 30, 2024

Note: In addition to the materials listed in this exhibit, I considered all documents cited in my report and exhibits.

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FORM 53

Exhibit D

Courts of Justice Act

ACKNOWLEDGMENT OF EXPERT'S DUTY

(General heading)

ACKNOWLEDGMENT OF EXPERT'S DUTY

1. My name is Steven Solomon *(name)*. I live at Incline Village *(city)*, in the State *(province/state)* of Nevada *(name of province/state)*.
2. I have been engaged by or on behalf of Bread Financial Holdings, Inc. *(name of party/parties)* to provide evidence in relation to the above-noted court proceeding.
3. I acknowledge that it is my duty to provide evidence in relation to this proceeding as follows:

   (a) to provide opinion evidence that is fair, objective and non-partisan;

   (b) to provide opinion evidence that is related only to matters that are within my area of expertise; and

   (c) to provide such additional assistance as the court may reasonably require, to determine a matter in issue.

4. I acknowledge that the duty referred to above prevails over any obligation which I may owe to any party by whom or on whose behalf I am engaged.

Date February 9, 2024

Steven Solomon

Signature

NOTE: This form must be attached to any expert report under subrules 53.03(1) or (2) and any opinion evidence provided by an expert witness on a motion or application.

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.

APPLICANT

Court File No. CV-23-00707017-0000

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERICAL LIST
Proceeding Commenced at Toronto

AFFIDAVIT OF STEVEN D. SOLOMON

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West,
199 Bay Street
Toronto, ON M5L 1B9

Eliot Kolers LSO #: 38304R
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Tel: 416.869.5230
mkonyukhova@stikeman.com

Lawyers for Bread Financial Holdings Inc.

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

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

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.

APPLICANT

AFFIDAVIT OF A. SCOTT DAVIDSON
(affirmed February 14, 2024)

I, A. Scott Davidson, of the City of Toronto in the Province of Ontario AFFIRM AND SAY:

1. I am a managing director at Kroll Canada Limited with over 25 years of professional experience in business valuations and financial advisory services.

2. I, and my colleague Kathryn Gosnell, have been retained by Stikeman Elliott LLP on behalf of their client, Bread Financial Holdings, Inc. ("**Bread**") to provide an expert opinion with respect to certain financial matters in dispute between Bread and LoyaltyOne, Co. Attached as **Exhibit "A"** to this affidavit is a copy of the Expert Report of A. Scott Davidson and Kathryn Gosnell dated February 14 2024 (the "**Davidson and Gosnell Report**")

3. My qualifications and the qualifications of Kathryn Gosnell are set out in the curricula vitae attached as Appendix A to the Davidson and Gosnell Report. The instruction letter we received from Stikeman Elliott LLP is attached as **Exhibit "B"** to this affidavit.

4. The information and documents we relied upon in reaching the conclusions set out in the Davidson and Gosnell Report are listed in Appendix C of the Davidson and Gosnell Report.

5. Ms. Gosnell and I have completed the Davidson and Gosnell Report in compliance with our duties as an expert to the Ontario Superior Court of Justice. Executed copies of the Form 53 - Acknowledgment of Expert's Duty are included as Appendix B to the Davidson and Gosnell Report.

AFFIRMED remotely by A. Scott Davidson, stated as being in the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, this 14th day of February, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely

DocuSigned by:
FB5E31A9B41548B...

Robert J Reid LSO#88760P
Commissioner for Taking Affidavits

DocuSigned by:
A. Scott Davidson
EE81AA19F806427...

A. Scott Davidson

This is Exhibit “A” referred to in the Affidavit of A. Scott Davidson affirmed by A. Scott Davidson of the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on February 14, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

FB5E31A9B415488...

Commissioner for Taking Affidavits (or as may be)

RJ REID

KROLL

Loyalty Ventures Inc. and LoyaltyOne, Co.

Expert Report Concerning Fairness and Solvency Issues

February 14, 2024

Contents

Appendices

KROLL

PRIVILEGED & CONFIDENTIAL

February 14, 2024

Stikeman Elliott LLP
5300 Commerce Court West
199 Bay Street
Toronto, ON M5L 1B9

Attention: Mr. Eliot Kolers

Dear Mr. Kolers:

Re: Loyalty Ventures Inc. and LoyaltyOne Co.
Expert Report Concerning Fairness and Solvency Issues
CV-23-00696017-00CL

1.0 Introduction

1.1 Stikeman Elliott LLP ("**Stikeman**" or "**you**") has retained Kroll Canada Limited ("**Kroll**"), as independent and objective experts in the fields of business valuation, accounting, corporate financial advisory and related financial analysis, on behalf of your client, Bread Financial Holdings Inc. ("**Bread**"), formerly known as Alliance Data Systems Corporation ("**ADS**")[1], to assist in the above noted Companies' Creditors Arrangement Act ("**CCAA**") matter.

1.2 We understand that:

- On or about November 5, 2021 (the "**Spin Date**"), ADS and Loyalty Ventures Inc. ("**LVI**"), an indirect wholly-owned subsidiary of ADS, entered into an arrangement whereby LVI (along with other ADS entities, including LoyaltyOne Co. ("**LoyaltyOne**") and BrandLoyalty related entities ("**BrandLoyalty**")) were spun off from ADS and for which ADS received consideration in exchange (the "**Spin Transaction**"; as described in more detail below in this report);

- As part of the Spin Transaction, ADS and LVI entered into a Tax Matters Agreement (the "**Tax Matters Agreement**") whereby ADS was entitled to the proceeds of certain tax disputes received by any member of the so-called Loyalty Ventures Group[2], including LoyaltyOne;

[1] Prior to March 23, 2022.
[2] As defined in Appendix J.

- On or about March 10, 2023 (the "**CCAA Date**"), LoyaltyOne was granted CCAA protection and LVI commenced Chapter 11 proceedings in the United States on the same date[3]; and,

- LoyaltyOne has applied to the Court for a declaration that the Tax Matters Agreement was never binding on it and that, in the alternative, if it is binding on LoyaltyOne then, for various reasons, ADS (now Bread) should not in any event be entitled to any such tax dispute proceeds that LoyaltyOne may receive.

1.3 In connection with the above, you have asked us the following four questions, which we have identified below under the two headings "**PART A re: Fairness and Consideration Given and Received**" and "**Part B re: Solvency, Liquidity Shortage and Intervening Events**":

- ***PART A re: Fairness and Consideration Given and Received***

  1) ***In your view, from a business and financial perspective, in considering the value of the consideration given and received in relation to the Tax Matters Agreement, is it reasonable to only consider the impact of and associated value transfer consequences of the Tax Matters Agreement from the perspective of LoyaltyOne, or should it be considered from the perspective of LoyaltyOne and LVI together in the context of the overall Spin Transaction?***

  2) ***If your answer to the above question is that the value of the consideration given and received should be considered in the context of the overall Spin Transaction, then was the Spin Transaction, including the arrangement under the Tax Matters Agreement, fair, from a financial point of view, to LVI as at the Spin Date? Further, does your fairness analysis indicate that the value of the consideration received by LVI was conspicuously less than that given to ADS in exchange under the Spin Transaction?***

- ***PART B re: Solvency, Liquidity Shortage and Intervening Events***

  3) ***Having regard to, amongst other things, their then-anticipated future cash flows and the then-net realizable value of their assets, were LVI and LoyaltyOne solvent as at the Spin Date? More particularly, at the Spin Date, was there a reasonably foreseeable expectation of a liquidity shortage that would deprive LVI or***

[3] November 9, 2023. Motion Record (enforceability of tax matters agreement), CV-23-00696017-00CL("**Notice of Motion**"), Paragraphs (h) and (j).

LoyaltyOne of the ability to pay their debts as they generally became due?

4) ***If your answer to the above question is that LVI and LoyaltyOne were solvent as at the Spin Date, what intervening events relevant to their business outlook and condition occurred between the Spin Date and the CCAA Date that negatively impacted the solvency of LVI and LoyaltyOne?***

1.4 All amounts herein are expressed in United Stated Dollars ("**$**", or "**USD**"), unless otherwise noted.

1.5 We understand that this report will be used as the basis for expert evidence at the hearing of the merits of this matter.

1.6 This report constitutes an Expert Report under the standards of the Canadian Institute of Chartered Business Valuators (the "**CICBV**" or "**CBV Institute**").

2.0 Summary of Kroll Conclusions

2.1 Based on the scope of our review and subject to the assumptions, qualification (see Section 4.0 below), restrictions and limitations noted herein, our conclusions are as set out below.

Part A Concerning Fairness and Consideration Given and Received

Question #1 - Considering Tax Matters Agreement from LoyaltyOne Perspective or More Broadly

2.2 In our view, from a business and financial perspective[4], in addressing the issue of the Tax Matters Agreement, and specifically the value of the consideration given and received in relation to the Tax Matters Agreement, one must consider the impact of and associated value transfer consequences of the Tax Matters Agreement more broadly – specifically from the perspective of LVI - in the context of the overall Spin Transaction rather than only from the perspective of LoyaltyOne.

2.3 We arrived at this conclusion in view of factors and circumstances that we refer to as follows (each of these points is explained in more detail further below in this report):

[4] For greater certainty, none of our observations, comments and conclusions herein should be misinterpreted as being a legal opinion. We have no comment on matters that are subject to legal determination except to the extent that our observations, comments, analyses and conclusions herein, all made from a business and financial perspective, help to inform the context for such a determination.

1. Spin Transaction had Many Constituent Components;
2. Lenders had Sightlines on the LVI Group and Not Just LoyaltyOne;
3. Fairness is Typically Assessed at Overall Level;
4. An Analyst Would Properly Consider the Overall Spin Transaction;
5. Bundling Like Businesses Via the Spin Transaction;
6. Tax Refund is a Contingent Redundancy; and
7. Tax Refund Would Have Been Swept to ADS Anyway in Normal Course Pre-Spin.

2.4 As a consequence of all of the above, the Spin Transaction is not subject to partial analysis at only the Tax Matters Agreement or LoyaltyOne level. One must consider the impact of and associated value transfer consequences of the Tax Matters Agreement more broadly – specifically from the perspective of LVI – in the context of the overall Spin Transaction.

Question #2 - Fairness of the Spin Transaction to LVI and Value of the Consideration Received by LVI Being or Not Being Conspicuously Less than that Given to ADS

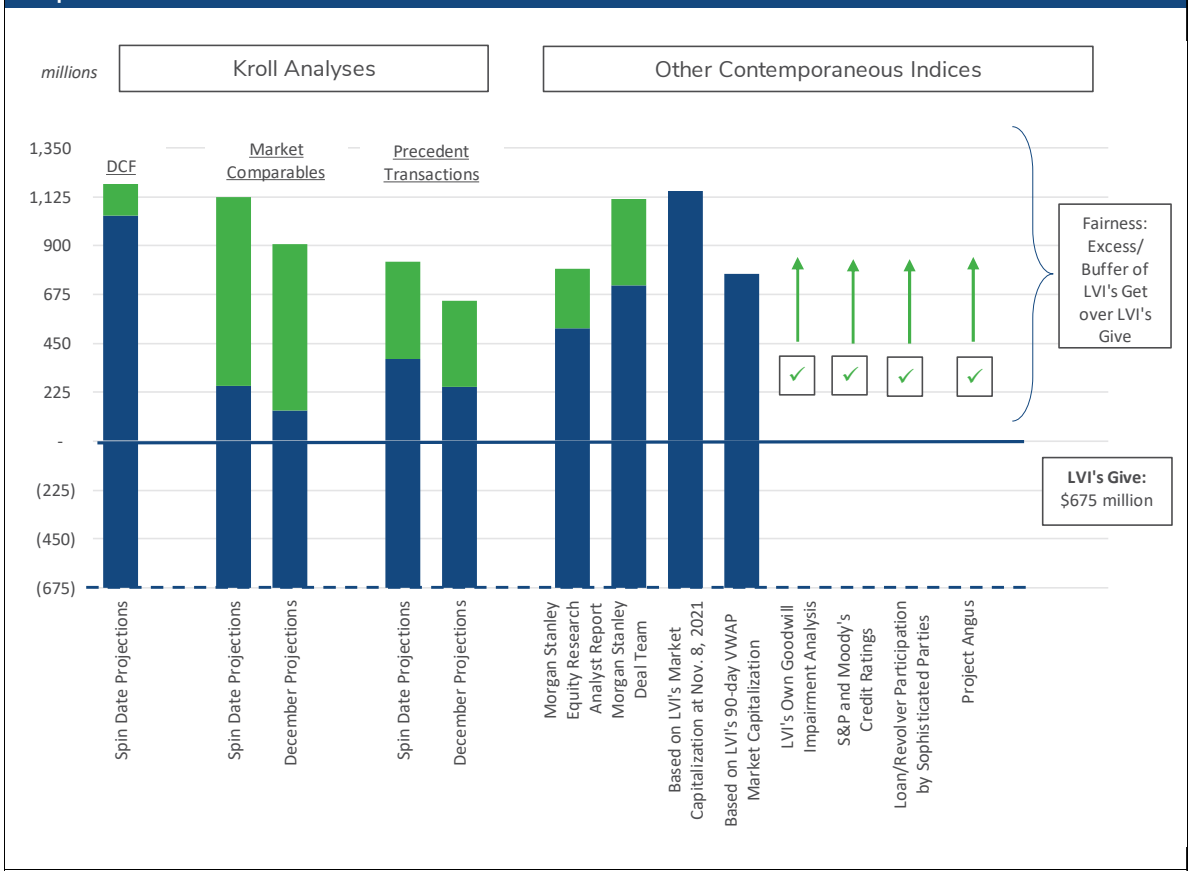
2.5 We concluded that the Spin Transaction, including the arrangement under the Tax Matters Agreement, was fair, from a financial point of view, to LVI as at the Spin Date.

2.6 In assessing whether or not the Spin Transaction was fair[5,6], we considered that the essential test was whether or not the economic benefit arising from net assets transferred from ADS into LVI ("**LVI's Get**") equaled or exceeded that of the net assets transferred out of LVI to ADS ("**LVI's Give**") under the Spin Transaction, where both LVI's Give and LVI's Get are measured as at the Spin Date.

[5] All of our references to "fair" herein should be read as being fair, from a financial point of view, from LVI's perspective.
[6] To the extent that the analyses performed herein (or parts thereof) may be considered to be a valuation under CICBV standards, and this reporting also constitutes a valuation report, see Appendix D for additional reporting and disclosures in this regard.

2.7 As demonstrated in the summary diagram below, LVI's Get exceeded LVI's Give, and therefore, in our view the Spin Transaction, including the Tax Matters Agreement, was fair, from a financial point of view, to LVI, as at the Spin Date.

Summary of Analyses of Fairness of the Spin Transaction as at the November 5, 2021 Spin Date from the LVI Perspective



2.8 The diagram above summarizes the results of our analysis (under "Kroll Analyses" in the diagram) and demonstrates that the amount of LVI's Get exceeded that of LVI's Give and that there was a meaningful excess (the "**Excess**" or the "**Buffer**"). This is seen by the aggregate of the various bars – each of which represents that dollar amount developed from our analysis – being above the "zero" on the "y-axis" even after the deduction of LVI's Give. Note that the green-coloured portions of the (otherwise blue) bars denote the higher end dollar amounts where dollar ranges were developed from our analyses.

2.9 LVI's Give in connection with the Spin Transaction was $675 million, being the amount of third-party debt taken on by LVI to effect the Spin Transaction. In our view, LVI's Give is appropriately considered to be $675 million for our purposes herein given our understanding that, and in circumstances in which:

- Prior to the Spin Transaction, ADS owned and controlled all of its subsidiaries and therefore, effectively, the assets (contingent or not) held by them. Through the Spin Transaction, LVI received the operating businesses (BrandLoyalty and LoyaltyOne), but not all of the assets that were previously held in entities that became subsidiaries of LVI. Accordingly, from a valuation perspective, the values of those assets, apart from the operating businesses that were transferred into LVI, remained in ADS as opposed to being transferred into LVI along with the operating businesses (via the Spin Transaction);

- As part of the Spin Transaction, $100 million of cash and a potential (contingent) Canadian income tax refund with a face amount of some $77 million USD[7] were transferred from ADS subsidiaries (that were to become LVI subsidiaries) to ADS. From a valuation perspective, these were effectively ADS' assets prior to the Spin Transaction and remained ADS' assets after Spin Transaction; and,

- As part of the Spin Transaction, LVI incurred third party debt of $675 million and, correspondingly, effectively paid ADS $650 million for the operating businesses that it received. The sum of this $650 million and the $100 million cash balance discussed above comprise the $750 million Distribution (defined below). In addition to the $650 million paid to ADS, LVI also incurred fees and related expenses associated with the Spin Transaction. For purposes of our analysis herein, we have assumed that inclusive of the $650 million paid to ADS and fees and related expenses associated with the Spin Transaction, the aggregate of LVI's Give in this matter was at or about $675 million (which is also the amount of the third-party debt).

2.10 LVI's Give of $675 million is represented on the above diagram by the blue bars being stacked from a starting point of minus $675 million.

2.11 From our perspective, the fairness of the Spin Transaction to LVI is properly assessed by comparing LVI's Get, being the operating businesses that it received on Day 1 under the Spin Transaction to LVI's Give of $675 million discussed above.

2.12 As to the various measures of the quantum of LVI's Get, we conducted (i) an earnings-based approach, being a discounted cash flow ("**DCF**") analysis of LVI's cash flows and (ii) a market approach, being a comparables analysis based on

[7] Calculated as the potential tax refund of $96 million Canadian, converted to USD at a USD:CAD exchange rate of 1.2452 (Bank of Canada Exchange Rate Lookup Tool, rate for November 5, 2021). Given the uncertainty associated with amount and timing of the potential tax refund, its value as at or about the Spin Date is likely to be substantially less than the face amount of $77 million. The tax refund is effectively value neutral to the LoyaltyOne operating business because the cash only goes out to ADS if and when it comes in to LoyaltyOne. Hence were we to include any value amount for it in LVI's Give then it should presumably also be included in LVI's Get, which we have not done in our analyses herein.

publicly traded comparable or somewhat comparable companies, as well as a precedent transactions analysis.

2.13 As is also shown in the diagram above (see the checkmarks under "Other Contemporaneous Indices"), we also considered other contemporaneous indicators of value and found them to be supportive of LVI's Get exceeding LVI's Give and therefore the fairness of the Spin Transaction from LVI's perspective.

2.14 It was based on the combination of all of the above that we concluded that the Spin Transaction, including the Tax Matters Agreement, was fair, from a financial point of view, to LVI , as at the Spin Date; and that the value of the consideration received by LVI was not less, let alone conspicuously less, than that given to ADS in exchange under the Spin Transaction.

2.15 At your request we also replicated the above fairness analysis notionally using the (rounded) amount of $813 million for LVI's Give (i.e., instead of the $675 million discussed above) while leaving LVI's Get unchanged. The use of this higher amount for LVI's Give correspondingly reduces the amount of the Excess or Buffer dollar-for-dollar but does not change our fairness conclusion herein.

2.16 We understand that your request to notionally consider LVI's Give at $813 million arises from the information provided in the Preliminary Information Statement filed by LVI on October 13, 2021 as part of its Form 10 disclosure with the Securities Exchange Commission.

- LVI's Form 10 disclosure indicates that at the time of the Spin Transaction, the parties to the Spin Transaction viewed LVI's consideration to ADS as $812.409 million (which, for simplicity, we have rounded up to $813 million), being the sum of the following arising from the Spin Transaction:[8]
    - $760.665 million of liabilities incurred by LVI; plus
    - A net loss of assets of $51.744 million.
- The $812.409 amount can also be thought of as inclusive of:
    - The debt incurred by LVI in conjunction with the Spin Transaction;
    - The cash dividend paid by LVI to ADS;
    - The impact of the Tax Matters Agreement; and
    - Smaller de minimis adjustments arising from the transaction.

2.17 For the reasons given in paragraph 2.10 above we believe that the lower amount of $675 million is the most appropriate amount to use for LVI's Give in our fairness analysis. Nonetheless, in Appendix K we have replicated the above chart that

[8] October 13, 2021. Loyalty Ventures Inc. Form 10 Information Sheet.

summarizes our fairness analysis but have done so notionally using the (rounded) amount of $813 million for LVI's Give.

2.18 As can be seen from the chart in Appendix K, even considering the notional higher amount of LVI's Give, we still conclude that the Spin Transaction, including the arrangement under the Tax Matters Agreement, was fair, from a financial point of view, to LVI as at the Spin Date. Furthermore, the value of the consideration received by LVI was not less, let alone conspicuously less, than that given to ADS in exchange under the Spin Transaction.

Approach and Details Further Below

2.19 Our approach in respect of Part A, Questions #1 and #2, is set out in Section 6.0 further below.

2.20 Our observations, comments, analyses and conclusions in respect of those questions are set out in more detail in Sections 7.0 and 8.0, respectively.

Part B Concerning Solvency

Question #3 – Solvency of LVI and LoyaltyOne at Spin Date

2.21 We concluded that both LVI and LoyaltyOne were solvent as at the November 5, 2021 Spin Date.

2.22 In reaching this conclusion we first had regard to our fairness and related conclusions under Question #2 above.

2.23 In addition, in assessing the respective solvency of each of LVI and LoyaltyOne as at the Spin Date, we had regard to the following "**Solvency Tests**" as at that same date:

1. Whether or not, on a projected cash flow basis, LVI and LoyaltyOne were able to meet their financial obligations as they became due (the "**Projected Cash Flow Test**"); and,

2. Whether or not the Realizable Value (defined below) of LVI's and LoyaltyOne's assets are greater than or less than their respective financial obligations (the "**Net Realizable Value Test**").

2.24 Our analyses and conclusions in respect of the above Solvency Tests, in respect of both LVI and LoyaltyOne, as at the Spin Date are summarized as follows:

Summary of Kroll's Solvency Analysis Regarding LVI and Loyalty One at Spin Date

	Projected Cash Flow Test	Net Realizable Value Test	Solvent at Spin Date?
LVI	✓ Pass – projected future cash flows sufficient to meet financial obligations when they come due.	✓ Pass – Realizable Value exceeds financial obligations.	✓ Yes - LVI was solvent at Spin Date.
LoyaltyOne	✓ Pass – projected future cash flows sufficient to meet financial obligations when they come due.	✓ Pass – Realizable Value exceeds financial obligations.	✓ Yes - LoyaltyOne was solvent at Spin Date.

2.25 From the above analyses, we concluded that both LVI and LoyaltyOne were solvent as of the Spin Date.

2.26 Put another way, in our view, as at the Spin Date there was not a reasonably foreseeable expectation of a liquidity shortage that would deprive LVI or LoyaltyOne of the ability to pay their debts as they generally became due.

Question #4 – Intervening Events that Negatively Impacted Solvency

2.27 Before identifying and addressing events that occurred in the time period from the Spin Date to the CCAA Date that negatively impacted the solvency of LVI and LoyaltyOne, we first considered the degree of financial leverage (i.e., debt) that LVI took on in conjunction with the Spin Transaction.

2.28 Even when notionally reducing the financial leverage (i.e., debt) incurred in connection with the Spin Transaction, given LVI's actual post Spin Date pre-debt service cash flows, LVI would have become insolvent by no later than the third

quarter of 2023, and possibly earlier (the "**Notional CCAA Date With Lower Leverage**").

2.29 While that Notional CCAA Date With Lower Leverage is later than the actual CCAA Date, the important point is that insolvency notionally occurs even with less debt in the LVI capital structure. Put another way, in view of LVI's actual post Spin Date results, less leverage would have lengthened LVI's operating "runway", but it would not have changed the ultimate outcome.

2.30 Accordingly, we concluded that LVI's insolvency was not caused by the degree of leverage incurred in connection with the Spin Transaction.

2.31 Having addressed the leverage, we then identified and considered events that occurred in the time period from the Spin Date to the CCAA Date that negatively impacted the solvency of LVI and LoyaltyOne. We refer to these events interchangeably as "**Intervening Events"** and "**Other External Factors**", and they are as follows:

1. Decline in the BrandLoyalty business in 2022, due to a variety of factors including the Ukraine War, elevated supply and logistics costs and campaign under-performance;

2. Decline in the LoyaltyOne business, caused by the loss of the Sobeys Inc. ("**Sobeys**") partnership starting in August 2022 and renegotiation of contracts with other partners; and,

3. Macroeconomic factors, including interest rate increases and foreign exchange rate fluctuations that were not foreseen at the time of the Spin Transaction.

2.32 We observed that these Intervening Events or Other External Factors had an impact on the solvency of LVI and/or LoyaltyOne, in some cases a material impact.

Approach and Details Further Below

2.33 Our approach in respect of Part B, Questions #3 and #4, is set out in Section 6.0 further below.

2.34 Our observations, comments, analyses and conclusions in respect of those questions are set out in more detail in Sections 9.0 and 10.0, respectively.

3.0 Scope of Review

3.1 In completing our work in this matter, we reviewed and relied upon information contained in the items listed in Appendix C.

3.2 In the course of our review, while relying on the above noted financial and other information, we have not conducted an audit of the financial affairs of the companies.

3.3 Similarly, except to the extent described herein, we have not sought external verification of the financial and other information set out in our Scope of Review.

4.0 Qualification: Scope Limitation

4.1 Our conclusion is qualified because we did not have access to management of LoyaltyOne or LVI.[9] We were therefore unable to discuss with management matters addressed in our report including, for example, details of the financial projections in effect at the Spin Date (which are used in our analyses herein) and the December Projections (defined below)

4.2 In addition, we requested (through Stikeman) but did not have access to balance sheets for LVI and LoyaltyOne as at November 5, 2021 (i.e., as of the Spin Date).

4.3 Nothing has come to our attention that would suggest that our conclusions herein would change were that additional information made available to us.

5.0 Background

5.1 We have provided a brief overview of LVI, the Spin Transaction, LVI Financial Performance Post-Spin Date, LVI Capital Structure at Spin Date, LVI Stock Performance Post-Spin Transaction, and Project Angus (being the sale process run by ADS for the sale of the Air Miles business in late 2020).

5.2 Please refer to Appendix H for additional background information, including a company background of ADS (now Bread), LVI's Corporate Structure, details of the Air Miles and BrandLoyalty businesses, LVI Disclosures Regarding Its Financial Projections and the Senior Credit Facilities (defined below).

[9] Though our scope of review did include Motes Affidavit. Mr. Motes was the sole director of LVI and LoyaltyOne pre-Spin Transaction and remains the General Counsel, Executive Vice President, Chief Administrative Officer and Secretary of Bread.

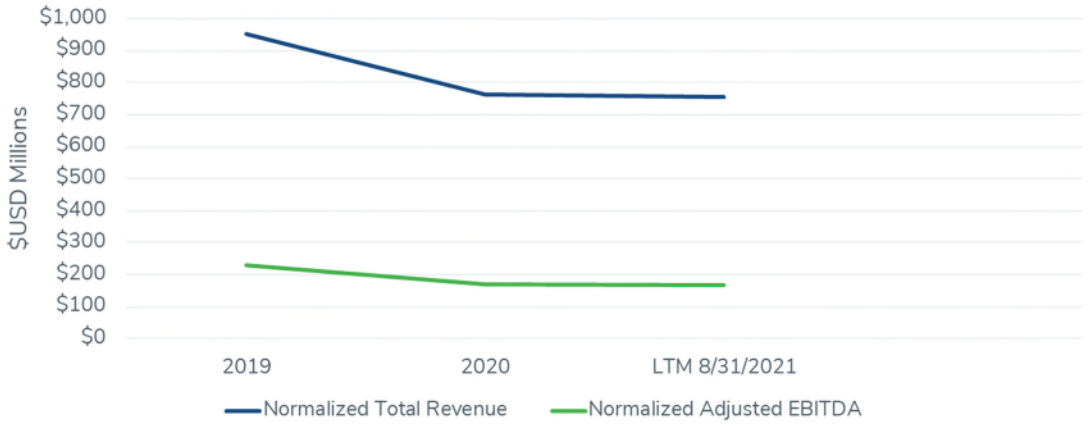
The Companies

LVI[10]

5.3 On November 5, 2021, ADS completed the Spin Transaction, the result of which was that LVI (Nasdaq:LYLT) became a standalone company which began public trading on November 8, 2021.[11] The Spin Transaction is discussed in more detail below.

5.4 LVI's operating business comprised the AIR MILES Reward Program ("**Air Miles**"), which ultimately became LoyaltyOne after the Spin Transaction, and BrandLoyalty. Through these segments, LVI provided "tech-enabled, data-driven consumer loyalty solutions."[12]

5.5 Prior to the Spin Date, in its presentation to its potential lenders, LVI presented normalized[13] revenues and normalized adjusted EBITDA for fiscal years 2019, 2020 and the last twelve months ("**LTM**") ended August 31, 2021 as follows:



5.6 We note the following:

- LVI's total normalized revenues for fiscal 2019, 2020 and LTM August 31, 2021 were $952 million, $763 million, and $755 million, respectively;[14]

[10] While the LVI entity was created in 2021 (to facilitate the Spin Transaction), this summary reflects the financial results of the operating businesses (LoyaltyOne and BrandLoyalty) which were ultimately transferred to LVI in the Spin Transaction.
[11] The affidavit of Joseph L. Motes III dated February 9, 2023 (the "**Motes Affidavit**"), Exhibit H, at p. 4.
[12] Motes Affidavit, Exhibit H, at p. 4.
[13] Results were normalized for the sale of Precima.
[14] Motes Affidavit, Exhibit K.

- LVI's total normalized adjusted EBITDA for fiscal 2019, 2020 and LTM August 31, 2021 were $230 million, $171 million, and $167 million, respectively;[15]

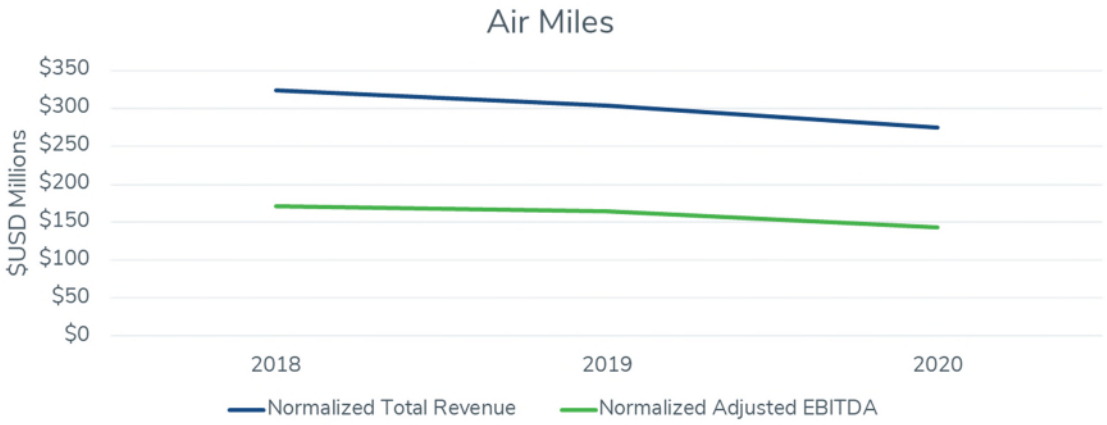
- LVI's adjusted EBITDA margins were 24%, 22%, and 22%, respectively, for fiscal years 2019, 2020 and LTM August 31, 2021.[16]

Air Miles

5.7 Air Miles operated as a full-service outsourced coalition loyalty program for sponsors, who typically pay a fee per air mile issued, in return for which Air Miles provides all marketing, customer service, rewards and redemption management.[17] Air Miles had more than 300 branded sponsors, including Sobeys and BMO.[18]

5.8 Air Miles' 2018 to 2020 revenue and EBITDA was as follows:

Air Miles Normalized Revenue and Adjusted EBITDA[19]



5.9 We note the following:

- Air Miles' revenue fell from $324 million in 2018 to $275 million by the end of 2020.

- As with its revenue, Air Miles adjusted EBITDA fell over the course of 2018 through 2020, from $171 million to $142 million.[20]

[15] Motes Affidavit, Exhibit K.
[16] Motes Affidavit, Exhibit K.
[17] Motes Affidavit, Exhibit H, at p. 6.
[18] Motes Affidavit, Exhibit K.
[19] Motes Affidavit, Exhibit K.
[20] Motes Affidavit, Exhibit K.

- As demonstrated above, between 2018 and 2020, Air Miles had EBITDA margins between 52% and 54%.

5.10 While Air Miles accounted for roughly 35% of LVI's revenue, it accounted for the majority of LVI's EBITDA: 75% and 71% in 2018 and 2019, respectively, and nearly 84% in 2020.

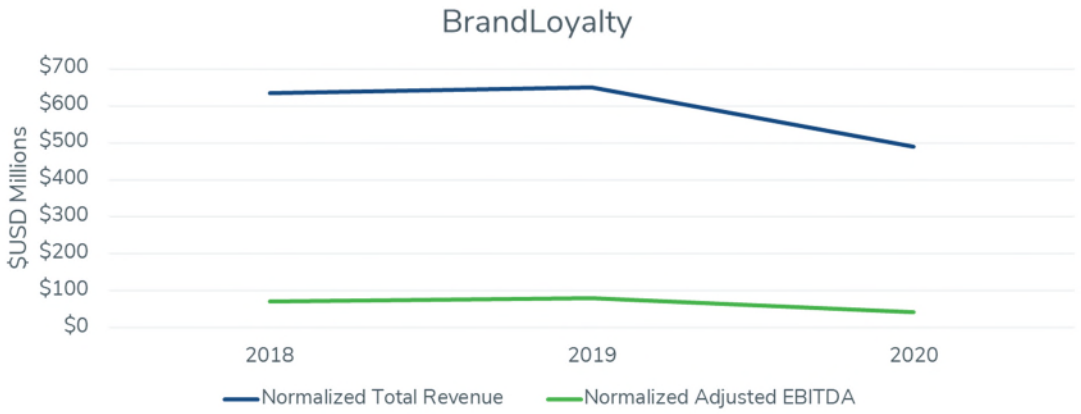
BrandLoyalty

5.11 BrandLoyalty was a Netherlands-based provider of loyalty programs.[21] It designed, implemented, conducted and evaluated loyalty campaigns which were tailored to each client and were designed to reward key customer segments based on their spending levels during defined campaign periods.[22] BrandLoyalty worked with approximately 200 retailers worldwide, such as Carrefour and Safeway, and with globally recognized partners, such as Disney and Marvel.[23]

5.12 BrandLoyalty primarily operated in Europe and Asia (68% of its 2020 revenue was derived therefrom), but operated campaigns worldwide.[24]

5.13 BrandLoyalty's normalized 2018 to 2020 revenue and EBITDA was as follows:

BrandLoyalty Normalized Revenue and Adjusted EBITDA[25]



5.14 We note the following:

- BrandLoyalty's normalized revenue fell from 2018 to 2020 from $633 million in 2018 to $498 million by the end of 2020;

[21] Motes Affidavit, Exhibit K.
[22] Motes Affidavit, Exhibit H, at Ex. 21.1, p. 4.
[23] Motes Affidavit, Exhibit K..
[24] Motes Affidavit, Exhibit H, at Ex. 21.1, p. 7; Motes Affidavit, Exhibit K.
[25] Motes Affidavit, Exhibit K.

- BrandLoyalty's normalized adjusted EBITDA fell from $70 million to $42 million from 2018 to 2020; and,

- BrandLoyalty's EBITDA margins were between 9% and 12%.

5.15 Although BrandLoyalty's revenue was significantly greater than that of Air Miles, its overall contribution to LVI's EBITDA was much smaller due its low margins. Between 2018 and 2020, BrandLoyalty only accounted for between 25% and 34% of total LoyaltyOne segment EBITDA.[26]

The Spin Transaction

Overview

5.16 On May 12, 2021, ADS announced its intention to spin off its LoyaltyOne segment, consisting of the Air Miles and BrandLoyalty operations, into an independent, publicly traded company, LVI.[27] ADS' board of directors approved the Spin Transaction on October 13, 2021.[28] The Spin Transaction was completed on November 5, 2021 (i.e., the Spin Date).

5.17 To effect the Spin Transaction:

- ADS distributed 81% of the issued and outstanding common shares of LVI to shareholders of ADS.[29] ADS retained 19% ownership in LVI.[30]

- LVI distributed $750 million in cash to ADS (the "**Distribution**").[31]

5.18 The Spin Transaction was governed by several agreements including the following (described in further detail at Appendix J):

- Separation and Distribution Agreement;

- Tax Matter Agreement;

- Transition Services Agreement;

- Employee Matters Agreement; and,

[26] Motes Affidavit, Exhibit K.
[27] Motes Affidavit, Exhibit C.
[28] Motes Affidavit, Exhibit H, at p. 4.
[29] November 3, 2021. Loyalty Ventures Inc. Form 8-K Completion of Separation of Loyalty Ventures from ADS. The number of ADS shares each ADS Stockholder held was as of October 27, 2021.
[30] November 3, 2021. Loyalty Ventures Inc. Form 8-K Completion of Separation of Loyalty Ventures from ADS.
[31] November 4, 2021. Quarterly Report of Loyalty Ventures Inc. Form 10-Q for the fiscal quarter ended September 30, 2021, at p. 8, 29.

- Registration Rights Agreement.

LVI Financial Performance Post-Spin Date

Income Statement

5.19 We have summarized LoyaltyOne, BrandLoyalty, and LVI's post-spin operating results in the following table. Q3 2022 results were the last financial results released by LVI prior to the CCAA Date (Schedule 103, Schedule 104, and Schedule 105).

Post-Spin Quarterly Operating Results of LoyaltyOne, BrandLoyalty, and LVI

($USD, millions)

	Q4 2021	Q1 2022	Q2 2022	Q3 2022
LoyaltyOne				
Revenue	$ 71	$ 70	$ 67	$ 67
Operating Expenses	40	34	40	36
Operating Income	30	36	27	31
Adjusted EBITDA	36	36	32	35
BrandLoyalty				
Revenue	168	89	105	95
Operating Expenses	210	91	529	98
Operating Income	(42)	(1)	(424)	(3)
Adjusted EBITDA	17	0	(1)	0
LVI				
Operating Income	(29)	11	(411)	16
Interest Expense	(6)	(9)	(9)	(12)
Income Tax Expense	(21)	(1)	(22)	(4)
Net Income	(56)	1	(442)	(0)
Adjusted EBITDA	$ 47	$ 25	$ 27	$ 33

5.20 We observe the following:

- LoyaltyOne reported consistent revenue, operating income and adjusted EBITDA across the period, with cumulative adjusted LTM EBITDA of $139 million.

- BrandLoyalty experienced a significant downturn after Q4 2021, with quarterly revenues down over 40% in Q1 2022 and no meaningful amount of adjusted EBITDA. BrandLoyalty also took two goodwill impairments,

$50 million in Q4 2021 and $423 million in Q2 2022. LVI attributed the Q4 2021 impairment to, amongst other things, supply chain issues leading to higher costs and reduced revenue, and the ongoing impact of the COVID-19 pandemic. It attributed the Q2 2022 impairment to macroeconomic factors, including Russia's invasion of Ukraine, inflation, and ongoing supply chain issues.

- LVI experienced a drop in adjusted EBITDA in the quarters following Q4 2021, in part due to aforementioned issues in its BrandLoyalty operations.

5.21 See Schedules 103 - 105 for further details regarding LVI's post Spin Date income statements.

Balance Sheet

5.22 As discussed in Section 4.0 above, we have not seen an "opening" balance sheet for LVI or LoyaltyOne as of the Spin Date.

5.23 Based on LVI's financial results for the year ended December 31, 2021, LVI had total assets of $2.3 billion, consisting of: [32]

- $735 million of redemption settlement assets;
- $650 million of goodwill;
- $288 million of accounts receivable;
- $189 million of inventories;
- $168 million in cash; and,
- $294 million of other assets.

5.24 We note that in the fourth quarter of 2021, LVI reported a $50 million goodwill impairment charge – a relatively modest amount compared to the $650 million remaining balance. The impairment charge related to the fair value of BrandLoyalty and in this regard:

- On the fourth quarter and full-year 2021 earnings call, Mr. Jeffrey Chesnut (CFO of LVI) stated that "the continuing impact of the pandemic combined with the global supply chain challenges have disrupted normal operations

[32] Motes Affidavit, Exhibit H, at p. F-2. We note that a separate balance sheet for LoyaltyOne specifically was not included in LVI's 10-K.

at BrandLoyalty. As a result, we determined it was more likely than not that the fair value of BrandLoyalty was below its carrying value."[33]; and,

- In the same earnings call, Mr. Charles Horn further stated that "the emergence of the Omicron [Covid] variant in the fourth quarter extended the COVID-related supply chain challenges" that BrandLoyalty experienced through 2021.[34]

5.25 At December 31, 2021, LVI had total liabilities of $2.2 billion, which consisted of the following:

- $1,022 million of deferred revenue ($925 million is current, $97 million is non-current);
- $654 million of debt ($51 million is current, $603 million is non-current);
- $145 million of accrued expenses;
- $113 million of operating lease liabilities ($10 million is current, $103 million is non-current);
- $103 million of accounts payable; and,
- $140 million of other liabilities.

5.26 See Schedule 107 for further details regarding LVI's post Spin Date balance sheets.

LVI Capital Structure at Spin Date

5.27 LVI entered into a senior secured credit agreement (the "**Credit Agreement**"[35]) which provided for $825 million in aggregate principal under the "**Senior Credit Facilities**."[36] The Senior Credit Facilities were comprised of the following:[37]

- $175 million Term Loan A facility (the "**TLA**"), with a maturity date of November 3, 2026;

[33] February 3, 2022. Loyalty Ventures Inc. FQ4 2021 Earnings Call.
[34] February 3, 2022. Loyalty Ventures Inc. FQ4 2021 Earnings Call. The Omicron variant was not declared a "variant of concern" until November 26, 2021, after the Spin. See November 25, 2022. "One year since the emergence of COVID-10 virus variant Omicron" World Health Organization.
[35] Motes Affidavit, Exhibit S.
[36] November 4, 2021. Quarterly Report of Loyalty Ventures Inc. Form 10-Q for the fiscal quarter ended September 30, 2021at p. 19, 37.
[37] November 3, 2021. Loyalty Ventures Inc. Form 8-K Completion of Separation of Loyalty Ventures from ADS.

- $500 million Term Loan B facility (the "**TLB**"), with a maturity date of November 3, 2027; and,

- $150 million Revolving Credit Facility ("**Revolver**"), with a maturity date of November 3, 2026."[38]

5.28 The Senior Credit Facilities were issued at floating rate interest.

LVI Stock Performance Post-Spin Transaction

5.29 The opening day of regular-way trading for LVI was November 8, 2021.

5.30 On November 8, 2021, LVI's stock closed at $49.08.

5.31 LVI's market capitalization after the Spin Date is discussed in further detail in Section 8 below.

5.32 The table below summarizes LVI's trading history.

LVI Share Price Graph and Key Dates

[38] November 3, 2021. Loyalty Ventures Inc. Form 8-K Completion of Separation of Loyalty Ventures from ADS.

Project Angus

5.33 Before the Spin Transaction, Morgan Stanley ran a deal process for ADS for the sale of the Air Miles business ("**Project Angus**"), beginning in 2019, and running through January 2021. We note that Project Angus only contemplated the sale of the Air Miles business and did not include BrandLoyalty.[39]

5.34 For Project Angus, Morgan Stanley contacted 28 different bidders: 21 financial sponsors and 7 pension funds. Of the 28 parties contacted, 21 parties executed a non-disclosure agreement, 14 attended a fireside chat, and 6 submitted indications of interest.[40] These initial indications ranged in aggregate value from $754 million to $1.2 billion, as shown below.[41]

Bidder[42]	**Enterprise Value** *($millions)*	**Enterprise Value / 2020 E Adjusted EBITDA Multiple**[43]
Bidder #1	$1,131 - $1,206	8.5x – 9.0x
Bidder #2	$1,075	8.0x
Bidder #3	$1,000 - $1,100	7.4x – 8.2x
Bidder #4	$980	7.3x
Bidder #5	$942 - $1,037	7.0x – 7.7x
Bidder #6	$754 - $905	5.6x – 6.7x

5.35 Of those six companies that submitted a round one bid, two submitted round two bids. These bids are summarized as follows:[44]

Bidder	**Enterprise Value** *($ millions)*	**Enterprise Value / 2020E Adjusted EBITDA Multiple**[45]
Bidder #2	$785	5.85x
Bidder #3	$560	4.2x

5.36 ADS proceeded with Bidder #2's bid and did not proceed with the second bid received from Bidder #3.

5.37 We understand that a condition of Bidder #2's bid was that a third party would acquire a minority stake in the Air Miles business. Furthermore, a condition of the

[39] Motes Affidavit, paragraph 26.
[40] Motes Affidavit, paragraph 26.
[41] Motes Affidavit, Exhibit B.
[42] Bidder names redacted for confidentiality.
[43] Assumes a 2020E adjusted EBITDA of $134 million.
[44] December 17, 2020. Bidder #3 Project Angus Round 2 Bid; and December 17, 2020. Bidder #2 Project Angus Round 2 Bid.
[45] Assumes a 2020E adjusted EBITDA of $134 million.

bid was that this third party would issue a call/put option to Bidder #2 on the Air Miles business that would allow the third party to acquire the entirety of the Air Miles business from Bidder #2 in 3 to 5 years.[46] Ultimately, the third party chose not to participate in Bidder #2's bid.

5.38 On January 13, 2021, ADS received a bid from another bidder (Bidder #7) to acquire the Air Miles business at a 6.0x to 7.0x normalized 2020 EBITDA multiple, subject to due diligence.[47]

5.39 We understand that ADS did not engage with Bidder #7's offer and instead opted to focus on a spin off of the LoyaltyOne business (i.e., Air Miles and BrandLoyalty).[48]

LVI Bankruptcy Filings

Chapter 11 Filing

5.40 On March 10, 2023, LVI filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court.[49] In conjunction with these bankruptcy filings, Charles Horn, the Chief Executive Officer and President of LVI, filed a "First Day Declaration" in support of the Company's Chapter 11 bankruptcy petition executed on March 10, 2023 (the "**First Day Declaration**").

5.41 According to Mr. Horn's First Day Declaration, LVI faced multiple "operational challenges".[50] Per Mr. Horn, these operational challenges include: "(i) the loss and renegotiation of certain customer Sponsor contracts and (ii) the impact of supply chain issues coupled with the impact of the Russian invasion of Ukraine."[51]

CCAA Filing

5.42 Also on March 10, 2023, LoyaltyOne sought protection under the CCAA in the Ontario Superior Court of Justice.[52] In connection with the CCAA filing, KSV Restructuring, Inc. was appointed Monitor. On June 1, 2023, LoyaltyOne sold all its operating assets to BMO pursuant to an asset purchase agreement approved by the Ontario Superior Court of Justice on May 12, 2023.[53]

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[46] December 17, 2020. Bidder #2 Project Angus Round 2 Bid.
[47] January 13, 2021. Bidder #7 Project Angus Proposal Letter.
[48] Motes Affidavit, paragraph 27-28.
[49] March 10, 2023. "Loyalty Ventures Inc. Announces Bankruptcy Filings and Plan to Delist from the Nasdaq Global Select Market" Loyalty Ventures Inc.
[50] First Day Declaration, p. 4.
[51] First Day Declaration, p. 4.
[52] March 10, 2023. "Loyalty Ventures Inc. Announces Bankruptcy Filings and Plan to Delist from the Nasdaq Global Select Market" Loyalty Ventures Inc.
[53] November 9, 2023. Motion Record (enforceability of tax matters agreement), CV-23-00696017-00CL.

Economic and Industry Overview

5.43 For additional context for our analyses herein, refer to Appendices F and G for brief informational overviews of the Canadian and European economies and the rewards/loyalty industry generally.

6.0 Kroll Approach

Part A Concerning Spin Transaction Fairness and Consideration Given and Received

Question #1 - Considering Tax Matters Agreement from LoyaltyOne Perspective or More Broadly

6.1 You asked for our view, from a business and financial perspective, in considering the value of the consideration given and received in relation to the Tax Matters Agreement, if it is reasonable to only consider the impact of and associated value transfer consequences of the Tax Matters Agreement from the perspective of LoyaltyOne or should it be considered from the perspective of LoyaltyOne and LVI together[54] in the context of the overall Spin Transaction.

6.2 Our approach in this regard was to identify and consider factors that, in our view, from a business and financial perspective, indicate which perspective – that of LoyaltyOne only or that of LoyaltyOne and LVI together – is most reasonable for an analysis of consideration given and received in the Spin Transaction.

6.3 Our observations, comments, analyses and conclusions in this regard are set out further below in Section 7.0.

Question #2 - Fairness of the Spin Transaction to LVI and Value of the Consideration Received by LVI Being or Not Being Conspicuously Less than that Given to ADS

6.4 In assessing whether or not the Spin Transaction was fair, we considered whether or not the economic benefit arising from net assets transferred from ADS into LVI (i.e., LVI's Get) equaled or exceeded that of the net assets transferred out of LVI to ADS (i.e., LVI's Give) under the Spin Transaction, where both LVI's Give and LVI's Get are measured as at the Spin Date.

6.5 Effectively then, the Spin Transaction was fair to LVI if the amount of LVI's Get exceeded, or at least equaled, the amount of LVI's Give. Correspondingly, in such circumstances, it could also be said that the value of the consideration received by LVI was not less than that given to ADS in exchange under the Spin Transaction.

[54] LoyaltyOne and LVI together effectively just means LVI, as LoyaltyOne was a wholly-owned subsidiary of LVI.

6.6 As is typical in such circumstances, in assessing LVI's Give and LVI's Get and overall fairness, we had regard to certain valuation and comparative analyses using generally accepted valuation and analytical techniques.

6.7 The dollar magnitude of LVI's Give is the amount of $675 million, as discussed at paragraph 2.11 above.

6.8 The dollar magnitude of LVI's Get is not subject to precise determination as easily because it was composed of:

- The Air Miles business that was transferred in to become a subsidiary of LVI; and
- The BrandLoyalty business that was transferred in to become a subsidiary of LVI.

6.9 From our perspective, the fairness of the Spin Transaction to LVI is properly assessed by comparing LVI's Get, being the operating businesses that it received on Day 1 under the Spin Transaction to LVI's Give of $675 million discussed above.

6.10 To quantify LVI's Get, we had regard to the following Kroll analyses that we undertook. These are accepted valuation approaches and methods used by valuators and analysts in normal course:

- Earnings Based Approach – specifically, a discounted cash flow analysis that we undertook using LVI management's own projections in place at the time of the Spin Transaction (the "**Spin Date Projections**" as later defined in Section 8.0). Briefly, in a DCF approach, the future cash flows of a business are projected and then discounted to a capital sum at present value, along with a terminal value at the end of the projection period, using an appropriate discount rate;
- Market Approach – specifically, we undertook an analysis using LVI management's own Spin Date Projections and applied valuation metrics derived from comparable (or somewhat comparable) publicly traded companies and precedent transactions as at the Spin Date; and,
- We also considered the possibility of there being other (redundant) assets having been transferred to LVI beyond the LoyaltyOne and BrandLoyalty businesses, which would not otherwise be captured in the financial analyses conducted above. However, absent further details in this regard we assumed there were none. To the extent that there actually were such additional assets that went to LVI then that would increase LVI's Get herein and further support our conclusion of fairness.

6.11 In respect of the above, we did not attempt to arrive at a specific or precise fair market valuation conclusion for LVI as at the Spin Date. Instead, and appropriate to the issues at hand and the available information, we directed our analyses at developing a reasonable range for the dollar amount of LVI's Get at the Spin Date for purposes of the comparison to the amount of LVI's Give so as to be in a position to arrive at a fairness conclusion.

6.12 We then compared that resulting dollar amount range for LVI's Get to LVI's Give of $675 million to assess the fairness of the Spin Transaction. In doing so, we quantified the amount of the Excess or Buffer of the amount of LVI's Get over the amount of LVI's Give. That Excess or Buffer can be thought of as a measure of the residual positive equity that remained in LVI after the $675 million cash transfer of LVI's Give to ADS. If the Buffer is a positive amount, it indicates that LVI's Get exceeds LVI's Give and as such, the Spin Transaction was fair.

6.13 Finally, we also tested the robustness of the above indices of fairness by considering the extent to which the Excess or Buffer of LVI's Give over LVI's Get, if any, could absorb the dollar impact of potential future negative events and outcomes post-Spin Date, even if those potential future negative events and outcomes were not anticipated by LVI or ADS or thought to be likely. We refer to this testing as the "**Kroll Stress Tests**".

6.14 Specifically, in these Kroll Stress Tests, our "starting point" was the low end of our DCF analysis.[55] We then calculated what decline in the projected EBITDA would be necessary to notionally eliminate the dollar amount of the Excess or Buffer. Or, said another way, we calculated the amount of the notional decline in projected EBITDA that would reduce the value of LVI's Get to equal LVI's Give of $675 million (the "**Kroll Stress Test Notional EBITDA Reduction**").

6.15 We did this because we observed that financial projections post-Spin Date were less optimistic than those as at the Spin Date and because actual results in late 2021 and beyond were lower than what had been projected.

6.16 Having calculated the amount of the Kroll Stress Test Notional EBITDA Reduction, we then conceptualized several mutually-exclusive negative business events and outcomes (the "**Notional Negative Event Scenarios**") – variously in isolation and in combinations – which, were they to have been projected, would have reduced EBITDA by the amount of the Kroll Stress Test Notional EBITDA Reduction. In these scenarios, the Spin Transaction would still have been considered fair. We then judgementally considered the likelihood of those Notional Negative Event

[55] It is important to highlight that had we started with the high end of our range then the Kroll Stress Test Notional EBITDA Reduction amount (as defined above) would have been higher and the judgement of the robustness of our indices of fairness enhanced.

Scenarios to provide context for our overall assessment of the robustness of our fairness indices.

6.17 We also had regard to a variety of other observed value indicators and qualitative factors that existed as of the Spin Date.

6.18 Based on the consideration of the results from all of the above, we arrived at our overall conclusion that the Spin Transaction was fair. Correspondingly, we arrived at our conclusion that the value of the consideration received by LVI was fair in relation to the value received by ADS.

6.19 Our observations, comments, analyses and conclusions in this regard are set out further below in Section 8.0.

Part B Concerning Solvency, Liquidity Shortage and Intervening Events

Question #3 - Solvency of LVI and LoyaltyOne at the Spin Date

6.20 In assessing whether or not LVI was solvent as at the Spin Date, we had regard to factors including the following:

- Our fairness analysis and conclusion in respect of the Spin Transaction described in Part A above. Because our fairness analysis directly addresses LVI having or not having a positive equity value on the date of the Spin Transaction, it is correspondingly corroborative of solvency or insolvency as well.

- Irrespective of the above, we undertook the two-pronged analysis that is typically considered in addressing (in)solvency issues in a Canadian context, being the Projected Cash Flow Test and the Net Realizable Value Test, as earlier noted.

6.21 We conducted the two-pronged analysis in respect of both LVI and LoyaltyOne, as follows:

- Projected Cash Flow Test: we had regard for management's Spin Date Projections (defined in Section 8.0 below), which included a forecast of LVI and LoyaltyOne's future cash inflows and outflows to 2026. If the future cash inflows are sufficient to meet its future financial obligations, the Projected Cash Flow Test is passed.

- Net Realizable Value Test: In respect of LVI, we relied on our analysis and conclusions in described in Part A to form our conclusions in respect of Net Realizable Value at the Spin Date. If the Realizable Value[56] of the assets

[56] Realizable Value is defined as the Fair Market Value for the purposes of our analysis herein.

exceeds LVI's financial obligations, the Net Realizable Value Test is passed. In respect of LoyaltyOne, we assessed the Net Realizable Value of its assets using both an Earnings Based Approach and Market Approach, as discussed above.

6.22 Our observations, comments, analyses and conclusions in this regard are set out further below in Section 9.0.

Question #4 – Intervening Events that Negatively Impacted Solvency

6.23 Before identifying and addressing events that occurred in the time period from the Spin Date to the CCAA Date that negatively impacted the solvency of LVI and LoyaltyOne, we first considered the degree of financial leverage (i.e., debt) that LVI took on in conjunction with the Spin Transaction.

6.24 We did so to address that it might have been that LVI's insolvency was caused by the degree of leverage taken on in the Spin Transaction (and the corresponding flow through of those proceeds as LVI's Give to ADS).

6.25 In that analysis we notionally reduced the amount of financial leverage borne by LVI [57] as a result of the Spin Transaction to levels observed in somewhat comparable companies.

6.26 We then performed an analysis to determine at which point in time LVI would have been insolvent (i.e., been unable to meet its financial obligations).

6.27 From the above-described analysis we were able to conclude whether or not, even when notionally reducing the financial leverage (i.e., debt) incurred in connection with the Spin Transaction, given LVI's actual post Spin Date pre-debt service cash flows, LVI would have been insolvent and, if so, by what date (the earlier-defined "Notional CCAA Date With Lower Leverage").

6.28 From that, we were able to conclude whether or not the degree of leverage incurred by LVI in connection with the Spin Transaction was what caused its insolvency.

6.29 Having addressed the leverage, we then identified and considered events that occurred in the time period from the Spin Date to the CCAA Date that negatively impacted the solvency of LVI and LoyaltyOne. As earlier noted, we refer to these events interchangeably as "Intervening Events" and "Other External Factors".

[57] With the reduction effectively also being a notional reduction in LVI's Give to Bread such that LVI's opening cash balance was not otherwise adjusted.

6.30 Our observations, comments, analyses and conclusions in this regard are set out further below in Section 10.0.

7.0 PART A – SPIN TRANSACTION FAIRNESS AND CONSIDERATION GIVEN AND RECEIVED: Question #1 – Considering the Tax Matters Agreement from LoyaltyOne Perspective or More Broadly

7.1 In our view, from a business and financial perspective[58], in addressing the issue of the Tax Matters Agreement, and specifically the value of the consideration given and received in relation to the Tax Matters Agreement, one must consider the impact of and associated value transfer consequences of the Tax Matters Agreement more broadly – specifically from the perspective of LVI – in the context of the overall Spin Transaction rather than only from the perspective of LoyaltyOne.

7.2 We arrived at this conclusion in circumstances in which:

1. Spin Transaction had Many Constituent Components

   Consistent with the above, the Spin Transaction comprised a number of components and constituent agreements and all of these must be considered together.

   Firstly, as to legal entities, the Spin Transaction involved the transfer of a number of entities, including the two operating businesses, into the LVI group of companies.

   In order to achieve that transfer, and in conjunction with it, there were a number of legal agreements that were put in place. The TMA is only one of those various agreements and involved only certain of those entities and accordingly considering it in isolation can be misleading.[59]

2. Lenders had Sightlines on the LVI Group and Not Just LoyaltyOne

   Consistent with the above, the lenders were lending to LVI – at the top of the group – rather than just to LoyaltyOne.

[58] For greater certainty, none of our observations, comments and conclusions herein should be misinterpreted as being a legal opinion. We have no comment on matters that are subject to legal determination except to the extent that our observations, comments and conclusions herein, all made from a business and financial perspective, help to inform the context for such a determination.
[59] Motes Affidavit, paragraph 70 (g).

The debt financing put in place in conjunction with the Spin Transaction was borrowed by LVI in the first instance, and LoyaltyOne, as an entity in the LVI structure, provided only a guarantee.

The inference from this is that the lenders also viewed the LVI group as a whole and we assume that their due diligence in advance of making the loans was similarly focused on the overall LVI level.

3. Fairness is Typically Assessed at Overall Level

   In completing a fairness opinion, the provider typically focuses on the fairness of the subject transaction as a whole and not on one or some or each of its constituent components (e.g., entities or agreements etc.).

   It is only at that aggregate or overall level that fairness of the subject transaction to the transacting parties can be assessed as there may be trade-offs or the like in the various sub-components being exchanged – which is at the heart of every arm's length negotiation.

4. An Analyst Would Properly Consider The Overall Spin Transaction

   As a consequence of the above, a financial analyst analyzing LVI would have a similar focus on the overall LVI level (though obviously with an attempt to also understand the main drivers of earnings and value to the extent they resided in LVI investee businesses) and would be unlikely to consider the impact of the Spin Transaction on only one subsidiary of LVI.

5. Bundling like Businesses via the Spin Transaction

   The Spin Transaction can be thought of as a bundling of two loyalty-focused businesses – BrandLoyalty and LoyaltyOne – in a new entity in which the public could invest directly by way of a public listing, providing a "pure play" investment compared to an investment by ADS, which had other different business interests.[60]

6. Tax Refund is a Contingent Redundancy

   The TMA pertains to the "repatriation" to ADS of the potential cash inflow – at a time in the future that was uncertain at the Spin Date – of proceeds from an income tax refund to LoyaltyOne that may or may not come to pass. Those potential proceeds, if and when received, are best thought of as what valuators refer to as a redundant asset.

[60] Motes Affidavit, paragraph 28.

A redundant asset is one that is not required by an operating company for ongoing operations in the normal course of business. Put another way, it can be distributed out of the business to shareholders without impairing ongoing operations.

In circumstances in which the objective of the Spin Transaction was to spin out only certain operating businesses into LVI, it is logical that the TMA would be agreed and effected to move those contingent tax refund proceeds, if and when received, back to ADS.

In so doing under the TMA, the tax refund is effectively value neutral to the LoyaltyOne operating business i.e., the cash only goes out to ADS if it comes in to LoyaltyOne and the LoyaltyOne operating business carries on irrespectively.[61]

7. Tax Refund Would Have Been Swept to ADS Anyway in Normal Course Pre-Spin

Furthermore, in circumstances in which, before the Spin Transaction, the top ADS corporate office/entity can be thought of as being the "internal banker" to the various businesses/entities that it owned, then redundant/excess cash in the underlying businesses would likely have been routinely "swept" up the corporate chain to the "banker".

This is done to efficiently manage cash (and borrowings) and is often seen in such corporate structures.

Hence, had the potential tax refund actually been received before the Spin Transaction, it is reasonable to expect that that cash would have been swept out of LoyaltyOne to ADS in normal course.

From this perspective, the effect of the TMA can be thought of as simply implementing, post-Spin Date, what would have occurred in normal course pre-Spin Date had the tax refund proceeds already been realized in distributable cash form (and again, in a way that is value-neutral to the LoyaltyOne operating business).

7.3 As a consequence of all of the above, the Spin Transaction is not subject to partial analysis.

7.4 One cannot "turn the microscope down" to just the TMA, or even to the LoyaltyOne level, and attempt to assess the impact and associated value transfer consequences at that more micro level. To do so is to ignore that there may likely

[61] Motes Affidavit, paragraph 76.

be other elements of the same Spin Transaction for which there is an offsetting impact and value transfer.

7.5 Hence partial analysis is not appropriate and the results of such an approach may be misleading.

7.6 From a financial perspective, it is appropriate to consider the impact and associated value transfer consequences of the TMA more broadly – specifically from the perspective of LVI – in the context of the overall Spin Transaction.

8.0 PART A – SPIN TRANSACTION FAIRNESS AND CONSIDERATION GIVEN AND RECEIVED: Question #2 – Fairness of the Spin Transaction to LVI and Value of the Consideration Received by LVI Being or Not Being Conspicuously Less than that Given to ADS

8.1 In assessing whether or not the Spin Transaction was fair, we considered that the essential test was whether or not the economic benefit arising from net assets transferred from ADS into LVI (i.e., LVI's Get) equaled or exceeded that of the net assets transferred out of LVI to ADS (i.e., LVI's Give) under the Spin Transaction, where both LVI's Give and LVI's Get are measured as at the Spin Date.

8.2 Put another way, the Spin Transaction was fair to LVI if the amount of LVI's Get exceeded, or at least equaled, the amount of LVI's Give.

8.3 This similarly addresses whether or not the value of the consideration received by LVI was conspicuously less than that given to ADS in exchange under the Spin Transaction.

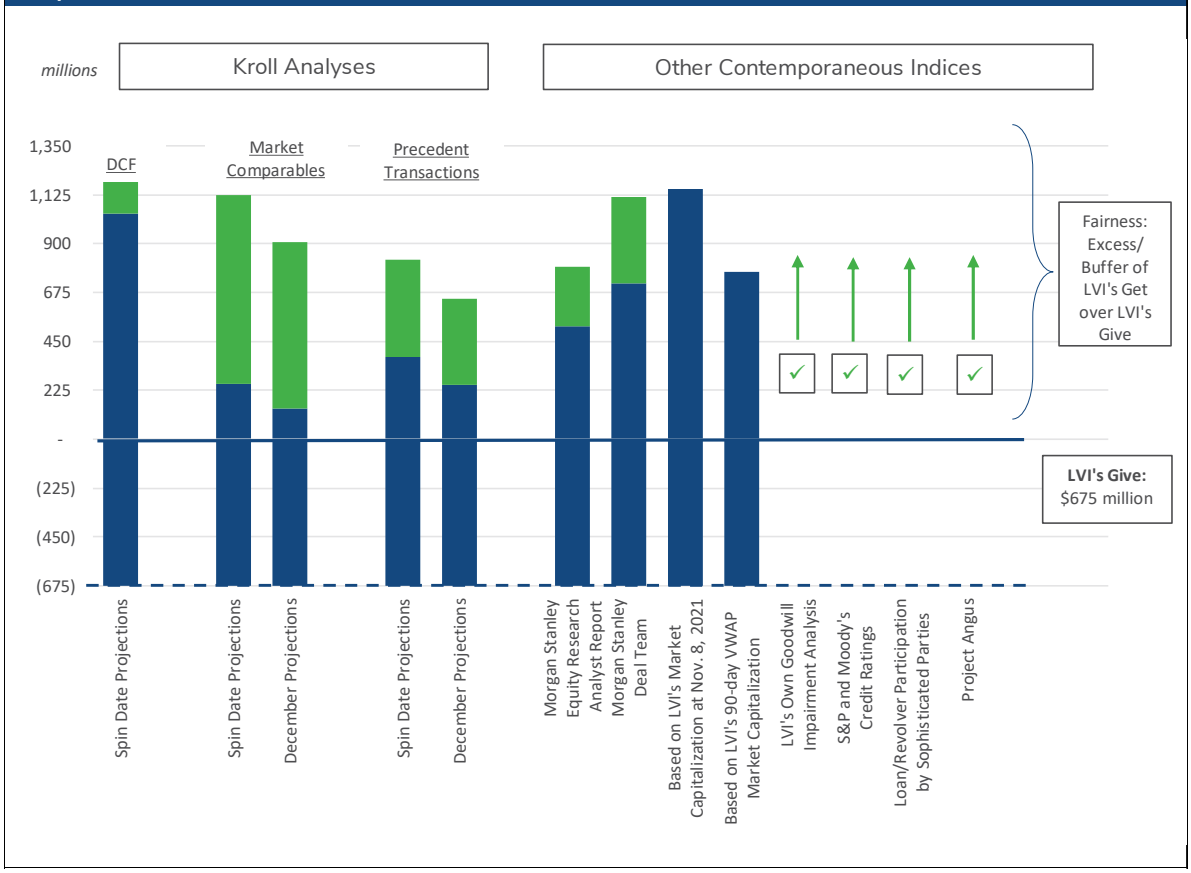
8.4 In summary, we concluded that, in our view:

- The Spin Transaction, including the arrangement under the TMA, was fair, from a financial point of view, to LVI, as at the Spin Date; and,
- The value of the consideration received by LVI was not less, let alone conspicuously less, than that given to ADS in exchange under the Spin Transaction.

8.5 For ease of reference, copied below is our earlier diagram that summarizes the results of our analyses (under "Kroll Analyses" in the diagram) and demonstrates that the amount of LVI's Get exceeded that of LVI's Give and that there was a meaningful Excess or Buffer. Again, this is seen by the aggregate of the various bars – each of which represents that dollar amount developed from our noted

analyses – being above the "zero" on the "y axis" even after the deduction of LVI's Give. Note that the green-coloured portions of the (otherwise blue) bars denote the higher end dollar amounts where dollar ranges were developed from our analyses.

Summary of Analyses of Fairness of the Spin Transaction as at the November 5, 2021 Spin Date from the LVI Perspective



8.6 Discussed immediately below are our various analyses and observations in this regard, including the Kroll Stress Tests.

Quantification of LVI's Get, Comparison to LVI's Give of $675 Million and Calculation of the Excess/Buffer

Approach (Revisited) and Spin Date Projections Used in the DCF and Market-based Analyses

8.7 As earlier noted under Approach in Section 6.0, and repeated here for ease of reference, to assess the fairness of the Spin Transaction, and specifically to quantify LVI's Get, we conducted the following analyses:

- Earnings Based Approach – specifically, a discounted cash flow analysis that we undertook using management's own projections in place at the time of the Spin Transaction (the Spin Date Projections as defined below). In a DCF approach, the future cash flows of a business are forecasted and then discounted to a capital sum at present value, along with a terminal value at the end of the projection period, using an appropriate discount rate; and,

- Market Approach – specifically, we undertook an analysis using management's own Spin Date Projections and applied valuation metrics derived from comparable (or somewhat comparable) publicly traded companies and precedent transactions as at or about the Spin Date.

8.8 As noted, both of the above approaches rely – albeit in different ways – on LVI's financial projections as at the Spin Date.

8.9 We observed that there were various sets of financial projections for the LVI businesses prepared before and after the Spin Date. We outline and discuss those various projections that we saw in Appendix I. Those projections cover different time periods and present forward-looking financial amounts in varying degrees of detail.

8.10 We identified projections prepared in or about August 2021 as the most appropriate for use in our DCF and market-based analyses and we refer to those as the "**Spin Date Projections**". These projections contained projected income statements, balance sheets and cash flow statements (by quarter) for LVI for the years ended 2021 to 2026 and projected income statements for both LoyaltyOne and BrandLoyalty (by quarter) for the years ended 2021 to 2026. Also, we understand that they remained as management's most current (and detailed) view of the outlook for the LVI businesses as at the Spin Date.

8.11 These projections were used by LVI management in conjunction with the Spin Transaction. As such we believe these Spin Date Projections to be appropriate for our purposes herein. More specifically:

- The Spin Date Projections were prepared by LVI's management prior to the Spin Date;

- We understand that the Spin Date Projections were the last robust or detailed financial projections prepared by LVI Management prior to the Spin Date;[62]

[62] On October 13, 2021, Jack Taffe sent this model to Bruno Scalzitti of LVI as the "latest Spinco model." October 13, 2021. Email "RE: Model Scenario" sent from Jack Taffe to Bruno Scalzitti and L1 Model_August 2021_Aug Fcst_v10_BofA_vNewStructure_v3.xlsx.

- As discussed in Appendix I, the same or similar figures from the Spin Date Projections were also seen in other more summarized projections or documents used by LVI's management and others in the fall of 2021 in conjunction with the Spin Transaction:

    - Specifically, the Spin Date Projections were used to prepare the October 13, 2021 presentation to ADS' board of directors.[63] At this meeting, ADS' board of directors approved the Spin Transaction.[64]

    - The Spin Date Projections were prepared with the advice and assistance of BofA Securities, Inc. ("**Bank of America**"),[65] the lead arranger of the Senior Credit Facilities[66] and were the basis for the prospective financial data that was provided to potential lenders when LVI was raising capital for its TLA, TLB and Revolver financing and to the rating agencies;[67]

- We understand that the Spin Date Projections were prepared with meaningful input from BrandLoyalty and LoyaltyOne's management and underwent detailed review, including an examination of the projections from a "bottom's up" perspective. Thus, we were comfortable with the outlook for that business as reflected in the Spin Date Projections;[68]

- Finally, the Spin Date Projections were prepared with sufficient detail, including for forward-looking time periods, to allow us to prepare a DCF analysis. The Spin Date Projections contained a projected income statement, balance sheet and cash flow statement from the third quarter of 2021 to 2026 for LVI. In addition, the Spin Date Projections contained projected income statements for each operating company (i.e., LoyaltyOne and BrandLoyalty).

8.12 In addition to the 2021 EBITDA from the Spin Date Projections, we applied valuation metrics from our Market Approach to the 2021 EBITDA projections prepared by Management in December 2021 (the "**December Projections**"). The December Projections were not applied to the Earnings Based Approach as they did not include projections of years beyond 2021 and as such would have had a

[63] October 13, 2021. ADS Project Legacy: Go/No Go Decision Board of Directors Meeting Slides.
[64] Motes Affidavit, paragraph 70.
[65] September 27, 2021. Email from Adam Quine of Bank of America to Jack Taffe RE: LV TLB Lender Presentation & Private Supplement (Adam providing an "updated" model to Jack Taffe in advance of the lender presentations).
[66] September 29, 2021. Bank of America engagement letter to LVI for up to $825 million senior secured credit facilities (Bank of America was engaged by LVI to serve as its lead arranger in connection with the Senior Credit Facilities and the SpinOff.)
[67] September 27, 2021. Email from Adam Quine of Bank of America to Jack Taffe RE: LV TLB Lender Presentation & Private Supplement (where the model is being circulated by Bank of America "for lenders").
[68] August 17, 2021. Emails between Claudia Mennen and Charles Horn Et al. RE: script, regarding BrandLoyalty's Q4 2021 projections mentioning BrandLoyalty Revenue forecasts of €90.4 million and €177 million for Q3 and Q4, respectively. These forecasts are reflected in the Spin Date Projections (L1 Model_August 2021_Aug Fcst_v10_BofA_vNewStructure_v3.xlsx) (see tab "BL (EUR)").

limited impact on our analysis. While the December Projections were formalized after the Spin Date and are therefore hindsight (which are generally inadmissible from a valuation perspective), we nonetheless considered them in our analysis as it is possible that they may have, to some degree, reflected a more informed outlook for elements of the business at the Spin Date.

Earnings Based Approach – DCF

8.13 To quantify the amount of LVI's Get, we prepared a discounted cash flow analysis.

8.14 Our first step in preparing a DCF was a projection of LVI's anticipated future after-tax free cash flows by year.

8.15 We started our analysis with the projected EBITDA as set out in the Spin Date Projections. We then calculated LVI's free cash flow as follows:

- Deducted cash income taxes at 27%;
- Deducted the capital expenditures per the Spin Date Projections which were required to sustain the forecasted growth of the business; and,
- Deducted the amount of incremental working capital required to be injected into the business to achieve the forecasted growth of the business according to the Spin Date Projections.

8.16 Next, we estimated LVI's cash flows in the terminal year of the projection period. The terminal year cash flow for purposes of a DCF analysis represents an estimate of the annual level of cash flows expected to be achieved on an ongoing or maintainable basis by LVI on an ongoing basis, in this case after 2026.

8.17 In arriving at the terminal year cash flows, we increased LVI's 2026 projected cash flows by LVI's long-term growth rate of 2% (refer to Schedule 2). In arriving at the long-term growth rate of LVI, we assumed LVI would continue to grow at the Canadian long term target inflation growth rate of 2%,[69] given that a majority of LVI's cash flows are generated from operations in Canada (through LoyaltyOne). We also had regard for the European long term target inflation growth rate of 2%.[70]

8.18 We then applied a discount rate to convert LVI's expected future cash flows (and the terminal value which is itself calculated by capitalizing the terminal year cash

[69] "Inflation" Bank of Canada accessed via https://www.bankofcanada.ca/core-functions/monetary-policy/inflation/#:~:text=and%20financial%20welfare.-,Measures%20of%20inflation,consumer%20price%20index%20(CPI) on February 8, 2024

[70] "Two per cent inflation target" European Central Bank accessed via https://www.ecb.europa.eu/mopo/strategy/pricestab/html/index.en.html on February 8, 2024

flows using a capitalization factor reflective of the discount rate and terminal growth rate) to a capital sum at present value as at the Spin Date.

8.19 A discount rate is a measure of the required rate of return for the subject business. The discount rate utilized in a discounted cash flow should reflect consideration of a number of factors including the time value of money, the "cost" of capital to be invested (i.e., debt and equity), and the risks of achieving the projected results of operations during the projection period and beyond. All else equal, more risk means a higher discount rate and a lower value today. As the cash flows being discounted reflect the earnings of the operations before deduction of interest and other debt servicing costs, the appropriate discount rate is the weighted average cost of capital ("**WACC**").

8.20 In estimating LVI's WACC, we considered the following:

- We prepared an analysis of LVI's WACC and estimated it at between 7.30% and 7.60%. Refer to Appendix E and Schedule 23 for details of our analysis; and,

- WACCs adopted by third parties in various LVI-related analysis, as follows:

Summary of WACCs Used in LVI Valuations

	Notes	Date	Low	High
EY Goodwill Analysis	[1]	Jul. 1, 2021	9.50%	11.00%
Morgan Stanley Equity Research		Feb. 25, 2022, Aug. 12, 2022	8.20%	10.30%

[1] EY conlcuded on a WACC for LoyaltyOne of 9.5% and a WACC for BrandLoyalty of 11%.

8.21 Based on an amalgam of the above, we selected a range of discount rates for LVI of 9.5% (low) to 10.5% (high) – both being higher than our estimate of LVI's WACC – for purposes of our analysis herein.

8.22 We then applied our estimate of LVI's discount rate to LVI's expected future cash flows (and the terminal value) as shown on Schedule 2.

8.23 We also considered the possibility of there being other (redundant) assets having been transferred to LVI beyond the LoyaltyOne and BrandLoyalty businesses, which would not otherwise be captured in the DCF analysis described above. However, absent further details in this regard we assumed that there were none.

To the extent that there actually were such additional assets that went to LVI then that would increase LVI's Get herein and further support a conclusion of fairness.[71]

8.24 Based on our DCF analysis, the value of LVI's Get (i.e., LoyaltyOne and BrandLoyalty) was in a range from $1.72 billion to $1.95 billion.

8.25 That DCF value therefore exceeded LVI's Give of $675 million (by a meaningful Excess or Buffer) and as one such measure, the DCF analysis indicated that the Spin Transaction was fair. Refer to Schedules 1 and 2 for further details.

8.26 The relevant dollar amounts are also reflected in the bars on the diagram above in paragraph 8.5.

Market Approach

8.27 In our market approach analysis, we applied the valuation multiples derived from comparable, or at least somewhat comparable, publicly traded companies and precedent transactions as at the Spin Date to the corresponding metrics for LVI from the Spin Date Projections and the December Projections.

Somewhat Comparable Companies Analysis

8.28 To identify somewhat comparable companies to LVI, we had regard to such companies identified by us and also by the following analysts whom we observed undertook similar contemporaneous analysis:

1. Equity analysts who covered LVI's equity listing, including Morgan Stanley, Needham, and Sidoti;

2. EY's ("**EY**") Debt Capital Markets Advisory group in its SpinCo Financing Discussion presentation dated August 2021;[72] and,

3. Morgan Stanley in their role as ADS' lead financial advisor in connection with the Spin Transaction.[73]

8.29 Generally, the somewhat comparable companies identified for LVI are advertising and marketing companies with an emphasis on digital marketing and data

[71] We have not identified any need for additional working capital (specifically, cash) to be injected into LVI as at the Spin Date. As discussed above, as part of the Spin Transaction, we understand that only the assets necessary for the ongoing operations of the BrandLoyalty and LoyaltyOne were transferred to LVI, and to the extent there was redundant cash in place at the time of the Spin Transaction, this cash was transferred to ADS as part of the $750 million Distribution. Furthermore, we observe that, as of December 31, 2021, LVI's actual cash balance of $168 million which is generally in the range of the amount of cash recommended by EY of $125 million (Motes Affidavit, Exhibit D). We also observe that the EY analyses and comments of other analysts suggested adequate working capital was in place.
[72] Motes Affidavit, Exhibit D.
[73] October 2021. Loyalty Ventures Inc. Illustrative Spin-Off Valuation Materials.

analytics in the United States and Europe (refer to Schedule 110 for a description of each somewhat comparable company included in our analysis).

8.30 We calculated the observed valuation multiples of LVI's somewhat comparable companies as of the Spin Date as follows (refer to Schedule 5 for further details):

LVI Market Approach: Somewhat Comparable Companies - Enterprise Value Multiples			
Company	EV / LTM EBITDA	EV / 2021E EBITDA	EV / 2022E EBITDA
Advantage Solutions Inc.	11.9x	9.2x	8.6x
Nielsen Holdings plc	11.5x	9.0x	8.6x
The Interpublic Group of Companies, Inc.	9.9x	9.9x	9.7x
Omnicom Group Inc.	7.8x	7.3x	7.3x
WPP plc	12.5x	8.7x	8.4x
Publicis Groupe S.A.	8.5x	7.7x	7.4x
Thryv Holdings, Inc.	5.0x	5.1x	6.4x
Harte Hanks, Inc.	7.5x	7.1x	5.8x
Low	5.0x	5.1x	5.8x
Average	**9.3x**	**8.0x**	**7.8x**
Median	**9.2x**	**8.2x**	**7.9x**
High	12.5x	9.9x	9.7x

8.31 We applied the high and low EV/2021E EBITDA multiples to the adjusted 2021E EBITDA from the Spin Date Projections as follows (refer to Schedule 3 for further details):

LVI Market Approach: Somewhat Comparable Companies - Spin Date Projections		
($USD, millions)	**Low**	**High**
Adjusted 2021E EBITDA	$ 182	$ 182
EBITDA Multiple	5.1x	9.9x
Implied LVI's 'Get'	**$ 931**	**$ 1,797**

8.32 Based on our market approach and using the Spin Date Projections, the value of LVI's Get (i.e., LoyaltyOne and BrandLoyalty) exceeded LVI's Give of $675 million (by a meaningful Excess or Buffer) and as one such measure, this analysis indicated that the Spin Transaction was fair. Refer to Schedule 1 and Schedule 3 for further details.

8.33 For completeness in our analysis, we also applied the above-discussed market valuation multiples to the EBITDA in the December Projections (prepared by LVI dated December 2021). The results of this analysis are summarized as follows (refer to Schedule 4 for further details):

LVI Market Approach: Somewhat Comparable Companies - December Projections		
($USD, millions)	**Low**	**High**
Adjusted 2021E EBITDA	$ 160	$ 160
EBITDA Multiple	5.1x	9.9x
Implied LVI's 'Get'	**$ 818**	**$ 1,580**

8.34 Based on our market approach – somewhat comparable companies – and even using the (lower) December Projections, the value of LVI's Get (i.e., LoyaltyOne and BrandLoyalty) exceeded LVI's Give of $675 million (by a meaningful Excess or Buffer) and as one such measure, this analysis indicated that the Spin Transaction was fair. Refer to Schedule 1 and Schedule 4 for further details.

8.35 The relevant dollar amounts are also reflected in the bars on the diagram above in this Section at paragraph 8.5.

Somewhat Comparable Precedent Transactions

8.36 To select somewhat comparable precedent transactions to the Spin Transaction to use in our analysis, we identified transactions that occurred within 5 years of the Spin Date in North America or Europe, where the target was in the marketing services or online services industry. We then reviewed the targets to identify companies somewhat comparable to LVI. We identified the following somewhat comparable precedent transactions and valuation metrics (refer to Schedule 8 for further details):

LVI Market Approach: Somewhat Comparable Precedent Transactions - Enterprise Value Multiples						
($USD, millions)						
Announcement Date	Target	Industry	Total Transaction Value	Implied EV	LTM EBITDA	EV / LTM EBITDA
6/25/2020	MDC Partners Inc.	Marketing Services	$ 251	$ 1,366	$ 215	6.3x
7/12/2019	The Kantar Group Limited	Online Services	3,332	4,000	485	8.3x
12/18/2017	IWCO Direct Holdings Inc.	Marketing Services	476	476	82	5.8x
Low			251	476	82	5.8x
Average			**1,353**	**1,947**	**261**	**6.8x**
Median			**476**	**1,366**	**215**	**6.3x**
High			3,332	4,000	485	8.3x

8.37 We applied the high and low EV/LTM EBITDA multiples to the Adjusted 2021E EBITDA from the Spin Date Projections as follows (refer to Schedule 6 for further details):

LVI Market Approach: Somewhat Comparable Precedent Transactions - Spin Date Projections		
($USD, millions)	Low	High
Adjusted 2021E EBITDA	$ 182	$ 182
EBITDA Multiple	5.8x	8.3x
Implied LVI's 'Get'	**$ 1,053**	**$ 1,502**

8.38 Based on our market approach and using the Spin Date Projections, the value of LVI's Get (i.e., LoyaltyOne and BrandLoyalty) exceeded LVI's Give of $675 million (by a meaningful Excess or Buffer) and as one such measure, this analysis indicated that the Spin Transaction was fair. Refer to Schedule 1 and Schedule 6 for further details.

8.39 For completeness in our analysis, we also (again) applied the above-discussed multiples to the (lower) adjusted EBITDA in the December Projections (prepared by LVI dated December 2021). The results of this analysis are summarized as follows (refer to Schedule 7 for further details):

LVI Market Approach: Somewhat Comparable Precedent Transactions - December Projections		
($USD, millions)	Low	High
Adjusted 2021E EBITDA	$ 160	$ 160
EBITDA Multiple	5.8x	8.3x
Implied LVI's 'Get'	**$ 926**	**$ 1,320**

8.40 Based on our market approach – somewhat comparable precedent transactions – and even using the (lower) adjusted 2021E EBITDA in the December Projections, the value of LVI's Get (i.e., LoyaltyOne and BrandLoyalty) exceeded LVI's Give of $675 million (by a meaningful Excess or Buffer) and as one such measure, this analysis indicated that the Spin Transaction was fair. Refer to Schedules 1 and Schedule 7 for further details.

8.41 Again, we observe that because of the difficulties in identifying truly comparable precedent transactions (i.e., the acquired businesses inevitably have different characteristics and outlooks than the subject business to which the inferred valuation metrics will be applied, the buyer's strategic considerations impact on price, and the timing of the transaction), and that only three such transactions (all from earlier points in time) were identified by us in this analysis, we view the results as less definitive than those derived from other approaches used by us herein. Nonetheless, they still provide a further point of reference for the quantification of LVI's Give and, as such we have included the resulting dollar amounts in the bars on the diagram above in this Section at paragraph 8.5.

Kroll Stress Tests on Above Indices of Fairness on Earnings Approach Analysis

8.42 To test the robustness of the above indices of fairness, we considered the extent to which the dollar amount of the Excess or Buffer of LVI's Get over LVI's Give, if any, could withstand potential future negative events and outcomes post-Spin Date, even if those potential future negative events and outcomes were not anticipated by LVI at the Spin Date or their likelihood of occurrence was low as at the Spin Date.

8.43 It is important to note that for ease of the calculations in these Kroll Stress Tests, our "starting point" was the low end of our DCF analysis which may understate the robustness conclusion. Had we started with the high end of our range then the Kroll Stress Test Notional EBITDA Reduction amount (as defined herein) would have been higher and the robustness of our indices of fairness correspondingly enhanced.

8.44 We then calculated the percentage decline in the projected adjusted EBITDA that would need to be suffered by LVI post-Spin Date to notionally eliminate the dollar amount of the Excess or Buffer of LVI's Give over LVI's Get. Or, said another way, we calculated the amount of the notional decline in projected adjusted EBITDA that would reduce the value of LVI's Get to equal LVI's Give of $675 million, being the Kroll Stress Test Notional EBITDA Reduction. As shown on Schedule 9, that percentage decline in LVI EBITDA is 49%.

8.45 Our calculations in this respect should in no way be misinterpreted as somehow implying that there was any expectation, as at the Spin Date, that such a decline would be suffered going forward.

8.46 Having calculated the amount of the Kroll Stress Test Notional EBITDA Reduction, we then conceptualized several mutually-exclusive Notional Negative Event Scenarios, being negative business events and outcomes which, were they to have been reflected in the Spin Date Projections, would have reduced EBITDA – some by the amount of the Kroll Stress Test Notional EBITDA Reduction, such that the Spin Transaction would then have been judged only just fair (and on the verge of unfair).

8.47 The mutually exclusive Notional Negative Event Scenarios are as follows:

1. Potential Sobeys Departure

   The Spin Date Projections included anticipated revenues from the Sobeys relationship. We understand that prior to the Spin Date, ADS was having ongoing discussions with Sobeys in respect of Sobeys' continued participation in the Air Miles program.[74]

   We generally understand that, as of the Spin Date, Sobeys had agreed to extend its termination option to no earlier than July 2022.[75]

   In June 2022, some 7 months after the Spin Date, Sobeys informed LoyaltyOne that it would be departing the Air Miles loyalty program starting in August 2022 and finishing by the first quarter of 2023.[76]

   We understand that Sobeys represented approximately 10% of LVI's adjusted EBITDA in 2021.[77]

   Accordingly, because the Sobeys 10% is less than the Kroll Stress Test Notional EBITDA Reduction percentage of 49%, even if LVI were to have lost Sobeys as a customer as early as the Spin Date, LVI's Get would still exceed LVI's Give such that our analyses would still indicate that the Spin Transaction was fair.[78]

2. Potential Loss of EBITDA due to Contract Renegotiations with LoyaltyOne's Customers

[74] First Day Declaration, paragraph 45.
[75] March 12, 2021. Amending agreement between LoyaltyOne and Sobeys Capital.
[76] First Day Declaration, paragraph 45 and LVI's Form 10-Q for the period ended September 30, 2022.
[77] August 11, 2021. Quarterly Report of Loyalty Ventures Inc. Form 10-Q for the fiscal quarter ended June 30, 2022.
[78] For ease of the calculation, we assumed this Sobeys lost revenue and EBITDA would have been suffered immediately following the Spin Date. While we understand that the financial impact of the Sobeys departure (announced in June 2022) would be felt over the next 3 years given the deferred revenue impact on LoyaltyOne (source: First Day Declaration, paragraph 48), for the purposes of the Kroll Stress Tests, we have assumed the impact of these events would be realized as of the Spin Date. Furthermore, for simplicity in our analysis herein, we assumed that that percentage would remain constant across the entire period of the Spin Date Projection and our DCF analysis.

We understand that other high value customers of LoyaltyOne (such as BMO and Shell Canada) were able to renegotiate their contracts with LoyaltyOne at lower economics to LVI.[79]

For example, LVI's CEO asserted that the contract renegotiation with BMO (LoyaltyOne's largest customer representing approximately 17% of LVI's revenue for 2021), which occurred in 2022, resulted in a decrease of approximately $40 million in pre-tax cash flow to LVI over a three-year period.[80]

While we recognize that certain customers' contract renegotiations were precipitated by Sobeys' departure from the Air Miles program, the impact of LVI's customers renegotiating their contracts in the normal course at lower margins could impact LVI's adjusted EBITDA separate and apart from the possibility of Sobeys departure.

We calculated that LoyaltyOne would have to experience a decline in adjusted EBITDA of 78% (for each year included in our DCF analysis) for LVI's Get amount to be reduced to $675 million such that it equals LVI's Give (i.e., the value of LoyaltyOne and BrandLoyalty) – see Schedule 11. To be clear, the 78% decline in adjusted EBITDA for LoyaltyOne is equivalent to the above discussed 49% decline in adjusted EBITDA for LVI. Any reduction in LoyaltyOne's adjusted EBITDA in excess of the 78% would therefore "tip the scales" of the calculation to a position of unfairness.

In the circumstances of BMO being the largest customer of LoyaltyOne and the impact of its renegotiation being felt over several years, we view the possibility of a potential decline in LoyaltyOne's adjusted EBITDA of 78% as low as at the Spin Date.

3. Potential Reduction/Loss of BrandLoyalty EBITDA

We observe that, post-Spin Date, BrandLoyalty did not generate meaningful adjusted EBITDA due to a variety of factors, as discussed in further detail below. BrandLoyalty represented between 31% and 46% of LVI's projected adjusted EBITDA per annum from 2022 to 2026 (i.e., excluding the 2021 Stub Period) in the Spin Date Projections.

As discussed above, because BrandLoyalty's EBITDA was between 31% and 46% of LVI's EBITDA, when notionally reduced to zero for the purposes of the Kroll Stress Test, the impact of such a reduction is less than the Kroll Stress Test Notional EBITDA Reduction percentage of 49%.

[79] First Day Declaration, paragraphs 46 to 47.
[80] Motes Affidavit, Exhibit H and the First Day Declaration, paragraph 48.

Thus, even if LVI were to have lost all BrandLoyalty EBITDA as early as the Spin Date, LVI's Get would still exceed LVI's Give and our analyses would still indicate that the Spin Transaction was fair.[81]

We view the possibility of a potential loss of BrandLoyalty's adjusted EBITDA as low as at the Spin Date, particularly in circumstances where, as noted earlier, we observed particular consideration of the inputs and bases for the BrandLoyalty component of the Spin Date Projections (and in view of the Intervening Events relating to BrandLoyalty – discussed below – that actually impacted its business post Spin Date).

8.48 While the Notional Negative Event Scenarios described above were considered in isolation, they could also be considered in combination. However, we believe that the likelihood, as at the Spin Date, of those Notional Negative Event Scenarios occurring in combination to be lower than the low likelihood of each occurring alone.

8.49 We have summarized our above-discussed analyses in the table below (refer to Schedule 9, Schedule, 10, Schedule 11, and Schedule 12 for further details):

LVI DCF Approach: Combinations of Kroll Stress Test Notional EBITDA Reductions

LVI EBITDA % reduction that would notionally eliminate all Excess/Buffer: -49%

The following combinations could give rise to the above:

	Combined Probability Percentage		
(i) No loss of Sobeys plus:			
- A 78% loss of LoyaltyOne EBITDA due to contract renegotiations:	100%	→	-8%
- A 100% loss of BrandLoyalty EBITDA:	0%	←	100%
(ii) 100% loss of Sobeys plus:			
- A 78% loss of LoyaltyOne EBITDA due to contract renegotiations:	86%	→	0%
- A 100% loss of BrandLoyalty EBITDA:	0%	←	95%

[81] For ease of the calculation, we assumed this Sobeys loss would have been suffered immediately following the Spin Date. While we understand that the financial impact of the Sobeys departure (announced in June 2022) would be felt over the next 3 years given the deferred revenue impact on LoyaltyOne (source: First Day Declaration, paragraph 48), for the purposes of the Kroll Stress Tests, we have assumed the impact of these events would be realized as of the Spin Date. Furthermore, for simplicity in our analysis herein, we assumed that that percentage would remain constant across the entire period of the Spin Date Projection and our DCF analysis.

8.50 As one example, LVI's Get would still equal LVI's Give, such that the Spin Transaction would still be considered fair, if there was all of the following:

1. A 100% likelihood that Sobeys departed the Air Miles Program as early as the Spin Date; and,

2. A 45% reduction in LoyaltyOne's EBITDA as a result of customer contract renegotiations; and,

3. A 30% probability that BrandLoyalty's EBITDA would disappear completely.

8.51 In our view, as demonstrated by the all of the above analyses, there was sufficient Excess or Buffer of LVI's Get over LVI's Give, whereby LVI could absorb the financial effects (e.g., lower future profitability and cash flows) of potential future negative events and outcomes post-Spin Date. In any event, those potential future negative events and outcomes were not anticipated by LVI at the Spin Date and/or their likelihood of occurrence was low as at the Spin Date.

8.52 In light of the above, in our view, our Kroll Stress Tests analyses confirm the robustness of our fairness indices.

Other Contemporaneous Indices Supportive of the Fairness of the Spin Transaction

8.53 We observed a number of contemporaneous indices at and about the Spin Date which are corroborative of our conclusions in respect of the fairness of the Spin Transaction as follows:

1. Morgan Stanley Deal Team[82] analysis in respect of the Spin Transaction:

   - In analysis provided to ADS dated October 2021, the Morgan Stanley Deal Team estimated the enterprise (or pre-debt) value of LVI at between $1,393 million and $1,791 million[83];

   - Morgan Stanley's contemporaneous deal team financial analysis implied that the value of LVI's Get exceeded the value of LVI's Give ($675 million). This supports our conclusions in respect of the fairness of the Spin Transaction.

[82] "Deal team" refers to the group from Morgan Stanley which were retained as ADS' lead financial advisor in connection with the Spin Transaction (April 15, 2021. Letter from Morgan Stanley to Charles Horn confirming Morgan Stanley's engagement as lead financial advisor). To be clear, the Deal Team is separate and distinct from the equity analyst/research group also discussed herein.
[83] October 2021. Loyalty Ventures Inc. Illustrative Spin-Off Valuation Materials.

2. Morgan Stanley's equity analyst analysis in respect of LVI:

    - On November 1, 2021 (prior to the Spin Date), Morgan Stanley's equity research group published a report (as part of its ongoing coverage of ADS) assessing the impact of the Spin Transaction on ADS;[84]

    - In its analyst report, Morgan Stanley's estimated a base case enterprise (or pre-debt) value for LVI of $1,193 million to $1,468 million, applying EV/2022E EBITDA of 6.5x to 8.0x;[85]

    - Morgan Stanley's equity research group contemporaneous conclusions imply that, as of November 1, 2021 (i.e., 5 days before the Spin Date), the value of LVI's Get exceeded the value of LVI's Give ($675 million). This is further supportive of our conclusions in respect of the fairness of the Spin Transaction.

3. LVI's public market trading prices (and market capitalization) proximate to the Spin Date:

    - As discussed above, LVI began public trading on the NASDAQ on November 8, 2021[86],[87] with a market capitalization of $1.15 billion. LVI's 30- and 90-day volume weighted average price ("**VWAP**") imply a market capitalization for LVI of $818 million and $771 million, respectively. Market capitalization refers to the value of the equity in the business, net of its debt. Accordingly, the market capitalization of LVI implies that market participants perceived that LVI's Get must have exceeded LVI's Give;

    - Correspondingly, using LVI's actual net debt of $486 million as at December 31, 2021, LVI's market capitalization translates to an enterprise (or pre-debt) value of between $1,257 and $1,640 million,

[84] November 1, 2021. "What is Loyalty Ventures Worth? Spin Should Act as a Catalyst to ADS" Morgan Stanley Research
[85] November 1, 2021. "What is Loyalty Ventures Worth? Spin Should Act as a Catalyst to ADS" Morgan Stanley Research.
[86] Per Capital IQ, we understand that there is trading data in respect of LVI beginning on November 2, 2021; however, we understand that LVI commenced public trading on November 8, 2021.
[87] While we understand that trading data from November 8, 2021 to February 8, 2022 (the last date considered in our 90-day VWAP analysis) is technically hindsight information, because it is from after the Spin Date, we have nonetheless considered it in our analysis herein as it is directionally confirmatory of the observed significant market cap observed on the first day of trading.

both of which are in excess of LVI's Give of $675 million, as demonstrated in the table below;

Summary of LVI's Market Capitalization within 90 Days of Issuance [1]

($USD, millions, unless otherwise noted)

	VWAP Share Price	Market Capitalization	Net Debt [2]	Implied Enterprise Value
		$	$	$
		A	B	C = A + B
Day 1 (Nov. 8, 2021)	$ 46.95	1,154	486	1,640
30-Day VWAP	$ 33.29	818	486	1,304
90-Day VWAP	$ 31.35	771	486	1,257

[1] Source: Capital IQ.
[2] As at December 31, 2021 for the purposes of our calculations above. Calculated as short term and long term debt, less cash.

- In our view, LVI's trading price and market capitalization, at November 8, 2021, and the 30-day and 90-day VWAP thereafter are corroborative of our fairness conclusion in respect of the Spin Transaction.

4. Goodwill impairment analysis in respect of LoyaltyOne and BrandLoyalty at July 1 and December 31, 2021:

   - July 1, 2021 (i.e., Pre-Spin Date) Impairment Testing:

     - As part of ADS' financial reporting process, ADS engaged EY to prepare a fair value analysis of LoyaltyOne (excluding BrandLoyalty, representing the Air Miles business) and the BrandLoyalty businesses (termed "Reporting Units" for the purposes of goodwill impairment testing) as at July 1, 2021;[88]

[88] We observe that EY finalized its valuation report on February 7, 2022. We have considered the EY valuation as of July 1, 2021 in our analysis as the information contained therein was known or knowable as of the Spin Date. See February 7, 2022. E&Y ASC 350 Valuation Analysis of Alliance Data Systems Corporation.

- EY concluded on the fair value of the total invested capital ("**TIC**") of both LoyaltyOne and BrandLoyalty. TIC can be thought of as the enterprise (or pre-debt) values of these businesses.[89] The results of EY's analysis is summarized as follows:[90]

Summary of EY's Valuation Conclusions as at July 1, 2021

($USD, millions)

	Low	High	Carrying Value
	$	$	$
LoyaltyOne	1,340	1,429	462
BrandLoyalty	850	854	789
Total	2,190	2,283	1,251

- As can be seen above, as at July 1, 2021, EY valued LVI at between $2.2 billion and $2.3 billion, well in excess of LVI's Give of $675 million;

- Given that EY performed an independent valuation and arrived at these indicated value amounts, and that it was within 5 months of the Spin Date, we view their conclusions as further supportive our conclusions in respect of the fairness of the Spin Transaction.

- December 31, 2021 (i.e., Post-Spin Date) Impairment Testing:

  - We understand that, given the ongoing impact of the COVID-19 pandemic, LVI performed an interim goodwill impairment test as of December 31, 2021 in respect of BrandLoyalty;

  - From this analysis, LVI recognized a $50 million impairment charge in respect of BrandLoyalty as the fair value of BrandLoyalty was less than its carrying value for financial statement purposes. We observe that no goodwill adjustment was made in respect of LoyaltyOne thus indicating that the then view of the value of LoyaltyOne was unchanged (i.e., its

[89] TIC is defined by EY as "shareholders' equity plus interest bearing debt", February 7, 2022. E&Y ASC 350 Valuation Analysis of Alliance Data Systems Corporation, page 5.
[90] February 7, 2022. E&Y ASC 350 Valuation Analysis of Alliance Data Systems Corporation, page 5. Carrying value is equivalent to book value.

value had not declined below its carrying value on LVI's balance sheet);[91]

- Assuming the carrying values of LoyaltyOne and BrandLoyalty had not changed since July 1, 2021, even taking into account the $50 million impairment charge, this would imply that the fair value of LVI as of December 31, 2021 was not less than $1,201 million.[92] This again is well in excess of LVI's Give of $675 million.

5. S&P and Moody's Initial Credit Ratings:

- On September 28, 2021, both Moody's and S&P initiated coverage on LVI and LVI's TLB debt. Moody's initially issued a B1 corporate family rating for LVI and LVI's TLA, TLB and Revolver debt was rated B1/SGL-1. S&P initially issued LVI a B+ rating and LVI's TLB debt was rated BB-/2. Moody's and S&P maintained these ratings until after the Spin Date (June 30, 2022 and August 22, 2022, respectively);[93]

- The definition of a B1/SGL-1 corporate family rating/speculative grade liquidity rating by Moody's is as follows:

  "Obligations rated B are considered speculative and are subject to high credit risk".

  "Moody's appends numerical modifiers 1, 2 and 3 to each generic rating classification…the modifier 1 indicates that the obligation ranks in the higher end of its generic rating category"

  "**Issuers rated SGL-1 possess very good liquidity. They are most likely to have the capacity to meet their obligations over the coming 12 months** through internal resources without relying on external sources of committed financing." [94] (emphasis added by Kroll);

- The definition of a BB- issue-level rating, B+ issuer credit rating and a "2" recovery rating by S&P is as follows:

  BB Issue Credit Rating: "An obligation rated **'BB' is less vulnerable to nonpayment than other speculative issues**. However, it faces major ongoing uncertainties

[91] Motes Affidavit, Exhibit H.
[92] The carrying value of LoyaltyOne + BrandLoyalty of $1,251 million less the $50 million BrandLoyalty impairment charge.
[93] Motes Affidavit, Exhibit N and Motes Affidavit, Exhibit O.
[94] November 9, 2023. "Rating Symbols and Definitions" Moody's Investors Service.

> or exposure to adverse business, financial or economic conditions that could lead to the obligator's inadequate capacity to meet its financial commitments on the obligation." (emphasis added by Kroll)
>
> B Issuer Credit Rating: "An obligator rated 'B' is more vulnerable than the obligators rated 'BB', but **the obligor currently has the capacity to meet its financial commitments**. Adverse business, financial, or economic conditions will likely impair the obligor's capacity or willingness to meet its financial commitments." (emphasis added by Kroll)
>
> "Ratings…may be modified by the addition of a plus (+) or minus (-) sign to show relative standing within the rating categories."
>
> 2 Recovery Rating: "A recovery rating of '2' denotes an expectation of substantial (i.e., 70%-90%) recovery in the event of default";[95]

- We observe that the ratings provided by both S&P and Moody's apply in respect of an issuer with the capacity to meet its financial obligations;

- We note that Moody's provided these ratings with the understanding that LVI would use the proceeds from the debt issuances to pay a $750 million dividend to ADS. Said another way, Moody's understood and reflected in their analysis that LVI would not retain the proceeds from the debt issuance but would be left with the debt obligation;

- We observe that S&P commented that "we expect the company will generate positive free operating cash flows and maintain adequate liquidity", specifically that "we believe Loyalty Ventures [LVI] has adequate liquidity for the next 12 months". In addition, S&P had a "stable outlook" for LVI;[96]

- Additionally, we observe that Moody's commented that "the outlook is stable" and that "Loyalty Ventures' rating reflects its good credit metrics, and our expectation that it will generate positive free cash flow over the next 12-18 months which supports its very good liquidity";[97]

[95] June 9, 2023. "S&P Global Ratings Definitions" S&P Global.
[96] Motes Affidavit, Exhibit N.
[97] Motes Affidavit, Exhibit O.

- In our view, the credit ratings provided by S&P and Moody's prior to the Spin Date are corroborative of our conclusions in respect of the fairness of the Spin Transaction.

6. LVI's Loans were Fully Funded (and Over Committed) by Sophisticated Lenders:

   - We understand that the following investors participated in LVI's TLA, Revolver, and TLB capital raise:

Summary of Term Loan A and Revolver Participation

($USD, millions)

Institution	Revolver	Term Loan A	Total
	$	$	$
Bank of America, N.A.	5.000	20.000	25
Citizens Bank, N.A.	6.250	18.750	25
City National Bank	12.500	12.500	25
Deutsche Bank AG, Filiale Amsterdam	25.000	-	25
Fifth Third Bank, National Association	12.500	12.500	25
JPMorgan Chase Bank, N.A.	12.500	12.500	25
Mizuho Bank, Ltd.	12.500	12.500	25
Morgan Stanley Bank, N.A.	20.000	5.000	25
MUFG Bank, Ltd.	12.500	12.500	25
Regions Bank	6.250	18.750	25
Texas Capital Bank	-	25.000	25
Truist Bank	12.500	12.500	25
Wells Fargo Bank, National Association	12.500	12.500	25
Total	150	175	325

Source: Motes Affidavit, Exhibit L.

Summary of Term Loan B Commitments and Draws

($USD, millions)

Institution	Committed $	Drawn $
T. Rowe Price Associates Inc.	63.40	42.50
GSO/Blackstone Debt Funds Management LLC	64.00	40.00
Redwood Capital Management, LLC	50.00	40.00
Barings LLC	50.00	37.50
Carlylye - US	50.00	37.50
Post Advisory Group LLC	50.00	35.00
AllianceBernstein L.P.	41.00	32.50
Angelo Gordon	35.00	20.00
Ares Management LLC	35.00	20.00
GSAM (Goldman Sachs Asset Mgmt)	25.00	20.00
Sound Point Capital Management LP	25.00	20.00
Artisan Partners	30.00	17.00
Elmwood Assets Management LLC	35.00	14.00
Napier Park Global Capital LP	35.00	14.00
Fidelity	30.00	13.50
Marathon Asset Management	20.00	12.50
HPS Investment Partners LLC	25.00	12.00
Gulfstream	25.00	10.00
CQS Investment Management	15.00	8.50
Columbia Management	12.50	7.50
Diameter Capital Partners LP	12.00	6.00
Columbia Management HY	10.82	5.00
Loomis Sayles	8.50	4.50
Assured Investment Management fka Blue Mountain	10.00	4.00
Citadel LLC	15.00	4.00
Abry Partners	12.00	3.00
Delaware Investments	5.00	3.00
HalseyPoint Asset Management	15.00	3.00
Pioneer Investment Management/Amundi Pioneer	6.00	3.00
Bank of America Corporation	3.00	2.00
Nassau Reinsurance Group	8.00	2.00
Trimaran Advisors LLC	6.00	2.00
H.I.G. Whitehorse Capital LLC	2.00	1.00
Orix	7.00	1.00
Saratoga Investment Corporation	3.00	1.00
Truist Financial Corporation	10.00	1.00
Hillmark Capital	2.00	0.50
Total	851.22	500.00

Source: Motes Affidavit, Exhibit M.

- We observe the following:
    - Participants in LVI's loan issuances included sophisticated investors with extensive lending experience, including Bank of America, Deutsche Bank, JPMorgan Chase, Morgan Stanley, Wells Fargo, Goldman Sachs and Fidelity;
    - LVI's TLB was overcommitted by $351 million, meaning that when LVI went to market to raise $500 million of TLB debt, it was actually able to secure even more – some $851 million in commitments to lend them funds. This is an indicator of the market's overall interest in LVI and such a willingness to lend is indicative of their collective belief in a positive outlook for the LVI businesses; and,
    - The participants in LVI's loan issuances were likely to have performed some degree of due diligence prior to investing, such as reviewing the materials provided by LVI's syndicator (Bank of America) and asked questions to LVI management, as described in Section 5 above.
- In our view, LVI's experience issuing debt in the market prior to the Spin Date – with sophisticated lending parties – is corroborative of our fairness conclusions in respect of the Spin Transaction.

7. Bids Received During Project Angus:
    - As discussed above, in 2020 ADS undertook a sale process for the Air Miles business. We observed the following multiples were provided in the second (and final) round of bidding:[98]

Bidder	**Enterprise Value** *($ millions)*	**Enterprise Value / 2020 E Adjusted EBITDA Multiple**[99]
Bidder #2	$785	5.85x
Bidder #3	$560	4.2x

[98] December 17, 2020. Bidder #3 Project Angus Round 2 Bid; and December 17, 2020. Bidder #2 Project Angus Round 2 Bid.
[99] Assumes a 2020E adjusted EBITDA of $134 million.

- We understand that ADS opted to move forward with pursuing Bidder #2's bid. Morgan Stanley described Bidder #3's bid as "completely underwhelming".[100]

- In addition, we understand that an additional party, Bidder #7, also submitted an all-cash bid at an enterprise value of 6.0x – 7.0x 2020 EBITDA;[101]

- These EBITDA multiples were provided in respect of the Air Miles business itself by sophisticated investors. Furthermore, we note that these bids were submitted in December 2020 (Bidder #2 and #3) and January 2021 (Bidder #7) – within 1 year of the Spin Date. In our view the EBITDA multiples embedded in the Project Angus bid are a corroborative indicator of the value of the Air Miles business as of the Spin Date;

- Applying the range of multiples LVI was willing to accept (5.85x to 7.0x)[102] to Air Miles' Spin Date 2021 projected EBITDA implies an enterprise value in respect of the Air Miles business of $874.2 million to $1,046.1 million;[103] and,

- Even if no value was ascribed to BrandLoyalty, these multiples would imply that the Spin Transaction was fair, as the resulting value of Air Miles (and therefore, LVI) would exceed the value of LVI's Give of $675 million. The Project Angus bid process is supportive of our conclusions in respect of the fairness of the Spin Transaction.

Fairness Analysis Revisited: Notionally Using $813 Million for LVI's Give

8.54 As discussed above in Section 2.0, at your request we also replicated our fairness analysis notionally using the (rounded) amount of $813 million for LVI's Give (i.e., instead of the $675 million) while leaving LVI's Get unchanged. The use of this higher amount for LVI's Give correspondingly reduces the amount of the Excess or Buffer dollar-for-dollar but does not change our fairness conclusion herein.

8.55 For the reasons given in paragraph 2.10 above we believe that the lower amount of $675 million is the most appropriate amount to use for LVI's Give in our fairness analysis. Nonetheless, in Appendix K we have replicated the above chart that

[100] December 18, 2020. Email from Brad Whitman (Morgan Stanley) to Charles Horn, Jeffrey Tusa RE Angus/MS Notes on Current Status and Motes Affidavit, paragraph 27.
[101] January 13, 2021. Bidder #7 Project Angus Proposal Letter.
[102] Excluding Bidder #3's bid, because as discussed above, ADS was not willing to continue negotiations with this offer.
[103] Calculated as $149 million x 5.85 = $874.2 million and $149 million x 7.0 = $1,046.1 million. $149 million calculated as LoyaltyOne's projected 2021 EBITDA ($112 million + $37 million). Refer to Schedule 101 for a summary of the Spin Date Projections in respect of LoyaltyOne.

summarizes our fairness analysis but have done so notionally using the (rounded) amount of $813 million for LVI's Give.

8.56 As can be seen from the chart in Appendix K, even considering the notional higher amount of LVI's Give, we still conclude that the Spin Transaction, including the arrangement under the Tax Matters Agreement, was fair, from a financial point of view, to LVI as at the Spin Date. Furthermore, the value of the consideration received by LVI was not less, let alone conspicuously less, than that given to ADS in exchange under the Spin Transaction.

9.0 PART B – SOLVENCY, LIQUIDITY SHORTAGE AND INTERVENING EVENTS: Question #3 – Solvency of LVI and LoyaltyOne at Spin Date

9.1 To assess LVI's solvency at the Spin Date, we first had regard for our fairness analysis and conclusion in respect of the Spin Transaction described in Part A above. Because our fairness analysis directly addresses LVI having positive equity value on the date of the Spin Transaction, it is correspondingly supportive of solvency as well.

9.2 In addition, we undertook the two-pronged analysis that is typically considered in addressing insolvency issues in a Canadian context, being the Projected Cash Flow Test and the Net Realizable Value Test, as described below.

Solvency of LVI at Spin Date

LVI: Projected Cash Flow Test

9.3 In our assessment of the Projected Cash Flow Test, we again used the Spin Date Projections, which included a projection of LVI's future cash inflows and outflows through to the end of 2026.

9.4 Our analysis indicated that LVI was projected to generate sufficient cash flows from operating activities to cover its financial obligations, as follows (refer to Schedule 13 for further details):

LVI Projected Cash Flow Test

($USD, millions)	Nov 5-Dec 31 2021	2022	2023	2024	2025	2026
Net Cash From:						
Operating Activities	$ 70	$ 187	$ 154	$ 156	$ 175	$ 190
Investing Activities	(47)	(95)	(51)	(48)	(48)	(43)
Financing Activities	-	(51)	(51)	(51)	(51)	(51)
Change in Cash	24	41	53	58	77	96
Cash (Beginning) [1]	89	113	154	207	265	342
Cash (Ending)	**$ 113**	**$ 154**	**$ 207**	**$ 265**	**$ 342**	**$ 437**

[1] Per Schedule 13 LVI had estimated starting cash of $89 million on November 5, 2021.

9.5 We also observe (as shown above) that LVI was projected to have a cash balance of $113 million by the end of 2021, which was projected to grow to $437 million by the end of 2026.

9.6 Based on our analysis above, at the Spin Date, LVI passed the Projected Cash Flow Test. Refer to Schedule 13 for further details.

LVI: Net Realizable Value Test

9.7 Based on the analysis of LVI performed in respect of the fairness of the Spin Transaction, we observe that the Realizable Value of LVI's assets - in essence the aggregate value of its two constituent businesses, being LoyaltyOne and BrandLoyalty as addressed earlier - exceeded its financial obligations, as follows (refer to Schedule 1 for further details):

Kroll LVI Net Realizable Value Test

($USD, millions) Kroll Approaches:	Range of Indicated Net Realizable Value			Financial Obligations	Net Realizable Value Test
Discounted Cash Flow	$ 1,716	to	$ 1,946	$ 675	**Pass**
Market Approach					
Comparables					
Spin Date Projections	931	to	1,797	675	**Pass**
December Projections	818	to	1,580	675	**Pass**
Precedent Transactions					
Spin Date Projections	1,053	to	1,502	675	**Pass**
December Projections	926	to	1,320	675	**Pass**

9.8 Based on the above, at the Spin Date, LVI passed the Net Realizable Value Test.

Conclusion – LVI's Solvency at the Spin Date

9.9 Based on our analysis above, LVI was solvent at the Spin Date.

9.10 In our view there was not a reasonably foreseeable expectation of a liquidity shortage that would deprive LVI of the ability to pay its debts as they generally became due.

Solvency of LoyaltyOne at Spin Date

9.11 While there are parallels between our earlier fairness analysis and the solvency analysis for LoyaltyOne, because that earlier fairness analysis addressed LVI as a whole we also undertook the following analyses focused only on LoyaltyOne.

LoyaltyOne: Projected Cash Flow Test

9.12 In our assessment of the Projected Cash Flow Test, we again used the Spin Date Projections, which included a projection of, amongst other things, LoyaltyOne's earnings and capital expenditures from 2021 to 2026. Based on these projections, we prepared LoyaltyOne's resulting projected cash flows, as follows (refer to Schedule 14 for further details):

LoyaltyOne Projected Cash Flow Test

($USD, millions)	Nov 5-Dec 31 2021	2022	2023	2024	2025	2026
Net Cash From:						
Operating Activities	$ 46	$ 151	$ 108	$ 104	$ 108	$ 114
Investing Activities	(45)	(87)	(42)	(37)	(38)	(33)
Financing Activities	-	(51)	(51)	(51)	(51)	(51)
Change in Cash	1	14	15	16	20	30
Cash (Beginning) [1]	66	67	81	97	113	133
Cash (Ending)	**$ 67**	**$ 81**	**$ 97**	**$ 113**	**$ 133**	**$ 163**

[1] Per Sch. 14 LoyaltyOne had estimated starting cash of $66 million on November 5, 2021.

9.13 As shown above, we included the financing cash flows associated with the TLA and TLB debt in our analysis of LoyaltyOne's solvency. Although LoyaltyOne only held the guarantee on the TLA and TLB debt (and the debt itself resides in LVI), and it would be more appropriate to allocate the debt between the LoyaltyOne and BrandLoyalty entities, for simplicity we notionally treated the entirety of the TLA and TLB debt and corresponding debt servicing cash outflows as residing in LoyaltyOne for purposes of analyzing its solvency at the Spin Date. To be clear, this treatment results in our analysis presenting a lesser likelihood of solvency than would be the case if we did not treat the entirety of the debt in this fashion.

9.14 From our analysis described above, we note that LoyaltyOne was projected to generate sufficient cash flows from operating activities to cover its financial obligations. Although the cash flows in certain years might be negative (such as 2023 and 2024), we note that LoyaltyOne was nonetheless projected to have sufficient cash on hand (given its starting cash balance and cash generated from previous years' operations) to meet its financial obligations.

9.15 Furthermore, we also observe (as shown above) that LoyaltyOne was projected to have a cash balance $67 million by the end of 2021, which was projected to grow to $163 million by the end of 2026. With that projection as a backdrop, there would be no reason to expect anything other than an ongoing positive outlook post 2026.

9.16 Based on our analysis above, at the Spin Date, LoyaltyOne passed the Projected Cash Flow Test.

LoyaltyOne: Net Realizable Value Test

9.17 To perform the Net Realizable Value Test, we first had to estimate the Realizable Value of LoyaltyOne.

9.18 To estimate the Realizable Value of LoyaltyOne, we employed both an Earnings Based Approach and Market Approach in our analysis of the Realizable Value of LoyaltyOne.

9.19 We then deducted LoyaltyOne's financial obligations from its Realizable Value to estimate the Net Realizable Value of LoyaltyOne as of the Spin Date.

Earnings Based Approach

9.20 We started our analysis with the projected adjusted EBITDA as set out in the Spin Date Projections. We then calculated LoyaltyOne's free cash flow as follows:

- Deducted cash income taxes at 27%;
- Deducted the capital expenditures per the Spin Date Projections which were required to sustain the forecasted growth of the business; and,
- Deducted the amount of incremental working capital required to be injected into the business to achieve the forecasted growth of the business according to the Spin Date Projections.

9.21 Next, we estimated LoyaltyOne's cash flows in the terminal year of the projection period, in this case being after 2026.

9.22 In arriving at the terminal year cash flows, we increased LoyaltyOne's 2026 projected cash flows by LoyaltyOne's long-term growth rate of 2% (refer to Schedule 15). In arriving at the long-term growth rate of LoyaltyOne, we assumed LoyaltyOne would continue to grow at the Canadian long term target inflation growth rate of 2%,[104] given that LoyaltyOne's cash flows are generated from operations in Canada.

9.23 We then applied a discount rate to convert LoyaltyOne's expected future cash flows (and the terminal value which is itself calculated by capitalizing the terminal year cash flows using a capitalization factor reflective of the discount rate and

[104] "Inflation" Bank of Canada accessed via https://www.bankofcanada.ca/core-functions/monetary-policy/inflation/#:~:text=and%20financial%20welfare.-,Measures%20of%20inflation,consumer%20price%20index%20(CPI) on February 8, 2024

terminal growth rate) to a capital sum at present value as at the Spin Date. See the earlier discussion above in this report for more details concerning discount rate and WACC.

9.24 In estimating LoyaltyOne's WACC, our starting point was our selected WACC range for LVI of 9.5% (low) to 10.5% (high).

9.25 In our view, the LoyaltyOne business is less risky than LVI overall given that LoyaltyOne was an established business in Canada and had a consistent history of generating positive cash flows (refer to Appendix E and Schedule 104).

9.26 We further observe that directionally, EY concluded that the WACC of BrandLoyalty (11.0%) was greater than LoyaltyOne's WACC (9.5%) in its July 1, 2021 goodwill impairment analysis.[105]

9.27 With consideration to all of the above, we selected a WACC of 8.5% (low) to 9.5% (high) for purposes of our analysis herein.

9.28 We then applied our estimate of LoyaltyOne's discount rate to LoyaltyOne's expected future cash flows (and the terminal value) as shown on Schedule 15.

9.29 Based on the analysis performed above, we estimated the Realizable Value of LoyaltyOne to be between $1.21 billion and $1.39 billion.

Market Approach

9.30 In addition to the above, we estimated LoyaltyOne's Realizable Value using the Market Approach, taking into account both somewhat comparable companies analysis and somewhat comparable precedent transactions.

Somewhat Comparable Public Company Analysis

9.31 In conducting our analysis, we used the market valuation multiples from somewhat comparable public companies as identified at paragraph 8.31 above. In our view, the companies identified in our analysis above are somewhat comparable to LoyaltyOne. This is largely because LoyaltyOne represented between 71% and 84% of LVI's annual EBITDA from 2018 to 2020.

[105] February 7, 2022. E&Y ASC 350 Valuation Analysis of Alliance Data Systems Corporation.

9.32 We applied the high and low EV/2021E EBITDA multiples to LoyaltyOne's 2021 EBITDA from the Spin Date Projections to estimate LoyaltyOne's Realizable Value at Spin Date, as follows (refer to Schedule 16 for further details):

LoyaltyOne Market Approach: Somewhat Comparable Companies - Spin Date Projections		
($USD, millions)	**Low**	**High**
Adjusted 2021E EBITDA	$ 149	$ 149
EBITDA Multiple	5.1x	9.9x
Implied Net Realizable Value	**$ 762**	**$ 1,471**

Somewhat Comparable Precedent Transactions

9.33 In conducting our analysis, we used the same somewhat comparable precedent transactions as identified at paragraph 8.37 above. In our view, the transactions identified in our analysis above are somewhat comparable to LoyaltyOne. This is largely because LoyaltyOne represented between 71% and 84% of LVI's annual EBITDA from 2018 to 2020.

9.34 We applied the high and low EV/LTM EBITDA multiples to LoyaltyOne's 2021 EBITDA from the Spin Date Projections to estimate LoyaltyOne's Realizable Value at Spin Date, as follows (refer to Schedule 18 for further details):

LoyaltyOne Market Approach: Somewhat Comparable Precedent Transactions - Spin Date Projections		
($USD, millions)	**Low**	**High**
Adjusted 2021E EBITDA	$ 149	$ 149
EBITDA Multiple	5.8x	8.3x
Implied Net Realizable Value	**$ 862**	**$ 1,229**

Net Realizable Value Test

9.35 To perform the Net Realizable Value test, we then deducted LoyaltyOne's future financial obligations from our measures of LoyaltyOne's Realizable Value based on our DCF Analysis and Market Based Approach above.

9.36 As we did not have a balance sheet for LoyaltyOne as of the Spin Date, we did not have precise information as to the financial obligations of LoyaltyOne as of the Spin Date.

9.37 However, as discussed at paragraph 9.13 above, for the purposes of our analysis herein, we considered the TLA and TLB debt as constituting the financial

obligations of LoyaltyOne. Although LoyaltyOne only provided a guarantee of the TLA and TLB debt (and the debt itself resides in LVI), and it would (ideally) be more appropriate to allocate the debt between the LoyaltyOne and BrandLoyalty entities, for simplicity and purposes of our analysis herein, we notionally treated the entirety of the TLA and TLB debt and corresponding debt servicing cash outflows as obligations of LoyaltyOne when analyzing its solvency at Spin Date.

9.38 Based on the above, we estimate LoyaltyOne's Net Realizable Value Test as follows (refer to Schedules 15 - 19 for further reference):

Kroll LoyaltyOne Net Realizable Value Test

($USD, millions)	Range of Indicated Net Realizable Value		Financial Obligations	Passes Net Realizable Value Test
Kroll Approaches:				
Discounted Cash Flow	$ 1,208	$ 1,391	$ 675	**Yes**
Market Approach				
Comparables				
Spin Date Projections	762	1,471	675	**Yes**
December Projections	741	1,432	675	**Yes**
Precedent Transactions				
Spin Date Projections	862	1,229	675	**Yes**
December Projections	839	1,196	675	**Yes**

9.39 Given the above, at the Spin Date, LoyaltyOne passed the Net Realizable Value Test.

Conclusion – LoyaltyOne's Solvency at the Spin Date

9.40 Based on our analysis above, we concluded that LoyaltyOne was solvent at the Spin Date. In our view there was not a reasonably foreseeable expectation of a liquidity shortage that would deprive LoyaltyOne of the ability to pay its debts as they became due.

10.0 PART B - SOLVENCY, LIQUIDITY SHORTAGE AND INTERVENING EVENTS: Question #4 – Intervening Events that Negatively Impacted on Solvency

10.1 Before identifying and addressing events that occurred in the time period from the Spin Date to the CCAA Date that negatively impacted the solvency of LVI and LoyaltyOne, we first considered the degree of financial leverage (i.e., debt) that LVI took on in conjunction with the Spin Transaction.

10.2 We then identified and considered events that occurred in the time period from the Spin Date to the CCAA Date that negatively impacted the solvency of LVI and LoyaltyOne (defined above as the Intervening Events and Other External Factors), as follows:

1. Decline in the BrandLoyalty business in 2022, due to a variety of factors including the Ukraine War, elevated supply and logistics costs and campaign under-performance;

2. Decline in the LoyaltyOne business, caused by the loss of the Sobeys partnership starting in August 2022 and renegotiation of contracts with other partners; and,

3. Macroeconomic factors, including interest rate increases and foreign exchange rate fluctuations that were not foreseen at the time of the Spin Transaction.

10.3 As a practical matter, we note that LVI became insolvent in or about March 10, 2023 (i.e., the CCAA Date), long before proceeds (if any) were received under the Tax Matters Agreement. As such, the Tax Matters Agreement did not contribute to the insolvencies of LVI or LoyaltyOne.

Notional CCAA Date With Lower Leverage: Later But Insolvent Nonetheless

10.4 Set out below is our analysis in which we notionally reduced the financial leverage (i.e., debt) incurred in connection with the Spin Transaction, and then estimated the date at which LVI would have become insolvent had that lower level of debt been in place based on LVI's actual post Spin Date pre-debt service cash flows (the earlier-defined Notional CCAA Date With Lower Leverage).

10.5 The first step in our analysis was to notionally reduce the financial leverage (i.e., debt) of LVI[106] as a result of the Spin Transaction to levels observed in somewhat comparable companies.

10.6 As discussed in Section 4.0 above, we did not review a balance sheet for LVI as at November 5, 2021. As such, we estimated LVI's total debt at the Spin Date as the sum of the TLA and TLB balances amounting to $675 million. Based on our review of LVI's balance sheet at December 31, 2021, we did not observe any other debt apart from the TLA and TLB on LVI's balance sheet.

[106] With the reduction effectively also being a notional reduction in LVI's Give to Bread such that LVI's opening cash balance was not otherwise adjusted.

10.7 For a notional debt amount we considered the debt to total capital ratios of the somewhat comparable companies to LVI as used in our Market Approach analysis above. We observed that the average debt to capital ratios of the somewhat comparable companies was 30%, whereas the debt to capital ratio of LVI was 45%, as shown below (refer to Schedule 20):

LVI Comparison of Debt to Capital Ratios with Somewhat Comparable Companies		
($USD, millions)		
LVI Total Debt	$	675
LVI Market Capitalization		818
Total Capital		1,493
LVI Debt to Capital %		45%
Average Debt to Capital % per Comparables		30%

10.8 As such, for purposes of this analysis, we notionally adjusted LVI's debt such that LVI's resulting debt to capital ratio was 30%, such that it was set at the average percentage from the somewhat comparable companies. As a result, we notionally reduced LVI's debt balance to $441 million, as follows (refer to Schedule 20):

LVI Calculation of Debt Amount for Purposes of Notional Debt Adjustment		
($USD, millions)		**LVI Leverage Adjustment**
LVI Total Capital	$	1,493
Average Debt to Capital % per Comparables		30%
LVI Notional Debt	$	441

10.9 To assess the impact of a notionally lower level of financial leverage on the timing of LVI's insolvency, we began with an estimate of LVI's actual cash flows at or about the Spin Date, which were as follows:

LVI Actual Cash Flows Post Spin Date

($USD, millions)	Q4 2021	Q1 2022	Q2 2022	Q3 2022	10-Mar 2023
LVI Cash Flow					
Operating Activities - Excluding Interest	$ 71	$ (20)	$ (5)	$ 1	$ (61)
Investing Activities	(10)	(12)	14	(8)	
Effect of Exchange Rate Changes	1	(1)	(5)	(7)	
Financing Activities - Excluding Debt and LVI's 'Give' Payment	(12)	1	(0)	(2)	
Net Change in Restricted Cash Balances	(1)	25	(25)	15	
Debt Issuance and Repayments	675	(13)	(13)	(13)	(13)
Cash Swept to Bread	(100)	-	-	-	-
LVI Debt Proceeds Given to Bread	(650)	-	-	-	-
Interest	(5)	(8)	(9)	(11)	(14)
Net LVI Actual Cash Flows	(31)	(28)	(42)	(24)	(88)
Cash (Beginning)	199	168	140	97	73
Cash (Ending)	**$ 168**	**$ 140**	**$ 97**	**$ 73**	**$ (14)**

10.10 From that starting point we then modelled cash going forward based on LVI's actual cash flow amounts post-Spin Date (as disclosed in its financial statements) and notionally adjusted those actual cash flows upwards to reflect what LVI's cash flows would have been had it notionally taken on the lower level of debt at Spin Date (of $441 million, as calculated above). We did this by notionally adjusting down LVI's interest and debt repayments to reflect the (notionally) lower amount of debt in the capital structure (refer to Schedule 21).

10.11 A summary of our analysis is as follows:

LVI Actual Cash Flows Post Spin Date - Adjusted for Kroll Notional Level of Debt							
($USD, millions)	Q4 2021	Q1 2022	Q2 2022	Q3 2022	10-Mar 2023	31-Mar 2023	Q2 2023
LVI Actual Cash Flow	$ (31)	$ (28)	$ (42)	$ (24)	$ (88)	$ -	$ -
Net LVI Actual Cash flows							
Net Decrease in Debt Issuance	(234)						
Net Decrease in LVI's 'Give'	234						
Add: Actual Debt Payments	-	13	13	13	13		
Less: Notional Debt Payments	-	(8)	(8)	(8)	(8)	(8)	(8)
Add: Actual Interest Payments	5	8	9	11	14		
Less: Notional Interest Payments	(3)	(5)	(6)	(7)	(9)	(11)	(11)
Notional Increase in Tax from Lower Interest	(0)	(1)	(1)	(1)	(1)	-	-
Net LVI Actual Cash Flows	(30)	(21)	(36)	(17)	(80)	(20)	(20)
Cash (Beginning)	199	169	148	112	95	15	(4)
Cash (Ending)	**$ 169**	**$ 148**	**$ 112**	**$ 95**	**$ 15**	**$ (4)**	**$ (24)**

10.12 As demonstrated by the analysis above, even when notionally reducing the financial leverage (i.e., debt) given LVI's actual post Spin Date pre-debt service cash flows, LVI would still have been insolvent by not later than the third quarter of 2023, and possibly earlier (the earlier-defined Notional CCAA Date With Lower Leverage), which is a point in time somewhat later than LVI's CCAA Date.

10.13 This is because, even with a lower level of debt, as shown on Schedule 21, LVI was generating negative cash flows from its operating activities in each quarter in 2022. As a result, not only was LVI losing money in its operations, it also had to fund interest and principal repayments out of its existing cash balance and that pattern would have persisted (with modest changes in magnitude) even with notionally lower debt levels at the outset.

10.14 While that Notional CCAA Date With Lower Leverage is later than the actual CCAA Date, the important point is that insolvency notionally occurs nonetheless even with less debt in the LVI capital structure. Put another way, in view of LVI's actual post Spin Date results, less leverage would have lengthened LVI's operating "runway", but it would not have changed the ultimate outcome.[107]

10.15 We concluded that LVI's insolvency was not caused by the degree of leverage incurred in connection with the Spin Transaction.

[107] We have undertaken this analysis only in respect of LVI's notional cash flows, irrespective of how covenant considerations for LVI's TLA, TLB and Revolver would have differed. To be clear, we have assumed in our notional analysis that LVI would have drawn on their Revolver to the same dollar extent that they actually did in the first quarter of 2023.

Intervening Events that Negatively Impacted the Solvency of LVI and LoyaltyOne

10.16 Having addressed LVI's financial leverage, we then identified and considered events that occurred in the time period from the Spin Date to the CCAA Date that negatively impacted the solvency of LVI and LoyaltyOne.

10.17 As previously defined, we refer to these events interchangeably as Intervening Events and Other External Factors.

10.18 We observed that these Intervening Events or Other External Factors had an impact on the solvency of LVI and/or LoyaltyOne, in some cases a material impact.

10.19 The Intervening Events we identified are as follows:

1. Decline in the BrandLoyalty business in 2022, due to a variety of factors including the Ukraine War, elevated supply and logistics costs and campaign under-performance;

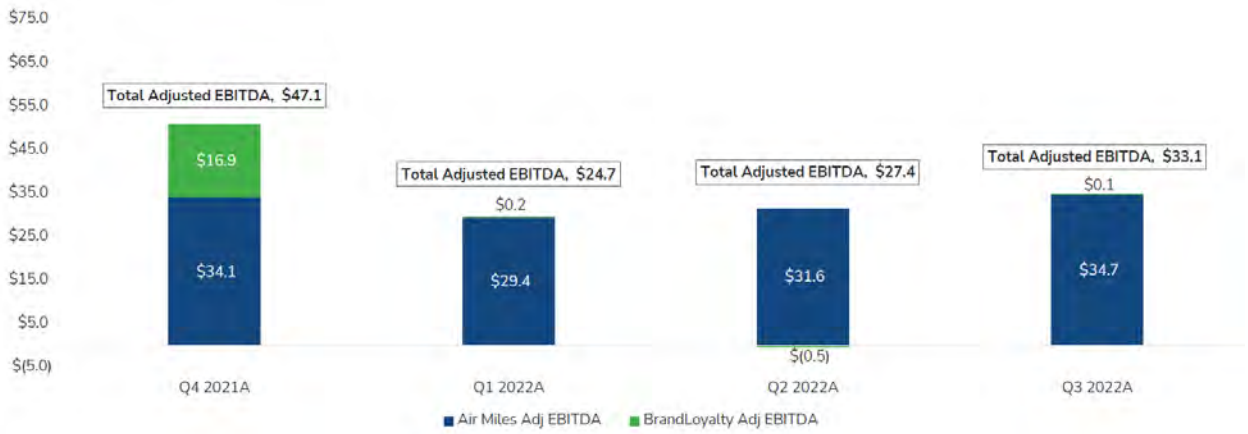
2. Decline in the LoyaltyOne business, caused by the loss of the Sobeys partnership starting in August 2022 and renegotiation of contracts with other partners; and,

3. Macroeconomic factors, including interest rate increases and foreign exchange rate fluctuations that were not foreseen at the time of the Spin Transaction.

10.20 These Intervening Events will be addressed in turn below.

Decline in the BrandLoyalty Business

10.21 After the Spin Date, LVI experienced a material decline in EBITDA in its BrandLoyalty segment, as demonstrated below (the significant green bar in Q421 is correspondingly negligible in the 2022 quarterly "stacks"):



10.22 We observe that EBITDA from BrandLoyalty declined from $16.9 million in Q4 2021 to $0.2 million in Q1 2022 and did not recover thereafter.

10.23 In the second quarter of 2022, well after the Spin Date, LVI recorded a goodwill impairment charge of $423 million USD within the BrandLoyalty segment which was attributed to "macroeconomic factors, including Russia's invasion of Ukraine and its negative impact on consumer confidence and consumer behavior in Europe, inflation, and continued supply chain pressures."[108]

10.24 As a direct result of the Russian invasion of Ukraine (in February 2022), LVI took "steps to pause business in Russia," which it estimated would "result in lost revenues of approximately $16 million" for 2022.[109]

10.25 The war in Ukraine had a wider impact on BrandLoyalty's operations in the rest of Europe. As the Ukraine war persisted, "it created a more pronounced negative impact on the region's macro environment. European customers are now confronted with further increases in food and energy prices, along with ongoing supply chain issues and other widespread inflationary and recessionary concerns."[110]

10.26 We understand that the macroeconomic environment in Europe as a result of the war in Ukraine resulted in 3 primary challenges for the BrandLoyalty business:[111]

1. Loss of Sales in Markets Proximate to Ukraine: "BrandLoyalty saw key prospects in the market[s] close to Ukraine withdraw from the near-term

[108] August 11, 2021. Quarterly Report of Loyalty Ventures Inc. Form 10-Q for the fiscal quarter ended June 30, 2022, at p. 18.
[109] March 14, 2022. Loyalty Ventures Inc. Form 8-K Comments on Operations in Russia.
[110] August 11, 2022. Loyalty Ventures Inc. FQ2 2022 Earnings Call, at p. 5. See also August 11, 2022. Loyalty Ventures Inc. Form 8-K FQ2 2022 Investor Presentation, at slide 6.
[111] August 11, 2022. Loyalty Ventures Inc. FQ2 2022 Earnings Call, at p. 5.

pipeline. These grocery retailers are taking a wait-and-see approach in terms of the macro landscape before returning to business as usual.";

2. Elevated Supply and Logistics Costs: Because BrandLoyalty's partners sign contracts 9 to 12 months in advance of the execution of the programs, the unanticipated increases in costs associated with merchandising and shopping (in 2022 and beyond) were not factored into the earlier-negotiated contracts. This created margin pressure on the BrandLoyalty business as a whole; and,

3. Campaign Underperformance: BrandLoyalty experienced campaign underperformance as rewards offerings, which were planned a year in advance, "did not match the current interest and economic considerations of the consumer." Again, because of the timelines involved in planning such campaigns, and the associated commitments in respect thereof, BrandLoyalty was not able to "pivot" when these market-driven impacts were felt starting in 2022.

10.27 Although LVI worked to alleviate the effects of the above challenges,[112] it did not see much success. These challenges continued to impact BrandLoyalty's performance throughout the remainder of 2022.[113]

10.28 To compound the above operational issues, as 2022 progressed, BrandLoyalty faced additional challenges. For example, inventory levels were "higher than optimal," as they reflected "the seasonal buildup for upcoming campaigns in Q4, but also reflect the inventory from underperforming campaigns in Q2."[114]

10.29 In our view, the decline in the BrandLoyalty business was materially affected by macro economic issues which arose as a result of the war in Ukraine, which was not anticipated at the Spin Date. The decline of BrandLoyalty's business was therefore an Intervening Event that had a material negative impact on the solvency of LVI.[115]

[112] See August 11, 2022. Loyalty Ventures Inc. FQ2 2022 Earnings Call, at pp. 5-6.
[113] November 8, 2022. Loyalty Ventures Inc. FQ3 2022 Earnings Call, at p. 5.
[114] November 8, 2022. Loyalty Ventures Inc. FQ3 2022 Earnings Call, at p. 6.
[115] We note that our view is seemingly consistent with that of Mr. Horn, who stated that BrandLoyalty was "hampered by supply chain issues and the impact of the Russian invasion of Ukraine in February 2022 that hastened the Company's already extensive revenue decline, which conflict also resulted in rising energy prices, supply chain disruptions and increased economic uncertainty in Europe and the United States." First Day Declaration, at paragraph 50.

Decline in the LoyaltyOne Business

10.30 In June 2022, again well after the Spin Date, Sobeys, one of LoyaltyOne's largest sponsors, notified LoyaltyOne that it intended to exit the program.[116] For context, in 2021, revenue from Sobeys represented approximately 10% of LVI's Adjusted EBITDA.[117]

10.31 Subsequent to the Sobeys departure other customers sought to renegotiate their contracts with LoyaltyOne at "reduced economics, shorter terms and certain termination risks."[118] For example, we understand that BMO's (LoyaltyOne's largest customer) renegotiated contract in 2022 resulted in approximately $40 million less in pre-tax cash flows to LVI over a three-year period.[119]

10.32 We understand that Sobeys had originally approached LoyaltyOne in January of 2019 and negotiated an annual right to terminate with six months' notice, based on the performance of the loyalty business with respect to Sobeys.[120] Sobeys chose not to exercise this right in 2020, and then again in 2021, and instead appeared to have leveraged this right to gain further economic benefit.[121]

10.33 We observe that LVI did not disclose any concerns in respect of Sobeys potential departure from the Air Miles program to potential investors during its Q&A with potential TLA and TLB investors, and LVI did not include the loss of Sobeys EBITDA in its Spin Date Projections.

10.34 While the loss of the Sobeys contract (starting in August 2022) and customer contract renegotiations likely contributed to LVI's insolvency, in our view the likelihood of Sobeys' departure (and subsequent customer renegotiations) at the Spin Date was low given the contemporaneous discussions with Sobeys (which, we expect, are not materially different from ongoing customer interactions in normal course in this type of business, disclosures made by LVI to potential investors and the LVI Spin Date Projections, as discussed in elsewhere herein).

Macroeconomic Issues

Interest Rate Increase

10.35 LVI's cash flows were dependent on interest rates on its debt. The TLA and TLB were variable-rate debt and as such, LVI was subject to interest rate risk.[122] Specifically, interest on the TLA and TLB was subject to the LIBOR base rate, plus

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[116] June 7, 2022. Loyalty Ventures Inc. Form 8-K Announcement that Sobeys is leaving Air Miles program.
[117] June 7, 2022. Loyalty Ventures Inc. Form 8-K Announcement that Sobeys is leaving Air Miles program.
[118] First Day Declaration, paragraph 47.
[119] First Day Declaration, paragraph 48.
[120] March 22, 2019. Alliance Data Memo on SSP of LoyatlyOne Contract with Sobeys.
[121] May 17, 2021. Email from Laura Santillan of ADS to Jason Lawrence of LoyaltyOne Re: Sobeys ME discussion with EY.
[122] Motes Affidavit, Exhibit H, at pp. 45-6.

between 3.5% and 4.5%.[123] Put simply, if rates went up then LVI's interest payments would also go up (and vice versa), as is always the case with variable-rate debt.

10.36 As demonstrated in the chart below, after the Spin Date, LIBOR actually increased significantly relative to what had been estimated in the Spin Date Projections.

10.37 As of the Spin Date, the forward rates used in the Spin Date Projections (the dark blue line) approximated the forward rates that were actually seen in the market proximate to the Spin Date (refer to the green line above).[124] Hence the rates used in the Spin Date Projections were generally in line with what would have been expected going forward at that time.

10.38 Beginning in the first quarter of 2022, however, LIBOR rates increased significantly, far above the rates estimated at the Spin Date.[125] Specifically, the Spin Date Projections had used an interest rate of 4.7% in respect of its TLA and TLB obligations; however, the actual Q4 2022 applicable interest rate was 8.8%.

10.39 Correspondingly, LVI's interest expense increased from what had been projected in the Spin Date Projections.

[123] Interest on TLA was LIBOR + 3.5%, interest on TLB was LIBOR + 4.45%, for a blended interest rate of LIBOR + 4.42% (Motes Affidavit, Exhibit H, at pp. 45-6).
[124] Although the forward rates used in the Spin Date Projections were slightly lower than the market forward rates, we note this different was only 0.40%. Market forward rate curve per Forward curve from Pensford forward 1-Month LIBOR curve based on market data from October 29, 2021.
[125] Actual LIBOR rates from S&P Capital IQ.

10.40 The higher interest rates had a more than $9 million negative impact to LVI's Q1 through Q3 2022 interest expense and cash flow. Actual cash interest expense was some $32 million instead of the projected $23 million.

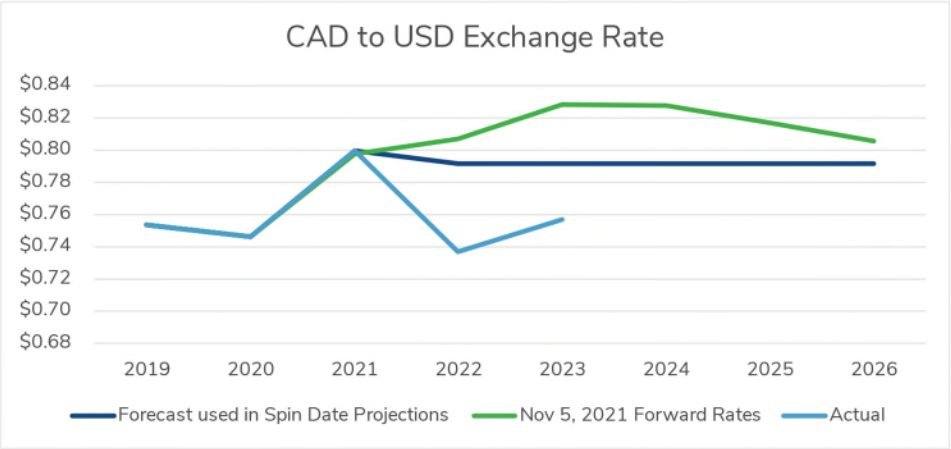
10.41 In our view, the impact of rising interest rates, which was not anticipated by the market at the Spin Date or in the Spin Date Projections, beginning in the first quarter of 2022, was an Intervening Event that had a negative impact on the solvency of LVI.

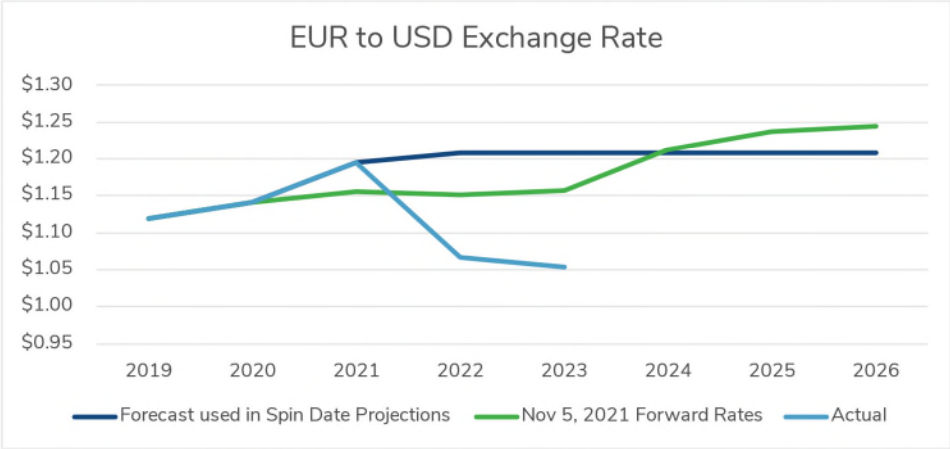
Foreign Exchange Rate Fluctuations

10.42 LVI, which reported its results in US dollars, was also exposed to foreign currency exchange rate risk because LVI transacted in multiple currencies (given LoyaltyOne operates in Canada and BrandLoyalty operates in Europe).[126]

10.43 The foreign exchange impact on earnings reflected in the Spin Date Projections was $0.9 million ($1.6 million in respect of LoyaltyOne, -$0.9 million in respect of BrandLoyalty)[127] based on expected CAD:USD and EUR:USD exchange rates used in the Spin Date Forecasts (the dark blue line below) that were consistent with market expectations proximate to the Spin Date (green line below):[128]

[126] Motes Affidavit, Exhibit H at p. 17.
[127] L1 Model_August 2021_Aug Fcst_v10_BofA_vNewStructure_v3.xlsx.
[128] As modeled by IHS Markit Comparative World Overview updated October 15, 2021.

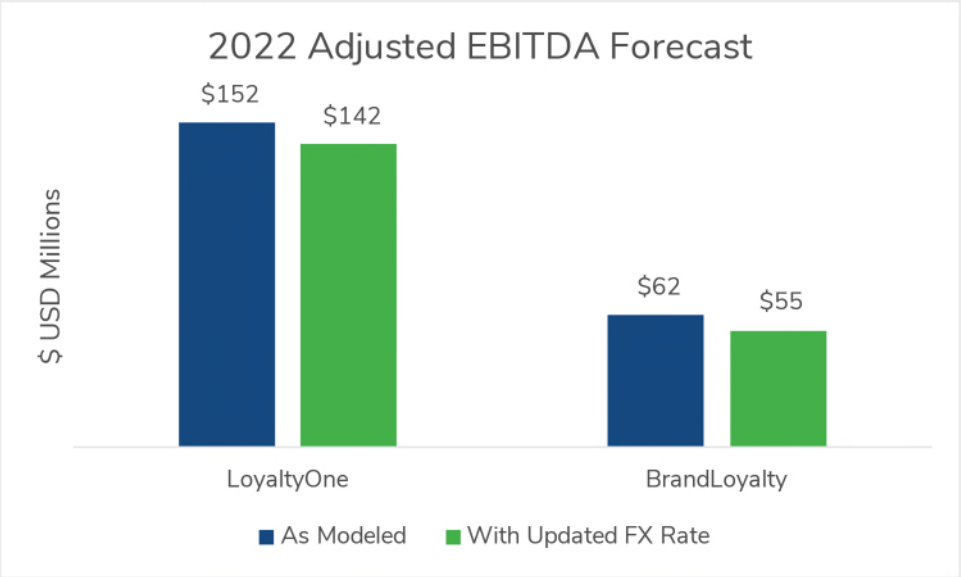




10.44 However, as demonstrated above, actual exchange rates fell more than had been expected as at the Spin Date (the light blue line above). As LVI itself disclosed, through September 30, 2022, changes in foreign currency exchange rates also reduced LVI's reported revenues by some $41.0 million.[129]

10.45 Foreign currency exchange rates also impacted EBITDA. The chart below shows projected 2022 Adjusted EBITDA for LoyaltyOne and BrandLoyalty, using the exchange rate in the Spin Date Projection as compared to the projected 2022 Adjusted EBITDA using the actual 2022 exchange rate:

[129] August 11, 2021. Quarterly Report of Loyalty Ventures Inc. Form 10-Q for the fiscal quarter ended June 30, 2022, at p. 40.



10.46 As demonstrated above, the projected Adjusted EBITDA decreases by $17 million when using the actual 2022 foreign currency exchange rates as opposed to those contained within the Spin Date Projections.

10.47 In our view, the impact of unexpected exchange rate fluctuations was an Intervening Event that had a negative impact on the solvency of LVI.

11.0 Assumptions

11.1 In forming our conclusions herein, we have assumed, in addition to assumptions noted elsewhere herein, that:

- No redundant assets were transferred to LVI (either separately or within the BrandLoyalty or LoyaltyOne operating entities) as part of the Spin Transaction;
- Inclusive of the $650 million paid to ADS and fees and related expenses associated with the Spin Transaction, the aggregate of LVI's Give in this matter was at or about $675 million;
- LVI's and LoyaltyOne's EBITDA would continue to grow, post the projection period herein, at the Canadian long term target inflation growth rate of 2%;
- Only for the purposes of the Kroll Stress Tests, we assumed the effect of the Sobeys loss, the potential loss of EBITDA due to contract renegotiations with LoyaltyOne customers, and the loss of BrandLoyalty

EBITDA would be felt immediately following the Spin Date. However, as discussed elsewhere herein, that is unlikely to have been the case;

- For the purposes of our solvency analysis, LVI and LoyaltyOne would be able to refinance remaining debt as it came due at the end of the projection period and beyond on similar terms;
- For the purposes of our Notional CCAA Date With Lower Leverage analysis, LVI would have drawn on its Revolver facility to the same dollar extent that it actually did in the first quarter of 2023;
- For the purposes of our Notional CCAA Date With Lower Leverage analysis, we have assumed that LVI's net cash flow (excluding interest and debt repayments) would be $nil after the March 10, 2023 CCAA Date;
- For the purposes of our Notional CCAA Date With Lower Leverage analysis, we have assumed that LVI's interest rate in Q2 2023 would be equal to LVI's interest rate in Q1 2023;
- For the purposes of our Notional CCAA Date With Lower Leverage analysis, we have assumed interest and principal repayments are made at quarter end; and,
- LoyaltyOne's "depreciation" for income tax purposes approximates its depreciation for accounting purposes.

11.2 Information indicating assumptions contrary from those above or others set out in this report would require a review of our observations, comments and conclusions herein.

12.0 Independence

12.1 Our report has been prepared in conformity with the practice standards of the Canadian Institute of Chartered Business Valuators by persons acting independently and objectively.

12.2 The fees payable under the terms of our engagement agreement are not contingent upon an action or event resulting from the use of our report.

13.0 Restrictions

13.1 This report is not intended for general circulation or publication nor is it to be reproduced or used for any purpose other than that outlined above without our written permission in each specific instance. We do not assume any responsibility

or liability for losses occasioned to you or any other party as a result of the circulation, publication, reproduction or use of this report contrary to the provisions of this paragraph.

13.2 The preparation of a financial analysis is a complex process that generally is not susceptible to partial analysis. Alteration of any one part of the analysis may change the observations set out in this report. We recommend consideration of the observations, commentary, and calculations as a whole so that the analysis can be best understood.

13.3 We reserve the right (but will be under no obligation) to review and/or revise any and all assumptions and/or calculations included or referred to in this report and, if we consider it necessary, to revise our calculations in light of any information which becomes known to us after the date of this report.

Yours truly,

A. Scott Davidson
Managing Director
Kroll Canada Limited

Katie Gosnell
Senior Director
Kroll Canada Limited

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 1**

PART A - Question #2

Kroll Summary Conclusion on Indicated Value of LVI's 'Get' and Fairness Relative to LVI's 'Give' of $675 million

As at November 5, 2021

($USD, millions; unless otherwise noted)

Kroll Approaches:	Reference	Range of Indicated Value of LVI's 'Get'			Indicative of Fairness
Discounted Cash Flow	Schedule 2	$ 1,716	to	$ 1,946	**Yes**
Market Approach					
Comparables					
Spin Date Projections	Schedule 3	931	to	1,797	**Yes**
December Projections	Schedule 4	818	to	1,580	**Yes**
Precedent Transactions					
Spin Date Projections	Schedule 6	1,053	to	1,502	**Yes**
December Projections	Schedule 7	926	to	1,320	**Yes**

1045

Loyalty Ventures Inc. and LoyaltyOne, Co.
PART A - Question #2
LVI Discounted Cash Flow Approach
As at November 5, 2021
($USD, millions; unless otherwise noted)

	Reference	Notes	Actual Results from 2019 to Q3 2021			Spin Date Projections						
			2019	2020	Q1 2021 - Q3 2021	Nov 5 - 31-Dec 2021	2022	2023	2024	2025	2026	Terminal Year
		[1]			[2]	[3]						
Adjusted EBITDA												
LoyaltyOne	Sch. 101	[1]	$ 164	$ 143	$ 114	$ 23	$ 152	$ 150	$ 153	$ 158	$ 160	
BrandLoyalty	Sch. 102	[1]	80	42	15	20	62	79	94	109	121	
Corporate		[1]	(14)	(14)	(10)	(2)	(15)	(15)	(16)	(16)	(17)	
LVI			**230**	**171**	**119**	**41**	**199**	**214**	**231**	**251**	**264**	
Adjustments to calculate free cash flow												
Less: Income tax	27%	[4]				(11)	(54)	(58)	(62)	(68)	(71)	
Less: Capex		[1]				(6)	(25)	(26)	(28)	(28)	(28)	
Add: Tax shield on capital expenditures		[5]				1	5	5	6	6	6	
Less: Increase in LVI working capital (Add decrease)		[6]				38	53	8	(3)	1	4	
Less: Increase in Redemption Settlement Assets (Add decrease)		[7]				(41)	(70)	(25)	(20)	(20)	(15)	
Free cash flow						**$ 23**	**$ 108**	**$ 118**	**$ 124**	**$ 141**	**$ 159**	
High Scenario: Discounted Cash Flow												**$ 162**
Terminal multiple		[8]										**13.3x**
												$ 2,162
Year factors						0.08	0.65	1.65	2.65	3.65	4.65	
Discount rate and factors	9.50%					0.993	0.942	0.861	0.786	0.718	0.656	0.656
High Scenario: Discounted free cash flow, at present value as at November 5, 2021						**$ 23**	**$ 102**	**$ 102**	**$ 97**	**$ 101**	**$ 104**	**$ 1,417**
High Scenario: Total of discounted free cash flow ('Get')						**$ 1,946**						

Loyalty Ventures Inc. and LoyaltyOne, Co.
PART A - Question #2
LVI Discounted Cash Flow Approach
As at November 5, 2021
($USD, millions; unless otherwise noted)

	Reference	Notes	Actual Results from 2019 to Q3 2021			Spin Date Projections						
			2019	2020	Q1 2021 - Q3 2021	Nov 5 - 31-Dec 2021	2022	2023	2024	2025	2026	Terminal Year
Low Scenario: Discounted Cash Flow												$ 162
Terminal multiple		[8]										11.8x
												$ 1,908
Year factors						0.08	0.65	1.65	2.65	3.65	4.65	
Discount rate and factors	10.50%					0.992	0.937	0.848	0.767	0.694	0.628	0.628
Low Scenario: Discounted free cash flow, at present value as at November 5, 2021						$ 23	$ 101	$ 100	$ 95	$ 98	$ 100	$ 1,199
Low Scenario: Total of discounted free cash flow ('Get')						$ 1,716						

Notes

[1] Sourced from the Spin Date Projections workbook unless otherwise noted. Document: L1 Model_August 2021_Aug Fcst_v10_BofA_vNewStructure_v3.xlsx.

[2] Sourced from LVI's Form 10-Q for the period ended September 30, 2022.

[3] Kroll estimated the results for the period November 5, 2021 to December 31, 2021 by taking the Q4 2021 Spin Date Projections and prorating them based on number of days (62%).

[4] We have used a corporate income tax rate of 27% based on the rate used in the Spin Date Projections.

[5] Shield calculation reflects a CCA rate of 25% having regard to the LVI's asset categories/balances as at December 31, 2021.

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 2**
PART A - Question #2 Page 3 of 4
LVI Discounted Cash Flow Approach
As at November 5, 2021
($USD, millions; unless otherwise noted)

Notes

[6] In estimating LVI's change in working capital, we have adopted LVI's annual forecasted balance sheets from the Spin Date Projections and LVI's actual Q3 2021 balance sheet to calculate LVI's annual increase in working capital. We have calculated the change in working capital for the period November 5, 2021, to December 31, 2021, by taking the Q3 2021 to Q4 2021 change and prorating it by 62%.

	9/30/21	12/31/21	12/31/22	12/31/23	12/31/24	12/31/25	12/31/26
LVI Changes in Assets & Liabilities							
Accounts receivable*	$ 291	$ 281	$ 297	$ 326	$ 355	$ 385	$ 410
Inventory balance	192	155	160	165	175	180	185
Other current assets	21	34	25	27	29	32	34
Right of Use Asset - Operating	103	102	86	70	58	46	34
Deferred Tax Asset, Net	72	72	76	82	89	96	101
Other Non-Current Assets	3	4	4	4	4	4	4
Total LVI working capital assets	$ 681	$ 648	$ 647	$ 674	$ 710	$ 743	$ 768
Accounts payable	75	71	73	80	86	93	98
Accrued expenses	50	69	72	79	85	91	96
Current deferred revenue	924	970	1,025	1,045	1,060	1,075	1,090
Non-current deferred revenue	97	114	120	123	125	126	128
Other current liabilities	132	80	78	82	87	91	95
Current Operating Lease Liability	10	9	8	7	5	4	3
Deferred Tax Liability, Net	-	(0)	(0)	(0)	0	0	0
Other Liabilities*	24	26	31	43	56	68	78
Long Term Operating Lease Liability	107	106	90	74	62	50	38
Total LVI working capital liabilities	$ (1,417)	$ (1,445)	$ (1,498)	$ (1,532)	$ (1,565)	$ (1,598)	$ (1,627)
Total LVI working capital	$ (736)	$ (798)	$ (850)	$ (858)	$ (855)	$ (856)	$ (859)
Increase / (decrease) in LVI working capital, by year		$ (38)	$ (53)	$ (8)	$ 3	$ (1)	$ (4)

*We have excluded the accounting for the tax matters agreement from our calculation of working capital.

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 2**
PART A - Question #2 Page 4 of 4
LVI Discounted Cash Flow Approach
As at November 5, 2021
($USD, millions; unless otherwise noted)

Notes

[7] Redemption settlement assets consists of cash and investments held in trust for the benefit of funding redemptions by Air Miles collectors. These assets are restricted to funding rewards for the collectors by certain of the Company's sponsor contracts. We have calculated changes to redemption settlement assets in the same manor as working capital was calculated.

	9/30/21	12/31/21	12/31/22	12/31/23	12/31/24	12/31/25	12/31/26
Redemption settlement asset	$ 734	$ 800	$ 870	$ 895	$ 915	$ 935	$ 950
Increase / (decrease) in redemption settlement assets, by year		$ 41	$ 70	$ 25	$ 20	$ 20	$ 15

[8] The terminal period multiple is calculated as 1 / (WACC - long term growth rate) where:

High Scenario:

WACC	9.50%
Long-term growth rate	2.00%
WACC - g	7.50%
Terminal period multiple	13.3x

Low Scenario:

WACC	10.50%
Long-term growth rate	2.00%
WACC - g	8.50%
Terminal period multiple	11.8x

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 3**

PART A - Question #2

LVI Market Approach: Somewhat Comparable Companies - Spin Date Projections

As at November 5, 2021

($USD, millions; unless otherwise noted)

	Reference	Notes	Low	High
Adjusted 2021E EBITDA		[1]	$ 182	$ 182
EBITDA Multiple	Sch. 5		5.1x	9.9x
Implied 'Get'			**$ 931**	**$ 1,797**

Notes

[1] Per the Spin Date Projections.

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 4**

PART A - Question #2

LVI Market Approach: Somewhat Comparable Companies - December Projections

As at November 5, 2021

($USD, millions; unless otherwise noted)

	Reference	Notes	Low	High
Adjusted 2021E EBITDA		[1]	$ 160	$ 160
EBITDA Multiple	Sch. 5		5.1x	9.9x
Implied 'Get'			**$ 818**	**$ 1,580**

Notes

[1] Midpoint of range of $157 to $163 in the December Projections.

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 5**

PART A - Question #2

LVI Market Approach: Somewhat Comparable Companies - Enterprise Value Multiples

As at November 5, 2021

($USD, millions; unless otherwise noted)

Kroll Selected: EV Multiples			
Company	**EV / LTM EBITDA**	**EV / 2021E EBITDA**	**EV / 2022E EBITDA**
Advantage Solutions Inc.	11.9x	9.2x	8.6x
Nielsen Holdings plc	11.5x	9.0x	8.6x
The Interpublic Group of Companies, Inc.	9.9x	9.9x	9.7x
Omnicom Group Inc.	7.8x	7.3x	7.3x
WPP plc	12.5x	8.7x	8.4x
Publicis Groupe S.A.	8.5x	7.7x	7.4x
Thryv Holdings, Inc.	5.0x	5.1x	6.4x
Harte Hanks, Inc.	7.5x	7.1x	5.8x
Low	5.0x	5.1x	5.8x
Average	**9.3x**	**8.0x**	**7.8x**
Median	**9.2x**	**8.2x**	**7.9x**
High	12.5x	9.9x	9.7x

Notes

[1] Source: Capital IQ

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 6**

PART A - Question #2

LVI Market Approach: Somewhat Comparable Precedent Transactions - Spin Date Projections

As at November 5, 2021

($USD, millions; unless otherwise noted)

	Reference	Notes	Low	High
Adjusted 2021E EBITDA		[1]	$ 182	$ 182
EBITDA Multiple	Sch. 8		5.8x	8.3x
Implied 'Get'			**$ 1,053**	**$ 1,502**

Notes

[1] Per the Spin Date Projections.

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 7**

PART A - Question #2

LVI Market Approach: Somewhat Comparable Precedent Transactions - December Projections

As at November 5, 2021

($USD, millions; unless otherwise noted)

	Reference	Notes	Low	High
Adjusted 2021E EBITDA		[1]	$ 160	$ 160
EBITDA Multiple	Sch. 8		5.8x	8.3x
Implied 'Get'			**$ 926**	**$ 1,320**

Notes

[1] Midpoint of range of $157 to $163 in the December Projections.

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 8**

PART A - Question #2

LVI Market Approach: Somewhat Comparable Precedent Transactions - Enterprise Value Multiples

As at November 5, 2021

($USD, millions; unless otherwise noted)

Announcement Date	Target	Buyer	Geography	Industry	Transaction Value	Implied EV	LTM EBITDA	EV / LTM EBITDA
6/25/2020	MDC Partners Inc.	Stagwell Inc. (NasdaqGS:STGW)	United States and Canada	Marketing Services	$ 251	$ 1,366	$ 215	6.3x
7/12/2019	The Kantar Group Limited	Bain Capital Private Equity, LP	Europe	Online Services	3,332	4,000	485	8.3x
12/18/2017	IWCO Direct Holdings Inc.	Steel Connect, Inc. (NasdaqCM:STCN)	United States and Canada	Marketing Services	476	476	82	5.8x
Low					251	476	82	5.8x
Average					**1,353**	**1,947**	**261**	**6.8x**
Median					**476**	**1,366**	**215**	**6.3x**
High					3,332	4,000	485	8.3x

Notes

[1] Source: Capital IQ

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 9**

PART A - Question #2

LVI DCF Approach Stress Test - LVI EBITDA Percentage Decline that Yields LVI's 'Get' Under Low Scenario Equal to LVI's 'Give' of $675 Million

As at November 5, 2021

($USD, millions; unless otherwise noted)

		Reference	Nov 5 - 31-Dec 2021	2022	2023	2024	2025	2026	Terminal Year
Adjusted EBITDA									
LVI		Sch. 2	41	199	214	231	251	264	
EBITDA Decline that Yields LVI's 'Get' Equal to LVI's 'Give'		-49%	(20)	(97)	(104)	(113)	(122)	(129)	
Notional LVI Adjusted EBITDA			**21**	**102**	**109**	**118**	**128**	**135**	
Adjustments to calculate free cash flow									
Less: Income tax	27%		(6)	(27)	(30)	(32)	(35)	(36)	
Less: Capex		Sch. 2	(6)	(25)	(26)	(28)	(28)	(28)	
Add: Tax shield on capital expenditures		Sch. 2	1	5	5	6	6	6	
Less: Increase in LVI working capital (Add decrease)		Sch. 2	38	53	8	(3)	1	4	
Less: Increase in Redemption Settlement Assets (Add decrease)		Sch. 2	(41)	(70)	(25)	(20)	(20)	(15)	
Free cash flow			**$ 8**	**$ 37**	**$ 42**	**$ 41**	**$ 52**	**$ 65**	
Low Scenario: Discounted Cash Flow									**$ 66**
Terminal multiple		Sch. 2							**11.8x**
									$ 777
Year factors			0.08	0.65	1.65	2.65	3.65	4.65	
Discount rate and factors	10.50%		0.992	0.937	0.848	0.767	0.694	0.628	0.628
Low Scenario: Discounted free cash flow, at present value as at November 5, 2021			**$ 8**	**$ 35**	**$ 35**	**$ 32**	**$ 36**	**$ 41**	**$ 488**
Low Scenario: Total of discounted free cash flow ('Get')			**$ 675**						

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 10**

PART A - Question #2 Page 1 of 2

LVI DCF Approach Stress Test - Notional Negative Event Scenario: Potential Sobeys Departure Assumed at the Spin Date

As at November 5, 2021

($USD, millions; unless otherwise noted)

		Notes / Reference	Nov 5 - 31-Dec 2021	2022	2023	2024	2025	2026	Terminal Year
Adjusted EBITDA									
LoyaltyOne									
As per Spin Date Projections		Sch. 2	$ 23	$ 152	$ 150	$ 153	$ 158	$ 160	
Decline due to potential Sobeys departure assumed at the Spin Date	-11%	[1]	(3)	(17)	(17)	(17)	(18)	(18)	
Notional EBITDA due to potential Sobeys departure assumed at the Spin Date			20	135	133	136	140	142	
BrandLoyalty		Sch. 2	20	62	79	94	109	121	
Corporate		Sch. 2	(2)	(15)	(15)	(16)	(16)	(17)	
Notional LVI Adjusted EBITDA			**38**	**181**	**197**	**214**	**233**	**246**	
Adjustments to calculate free cash flow									
Less: Income tax	27%		(10)	(49)	(53)	(58)	(63)	(66)	
Less: Capex		Sch. 2	(6)	(25)	(26)	(28)	(28)	(28)	
Add: Tax shield on capital expenditures		Sch. 2	1	5	5	6	6	6	
Less: Increase in LVI working capital (Add decrease)		Sch. 2	38	53	8	(3)	1	4	
Less: Increase in Redemption Settlement Assets (Add decrease)		Sch. 2	(41)	(70)	(25)	(20)	(20)	(15)	
Free cash flow			**$ 21**	**$ 95**	**$ 106**	**$ 111**	**$ 128**	**$ 146**	
Low Scenario: Discounted Cash Flow									**$ 149**
Terminal multiple		Sch. 2							**11.8x**
									$ 1,750
Year factors			0.08	0.65	1.65	2.65	3.65	4.65	
Discount rate and factors	10.50%		0.992	0.937	0.848	0.767	0.694	0.628	0.628
Low Scenario: Discounted free cash flow, at present value as at November 5, 2021			**$ 21**	**$ 89**	**$ 90**	**$ 85**	**$ 89**	**$ 92**	**$ 1,100**
Low Scenario: Total of discounted free cash flow ('Get')			**$ 1,566**						

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 10**

PART A - Question #2 Page 2 of 2

LVI DCF Approach Stress Test - Notional Negative Event Scenario: Potential Sobeys Departure Assumed at the Spin Date

As at November 5, 2021

($USD, millions; unless otherwise noted)

Notes

[1] Sobeys represented 10% of LVI's adjusted EBITDA in 2021, which we calculated to be 11.2% of 2021 LoyaltyOne adjusted EBITDA as follows:*

Sobeys proportion of LoyaltyOne's 2021E Adjusted EBTIDA	2021
LVI 2021 Adjusted EBITDA	$ 166
Portion attributed to Sobeys	10%
LVI 2021 Adjusted EBITDA attributable to Sobeys	$ 16.6
LoyaltyOne 2021 Adjusted EBTIDA	148
Sobey's proportion of LoyaltyOne's 2021 Adjusted EBTIDA	11.2%

**LVI's Form 10-Q for the period ended September 30, 2022 and LVI's Form 10-K for the period ended December 31, 2021.*

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 11**

PART A - Question #2

LVI DCF Approach Stress Test - Notional Negative Event Scenario: Potential Loss of EBITDA due to Contract Renegotiations with LoyaltyOne's Customers - LoyaltyOne EBITDA Percentage Decline that Yields LVI's 'Get' Under Low Scenario Equal to LVI's 'Give' of $675 Million

As at November 5, 2021

($USD, millions; unless otherwise noted)

Adjusted EBITDA		Reference	Nov 5 - 31-Dec 2021	2022	2023	2024	2025	2026	Terminal Year
LoyaltyOne									
As per Spin Date Projections		Sch. 2	$ 23	$ 152	$ 150	$ 153	$ 158	$ 160	
Decline that Yields LVI's 'Get' Equal to LVI's 'Give'	-78%		(18)	(118)	(117)	(119)	(123)	(125)	
Notional EBITDA that Yields LVI's 'Get' Equal to LVI's 'Give'			5	33	33	34	35	35	
BrandLoyalty		Sch. 2	20	62	79	94	109	121	
Corporate		Sch. 2	(2)	(15)	(15)	(16)	(16)	(17)	
Notional LVI Adjusted EBITDA			**23**	**80**	**97**	**112**	**127**	**139**	
Adjustments to calculate free cash flow									
Less: Income tax	27%		(6)	(22)	(26)	(30)	(34)	(38)	
Less: Capex		Sch. 2	(6)	(25)	(26)	(28)	(28)	(28)	
Add: Tax shield on capital expenditures		Sch. 2	1	5	5	6	6	6	
Less: Increase in LVI working capital (Add decrease)		Sch. 2	38	53	8	(3)	1	4	
Less: Increase in Redemption Settlement Assets (Add decrease)		Sch. 2	(41)	(70)	(25)	(20)	(20)	(15)	
Free cash flow			**$ 10**	**$ 21**	**$ 33**	**$ 37**	**$ 51**	**$ 68**	
Low Scenario: Discounted Cash Flow									**$ 69**
Terminal multiple		Sch. 2							**11.8x**
									$ 813
Year factors			0.08	0.65	1.65	2.65	3.65	4.65	
Discount rate and factors	10.50%		0.992	0.937	0.848	0.767	0.694	0.628	0.628
Low Scenario: Discounted free cash flow, at present value as at November 5, 2021			**$ 10**	**$ 20**	**$ 28**	**$ 28**	**$ 36**	**$ 43**	**$ 511**
Low Scenario: Total of discounted free cash flow ('Get')			**$ 675**						

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 12**

PART A - Question #2

LVI DCF Approach Stress Test - Notional Negative Event Scenario: Potential Reduction/Loss of BrandLoyalty EBITDA

As at November 5, 2021

($USD, millions; unless otherwise noted)

Adjusted EBITDA		Reference	Nov 5 - 31-Dec 2021	2022	2023	2024	2025	2026	Terminal Year
BrandLoyalty									
As per Spin Date Projections		Sch. 2	$ 20	$ 62	$ 79	$ 94	$ 109	$ 121	
Decline due to Potential Reduction/Loss	-100%		(20)	(62)	(79)	(94)	(109)	(121)	
Notional EBITDA			0	0	0	0	0	0	
LoyaltyOne		Sch. 2	23	152	150	153	158	160	
Corporate		Sch. 2	(2)	(15)	(15)	(16)	(16)	(17)	
Notional LVI Adjusted EBITDA			**21**	**137**	**134**	**137**	**142**	**143**	
Adjustments to calculate free cash flow									
Less: Income tax	27%		(6)	(37)	(36)	(37)	(38)	(39)	
Less: Capex		Sch. 2	(6)	(25)	(26)	(28)	(28)	(28)	
Add: Tax shield on capital expenditures		Sch. 2	1	5	5	6	6	6	
Less: Increase in LVI working capital (Add decrease)		Sch. 2	38	53	8	(3)	1	4	
Less: Increase in Redemption Settlement Assets (Add decrease)		Sch. 2	(41)	(70)	(25)	(20)	(20)	(15)	
Free cash flow			**$ 8**	**$ 63**	**$ 60**	**$ 55**	**$ 62**	**$ 71**	
Low Scenario: Discounted Cash Flow									**$ 72**
Terminal multiple		Sch. 2							**11.8x**
									$ 848
Year factors			0.08	0.65	1.65	2.65	3.65	4.65	
Discount rate and factors	10.50%		0.992	0.937	0.848	0.767	0.694	0.628	0.628
Low Scenario: Discounted free cash flow, at present value as at November 5, 2021			**$ 8**	**$ 59**	**$ 51**	**$ 42**	**$ 43**	**$ 44**	**$ 533**
Low Scenario: Total of discounted free cash flow ('Get')			**$ 780**						

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 13**

PART B - Question #3 Page 1 of 2

LVI Projected Cash Flow Test

From November 5, 2021, to 2026

($USD, millions; unless otherwise noted)

	Notes	Nov 5 - Dec 31 2021	2022	2023	2024	2025	2026
Net Cash Flows From:	[1]	[2]					
Operating Activities	[3]	$ 70	$ 187	$ 154	$ 156	$ 175	$ 190
Investing Activities	[4]	(47)	(95)	(51)	(48)	(48)	(43)
Financing Activities	[5]	-	(51)	(51)	(51)	(51)	(51)
Total Net Cash Flows		24	41	53	58	77	96
Cash (Beginning)	[6]	89	113	154	207	265	342
Cash (Ending)		$ 113	$ 154	$ 207	$ 265	$ 342	$ 437
On a projected cash flow basis, is LVI able to meet its financial obligations as they come due, by year?	[7]	**Yes**	**Yes**	**Yes**	**Yes**	**Yes**	**Yes**

Notes

[1] Sourced from the Spin Date Projections workbook unless otherwise noted. Document: L1 Model_August 2021_Aug Fcst_v10_BofA_vNewStructure_v3.xlsx.

[2] Kroll estimated the results for the period November 5, 2021 to December 31, 2021 by taking the Q4 2021 Spin Date Projections and prorating them based on number of days (62%).

[3] In estimating the cash from Operating Activities, we started with the Spin Date Projections' net income adjusted for non-cash items, then subtracted annual increases to working capital.

	Reference	Nov 5 - Dec 31 2021
Net Income adjusted for non-cash items per Spin Date Projection	[2]	$ 32
Less: Increase in LVI working capital (Add decrease)	Sch. 2	38
Net Cash from Operating Activities		$ 70

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 13**
PART B - Question #3 Page 2 of 2
LVI Projected Cash Flow Test
From November 5, 2021, to 2026
($USD, millions; unless otherwise noted)

Notes

[4] In estimating the net cash from Investing Activities from November 5, 2021 to December 31, 2021 we have summed the relevant accounts from Schedule 2, which includes both the change in the redemption settlement asset assets, an account where monies are set aside to cover future Air Miles redemptions, and capex.

		Nov 5 - Dec 31
	Reference	2021
Capex	Sch. 2	$ 6
Change in redemption settlement account	Sch. 2	41
Net Cash from Investing Assets		$ 47

[5] Cash from Financing Activities includes debt principal repayments. Interest payments on debt is included in Operating Activities.

[6] Per October 13, 2021. ADS Project Legacy: Go/No Go Decision Board of Directors Meeting Slides, slide 9.

[7] In performing this analysis, we assumed that LVI would be able to refinance its remaining debt as it comes due at the end of the projection period and beyond on similar terms.

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 14**

PART B - Question #3 Page 1 of 2

LoyaltyOne Projected Cash Flow Test

From November 5, 2021, to 2026

($USD, millions; unless otherwise noted)

Net cash flows from:	Notes	Nov 5 - Dec 31 2021	2022	2023	2024	2025	2026
Operating Activities	[1]	$ 46	$ 151	$ 108	$ 104	$ 108	$ 114
Investing Activities	[3]	(45)	(87)	(42)	(37)	(38)	(33)
Financing Activities	[2],[4]	-	(51)	(51)	(51)	(51)	(51)
Total net cash flows		1	14	15	16	20	30
Cash (beginning)	[5]	66	68	82	97	113	133
Cash (ending)		$ 68	$ 82	$ 97	$ 113	$ 133	$ 163
On a projected cash flow basis, is LVI able to meet its financial obligations as they come due, by year?	[6]	**Yes**	**Yes**	**Yes**	**Yes**	**Yes**	**Yes**

Notes

[1] To estimate LoyaltyOne's cash from Operating Activities, we reduced adjusted EBITDA by assuming interest on debt notionally incurred by LoyaltyOne and by estimating tax costs as follows:

LoyaltyOne Net Cash From Operating Activities	Reference	Nov 5 - Dec 31 2021	2022	2023	2024	2025	2026
LoyaltyOne earnings before interest and tax as projected	[2]	$ 19	$ 127	$ 125	$ 128	$ 133	$ 135
Less: Interest expense treated as though in LoyaltyOne for purposes of this analysis	[2]	(5)	(31)	(29)	(29)	(28)	(26)
LoyaltyOne earnings after interest and before income tax		14	96	96	99	105	109
LoyaltyOne earnings after tax at rate of* 27%		10	70	70	72	77	79
Add back: Depreciation and amortization	[2]	3	21	21	21	21	21
Add back: Stock Compensation Expense		1	4	4	4	4	4
Less: Increase in LoyaltyOne working capital (Add decrease)	Sch. 2	$ 32	$ 56	$ 13	$ 7	$ 7	$ 9
Net cash from Operating Activities		$ 46	$ 151	$ 108	$ 104	$ 108	$ 114

*For simplicity assumes tax depreciation equal to accounting depreciation.

Loyalty Ventures Inc. and LoyaltyOne, Co. **Sch. 14**
PART B - Question #3 Page 2 of 2
LoyaltyOne Projected Cash Flow Test
From November 5, 2021, to 2026
($USD, millions; unless otherwise noted)

[2] Sourced from the Spin Date Projections workbook unless otherwise noted. Document: L1 Model_August 2021_Aug Fcst_v10_BofA_vNewStructure_v3.xlsx

[3] We have calculated LoyaltyOne's cash from Investing Activities as follows:

		Nov 5 - Dec 31					
	Reference	2021	2022	2023	2024	2025	2026
LoyaltyOne capex	Sch. 15	$ 4	$ 17	$ 17	$ 17	$ 18	$ 18
Increase / (decrease) in redemption settlement assets	Sch. 2	41	70	25	20	20	15
Net cash from Investing Activities		$ 45	$ 87	$ 42	$ 37	$ 38	$ 33

[4] Principal repayments of LVI debt (treated as debt of LoyaltyOne for purposes of this analysis).

[5] Source: LMGCI_CONSOLIDATING_BS_CAD 2021-10-31, 'Balance Sheet' tab. Figures were converted from CAD to USD utilizing Q4 2021 exchange rate per Schedule 104.

[6] In performing this analysis, we assumed that the remaining debt would be refinanced as it comes due at the end of the projection period and beyond on similar terms.

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 15**
PART B - Question #3 Page 1 of 4
LoyaltyOne Discounted Cash Flow Approach
As at November 5, 2021
($USD, millions; unless otherwise noted)

		Notes/ Reference	Actual Results from 2019 to Q3 2021			Spin Date Projections						
			2019	2020	Q1 2021 - Q3 2021	Nov 5 - 31-Dec 2021	2022	2023	2024	2025	2026	Terminal Year
Adjusted EBITDA												
LoyaltyOne		Sch. 2	$ 164	$ 143	$ 114	$ 23	$ 152	$ 150	$ 153	$ 158	$ 160	
Adjustments to calculate free cash flow												
Less: Income tax	27%	[1]				(6)	(41)	(40)	(41)	(43)	(43)	
Less: Capex		[2]				(4)	(17)	(17)	(17)	(18)	(18)	
Add: Tax shield on capital expenditures						1	3	4	4	4	4	
Less: Increase in LoyaltyOne working capital (Add decrease)		[3]				32	56	13	7	7	9	
Less: Increase in Redemption Settlement Assets (Add decrease)		Sch. 2				(41)	(70)	(25)	(20)	(20)	(15)	
Free cash flow						**$ 5**	**$ 84**	**$ 84**	**$ 85**	**$ 88**	**$ 96**	
High Scenario: Discounted Cash Flow												**$ 98**
Terminal multiple		[4]										**15.4x**
												$ 1,511
Year factors						0.08	0.65	1.65	2.65	3.65	4.65	
Discount rate and factors	8.50%					0.994	0.948	0.874	0.805	0.742	0.684	0.684
High Scenario: Discounted free cash flow, at present value as at November 5, 2021						**$ 5**	**$ 80**	**$ 73**	**$ 69**	**$ 65**	**$ 66**	**$ 1,034**
High Scenario: Total of discounted free cash flow ('Get')						**$ 1,391**						

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Loyalty Ventures Inc. and LoyaltyOne, Co. | **Schedule 15**
PART B - Question #3 |
LoyaltyOne Discounted Cash Flow Approach
As at November 5, 2021
($USD, millions; unless otherwise noted)

	Reference	Actual Results from 2019 to Q3 2021: 2019	2020	Q1 2021 - Q3 2021	Spin Date Projections: Nov 5 - 31-Dec 2021	2022	2023	2024	2025	2026	Terminal Year
Low Scenario: Discounted Cash Flow											$ 98
Terminal multiple	[4]										13.3x
											$ 1,310
Year factors					0.08	0.65	1.65	2.65	3.65	4.65	
Discount rate and factors	9.50%				0.993	0.942	0.861	0.786	0.718	0.656	0.656
Low Scenario: Discounted free cash flow, at present value as at November 5, 2021					$ 5	$ 79	$ 72	$ 67	$ 63	$ 63	$ 859
Low Scenario: Total of discounted free cash flow ('Get')					$ 1,208						

Notes

[1] For simplicity, we have adopted the tax rate per the Spin Date Projections, recognizing that the Canadian corporate tax rate may be modestly lower.

[2] Sourced from the Spin Date Projections workbook unless otherwise noted. Document: L1 Model_August 2021_Aug Fcst_v10_BofA_vNewStructure_v3.xlsx.
Kroll has calculated capex for the November 5, 2021 to December 31, 2021 period by taking the Q4 2021 capex amount and prorating it by 62% (based on number of days).

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 15**
PART B - Question #3 Page 3 of 4
LoyaltyOne Discounted Cash Flow Approach
As at November 5, 2021
($USD, millions; unless otherwise noted)

Notes

[3] We applied the proportion of LVI's total assets and liabilities attributed to LoyaltyOne on the February 2021 balance sheet included in Schedule 108 to the LVI working capital calculation in Schedule 2 to calculate LoyaltyOne's projected working capital balances.

	Percent Attributable	9/30/21	12/31/21	12/31/22	12/31/23	12/31/24	12/31/25	12/31/26
LoyaltyOne working capital calculation								
Accounts receivable	68%	$ 197	$ 190	$ 201	$ 221	$ 240	$ 261	$ 278
Inventory balance	0%	-	-	-	-	-	-	-
Other current assets	42%	9	14	11	11	12	13	14
Right of Use Asset - Operating	32%	33	33	27	22	19	15	11
Deferred Tax Asset, Net	9%	7	7	7	8	8	9	10
Other Non-Current Assets	63%	2	2	2	2	2	2	2
Total LVI working capital assets		$ 247	$ 246	$ 248	$ 265	$ 282	$ 300	$ 314
Accounts payable	26%	20	19	19	21	23	25	26
Accrued expenses	41%	20	28	29	32	35	37	39
Current deferred revenue	100%	924	970	1,025	1,045	1,060	1,075	1,090
Non-current deferred revenue	100%	97	114	120	123	125	126	128
Other current liabilities	39%	51	31	30	32	34	36	37
Current Operating Lease Liability	22%	2	2	2	1	1	1	1
Deferred Tax Liability, Net	100%	0	(0)	(0)	(0)	-	-	-
Other Liabilities	60%	14	16	19	26	33	40	46
Long Term Operating Lease Liability	42%	44	44	37	31	26	21	16
Total LoyaltyOne working capital liabilities		$ (1,173)	$ (1,224)	$ (1,282)	$ (1,311)	$ (1,336)	$ (1,361)	$ (1,383)
Total LoyaltyOne working capital		$ (926)	$ (977)	$ (1,034)	$ (1,046)	$ (1,054)	$ (1,060)	$ (1,069)
Increase / (decrease) in LoyaltyOne working capital, by year			$ (32)	$ (56)	$ (13)	$ (7)	$ (7)	$ (9)

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 15**
PART B - Question #3 Page 4 of 4
LoyaltyOne Discounted Cash Flow Approach
As at November 5, 2021
($USD, millions; unless otherwise noted)

Notes

[4] The terminal period multiple is calculated as 1 / (WACC - long term growth rate) where:

High Scenario:	
WACC	8.50%
Long-term growth rate	2.00%
WACC - g	6.50%
Terminal period multiple	15.4x
Low Scenario:	
WACC	9.50%
Long-term growth rate	2.00%
WACC - g	7.50%
Terminal period multiple	13.3x

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 16**

PART B - Question #3

LoyaltyOne Market Approach: Somewhat Comparable Companies - Spin Date Projections

As at November 5, 2021

($USD, millions; unless otherwise noted)

	Reference	Notes	Low	High
Adjusted 2021E EBITDA		[1]	$ 149	$ 149
EBITDA Multiple	Sch. 5		5.1x	9.9x
Implied 'Get'			**$ 762**	**$ 1,471**

Notes

[1] Per the Spin Date Projections.

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 17**

PART B - Question #3

LoyaltyOne Market Approach: Somewhat Comparable Companies - December Projections

As at November 5, 2021

($USD, millions; unless otherwise noted)

	Reference	Notes	Low	High
Adjusted 2021E EBITDA		[1]	$ 145	$ 145
EBITDA Multiple	Sch. 5		5.1x	9.9x
Implied 'Get'			**$ 741**	**$ 1,432**

Notes

[1] Per the December Projections.

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 18**

PART B - Question #3

LoyaltyOne Market Approach: Somewhat Comparable Precedent Transactions - Spin Date Projections

As at November 5, 2021

($USD, millions; unless otherwise noted)

	Reference	Notes	Low	High
Adjusted 2021E EBITDA		[1]	$ 149	$ 149
EBITDA Multiple	Sch. 8		5.8x	8.3x
Implied 'Get'			**$ 862**	**$ 1,229**

Notes

[1] Per the Spin Date Projections.

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 19**

PART B - Question #3

LoyaltyOne Market Approach: Somewhat Comparable Precedent Transactions - December Projections

As at November 5, 2021

($USD, millions; unless otherwise noted)

	Reference	Notes	Low	High
Adjusted 2021E EBITDA		[1]	$ 145	$ 145
EBITDA Multiple	Sch. 8		5.8x	8.3x
Implied 'Get'			**$ 839**	**$ 1,196**

Notes

[1] Per the December Projections.

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 20**

PART B - Question #4

LVI Calculation of Debt Amount for Purposes of Notional Debt Adjustment

As at November 5, 2021

($USD, millions; unless otherwise noted)

	Reference	LVI Leverage Adjustment
LVI Total Long-Term Debt	[1]	$ 675
LVI Market Capitalization	[2]	818
Total Capital		1,493
Average Debt to Capital % per Comparables	[3]	30%
Notional Debt		**$ 441**

Notes

[1] Term Loan A and B totaled to $675M as of the Spin Date.

[2] LVI market capitalization (30-day VWAP) sourced from Capital IQ.

[3] Debt (excluding leases) to Capital % per Comparables as at the Spin Date:

Comparable	Debt to Capital %
Advantage Solutions Inc.	42%
Nielsen Holdings plc	43%
The Interpublic Group of Companies, Inc.	19%
Omnicom Group Inc.	27%
WPP plc	28%
Publicis Groupe S.A.	21%
Thryv Holdings, Inc.	37%
Harte Hanks, Inc.	21%
Average	**30%**

Source: Capital IQ, Kroll Cost of Capital Navigator

We also had to regard to the leverage ratios and interest coverage ratios of the somewhat comparable companies in our application and selection of the debt to capital ratios.

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 21**

PART B - Question #4 Page 1 of 3

LVI Actual Cash Flows Post Spin Date - Adjusted for Kroll Notional Level of Debt

By quarter from Q4 2021 to Q2 2023

($USD, millions; unless otherwise noted)

	Notes	Q4 2021	Q1 2022	Q2 2022	Q3 2022	10-Mar-23	31-Mar-23 [1]	Q2 2023 [1], [6]
LVI Actual Cash Flow	Sch. 22	$ (31)	$ (28)	$ (42)	$ (24)	$ (88)	$ -	$ -
Items Notionally Adjusted Under Kroll Notional Debt Analysis								
Debt issuance								
Less: Actual issuance	Sch. 22	(675)						
Add: Notional issuance	[2]	441						
LVI's 'Give' to ADS								
Add: Actual LVI Debt Proceeds Given to ADS	Sch. 22	650						
Less: Notional LVI Debt Proceeds Given to ADS	[2]	(416)						
Debt principal payments								
Add: Actual payments	Sch. 22	0	13	13	13	13		
Less: Notional payments	[3]	0	(8)	(8)	(8)	(8)	(8)	(8)
Interest								
Add: Actual interest	Sch. 22	5	8	9	11	14		
Less: Notional interest	[4]	(3)	(5)	(6)	(7)	(9)	(11)	(11)
Notional increase in income tax on notionally lower interest	[5]	(0)	(1)	(1)	(1)	(1)		
Notional Cash Flow Under Kroll Notional Debt Analysis		(30)	(21)	(36)	(17)	(80)	(20)	(20)
Cash (Beginning)	Sch. 22	199	169	148	112	95	15	(4)
Cash (Ending)		**$ 169**	**$ 148**	**$ 112**	**$ 95**	**$ 15**	**$ (4)**	**$ (24)**
Memo: Cash (Ending) LVI Actual	Sch. 22	$ 168	$ 140	$ 97	$ 73	$ (14)		

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 21**
PART B - Question #4 Page 2 of 3
LVI Actual Cash Flows Post Spin Date - Adjusted for Kroll Notional Level of Debt
By quarter from Q4 2021 to Q2 2023
($USD, millions; unless otherwise noted)

Notes

[1] We assumed LVI's actual net cash flow (excluding interest and debt) post the March 10, 2023 CCAA date to be $nil for purposes of this analysis. In doing so we had regard for, amongst other things, the following factors that suggest that it would more likely have been negative instead of nil: (i) LVI's corresponding net cash flow over the immediately prior period from January 1, 2022 to March 10, 2023 which was negative; and (ii) the bankruptcy/CCAA filings on March 10, 2023 which clearly indicated a negative outlook at that time. In that connection, LoyaltyOne's monitor KSV forecasted LoyaltyOne would have net cash flow of -$76 million between March 10, 2023, and June 9, 2023 (apparently including outflows of some -$14 million related to the net of Air Miles receipts less Air Miles redemptions and LoyaltyOne general operating disbursements). To the extent that our use of $nil overstates the likely net cash flows post March 10, 2023 then that would only result in an even shorter notional LVI operating runway prior to bankruptcy under this analysis.

*LVI's Cash Flow Summary per pg. 10 of the First Report of KSV Restructuring Inc. as CCAA Monitor of LoyaltyOne, Co. dated March 16, 2023.

[2] We have substituted LVI's actual debt balance at Spin Date with our notional debt balance. We have also reduced LVI's consideration paid to ADS at Spin Date by the difference between LVI's actual debt balance at Spin Date and the Kroll notional debt balance at Spin Date. The effect of this is, at Spin Date LVI would have its debt reduced to the Kroll notional level while maintaining the same day one cash balance.

Kroll LVI Notional Debt Reduction	Reference	At Spin
LVI notional level of debt	Sch. 20	$ 441
LVI actual debt level	Sch. 22	675
LVI notional debt reduction		$ 234
Memo: Notional debt reduction as a % of starting debt		35%

[3] We have reduced LVI's quarterly debt principal payments of $13 million proportionate to the notional debt reduction of 35%.

[4] In estimating LVI's interest payments from Q4 2021 to Q3 2022 we have taken the actual payments and adjusted them to reflect the Kroll Notional Debt amount by applying the corresponding adjustment factor. We have assumed Q2 2023's interest is equal to that of Q1 2023. We also assume interest and principal payments are made at quarter end.

Notional LVI interest payments	Reference	Q4 2021	Q1 2022	Q2 2022	Q3 2022	Q4 2022	Q1 2023	Q2 2023
LVI actual interest payments	Sch. 22	$ 5	$ 8	$ 9	$ 11	$ 14	$ 17	$ 17
Notional debt reduction	[2]	35%	35%	35%	35%	35%	35%	35%
LVI notional debt repayments		$ 3	$ 5	$ 6	$ 7	$ 9	$ 11	$ 11

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 21**

PART B - Question #4 Page 3 of 3

LVI Actual Cash Flows Post Spin Date - Adjusted for Kroll Notional Level of Debt

By quarter from Q4 2021 to Q2 2023

($USD, millions; unless otherwise noted)

Notes

[5] As LVI's notional interest payments are lower than its actual interest payments, we have calculated a notional increase in tax payable by LVI as its taxable income would be higher owing to a lower interest expense. In doing so, we utilized a tax rate of 27%. Please see Schedule 2 for more information on the tax rate selected.

[6] We have estimated that with a notional level of debt, LVI would have a cash balance equal to or below the level at which LVI declared bankruptcy by the end of Q2 2023. Although LVI has a revolver, we have made the assumption that it would not be drawn past the level at which LVI actually drew the revolver prior to declaring bankruptcy to allow for an apples to apples comparison. We have also made this assumption because, amongst other things, LVI's access to its credit facility is dependent on it staying onside its covenants. Per pg. 21 of the Horn First Day Declaration dated March 10, 2023, LVI could not satisfy the conditions necessary to access the credit facility. It's unclear under our notional debt level if LVI's could have further drawn on the credit facility. If it were able to draw additional funds, given LVI's negative ongoing estimated cash flows, LVI could have extended its operating runway until its credit facility was exhausted.

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 22**
PART B - Question #4 Page 1 of 3
LVI Actual Cash Flows Post Spin Date
By quarter from Q4 2021 to March 10, 2023
($USD, millions; unless otherwise noted)

	Notes	Q4 2021	Q1 2022	Q2 2022	Q3 2022	10-Mar-23
LVI Cash Flow						[6]
Operating Activities - Excluding Interest	[1]	$ 71	$ (20)	$ (5)	$ 1	
Investing Activities	[2]	(10)	(12)	14	(8)	
Effects of Exchange Rate Changes	[2]	1	(1)	(5)	(7)	$ (61)
Financing Activities - Excluding Debt and LVI's 'Give' Payment	[3]	(12)	1	(0)	(2)	
Net Change in Restricted Cash Balances	[4]	(1)	25	(25)	15	
Debt Issuance and Repayments	[2]	675	(13)	(13)	(13)	(13)
Cash Swept to ADS	[5]	(100)	0	0	0	0
LVI Debt Proceeds Given to ADS	[5]	(650)	0	0	0	0
Interest	[2]	(5)	(8)	(9)	(11)	(14)
Net LVI Actual Cash Flows		(31)	(28)	(42)	(24)	(88)
Cash (Beginning)	[7]	199	168	140	97	73
Cash (Ending)		**$ 168**	**$ 140**	**$ 97**	**$ 73**	**$ (14)**

Notes

[1] LVI's interest payments were separated from its other operating results to provide a more illustrative view of its operations.

LVI Operating Cash Flows	Reference	Q4 2021	Q1 2022	Q2 2022	Q3 2022
Net cash from operating activities	[2]	$ 66	$ (29)	(13)	$ (10)
Add: Interest	[2]	5	8	9	$ 11
Net cash from operating activities - excluding interest		$ 71	$ (20)	$ (5)	$ 1

[2] Sourced from LVI's From 10-Q for the period ended September 30, 2021, March 31, 2022, June 30, 2022, and September 30, 2022, and LVI's Form 10-K for the period ended December 31, 2021.

[3] LVI's net cash flow from financing activities excluding debt can be broken out as follows:

LVI Financing Cash Flows	Reference	Q4 2021	Q1 2022	Q2 2022	Q3 2022
Net cash from financing activities	[2]	$ (12)	$ (12)	$ (13)	$ (14)
Less: LVI debt payments	[2]		(13)	(13)	(13)
Net cash from financing activities - excluding debt		$ (12)	$ 1	$ (0)	$ (2)

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 22**
PART B - Question #4 Page 2 of 3
LVI Actual Cash Flows Post Spin Date
By quarter from Q4 2021 to March 10, 2023
($USD, millions; unless otherwise noted)

Notes

[4] A portion of LVI's cash balance is cash restricted for Air Miles travel deposits or redemptions by Air Miles collectors. As this is not operating cash available for LVI's uses, changes to it have been excluded so as to only measure non-restricted cash flows.

LVI Changes to Restricted Cash	Reference	Q3 2021	Q4 2021	Q1 2022	Q2 2022	Q3 2022
Restricted cash in other current assets	[2]	$ 5	$ 6	$ 11	$ 10	$ 9
Restricted cash within redemption settlement assets	[2]	58	59	29	56	41
Total restricted cash		64	65	40	65	50
Change in restricted cash			$ (1)	$ 25	$ (25)	$ 15

[5] Sourced from Charles Horn First Day Declaration dated March 10, 2022, pg. 12 - 15.

[6] In the absence of reported actual results, we have estimated the results for the period between October 1, 2022 and March 10, 2022 by taking an estimate of LVI's cash balance on March 10, 2023 and subtracting LVI's balance on October 1, 2022, to determine the net change in cash over the period. We then reversed the effects of interest payments, debt payments, and revolver draws to determine LVI's remaining net cash flow. Our ending cash balance of -$14 million does not include the impact of LVI's $32 million revolver draw between October 1, 2022 and March 10, 2023.

Kroll Estimated LVI Net Change in Cash - Excluding Interest and Debt	Reference	1-Oct-2022 - 10-Mar-2023
LVI Q4 2022 starting cash balance	[2]	$ 73
LVI cash balance at date of insolvency	[9]	18
LVI change in cash from Oct 1, 2022, to Mar 10, 2023		$ (56)
Add: LVI Q4 2022 debt principal payment*		13
Add: Kroll estimated LVI Q4 2022 interest payment	[8]	14
Less: LVI revolver draw**		(32)
Kroll estimated LVI net change in cash - excluding interest and debt		$ (61)

*Per LVI Credit Agreement dated November 3, 2021, pg. 78.

[7] Opening cash is unrestricted cash available for use in LVI's operations sourced from LVI's 10-Q for the period ended September 30, 2022.

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 22**
PART B - Question #4 Page 3 of 3
LVI Actual Cash Flows Post Spin Date
By quarter from Q4 2021 to March 10, 2023
($USD, millions; unless otherwise noted)

Notes

[8] To estimate LVI's interest payment in Q4 2022, we have taken the average of the actual interest expense in Q3 2022 and the scheduled interest expense in Q1 2023. We have calculated the scheduled Q1 2023 interest payment utilizing LVI's prevailing debt balance and interest rates on March 10, 2023.

Scheduled Q1 2023 Interest Expense*	Term Loan A	Term Loan B	Total
Debt balance	$ 162	$ 463	**$ 624**
LVI interest rates on March 10, 2023	11%	11%	11%
Scheduled Q1 2023 interest expense	$ 4	$ 13	**$ 17**

Estimated Q4 2022 Interest Expense	Q4 2022
Q3 2022 interest expense	$ 11
Scheduled Q1 2023 interest expense	17
Estimated Q4 2022 Interest Expense	$ 14

*Debt balances and interest rates per Charles Horn First Day Declaration dated March 10, 2023, pg.12.

[9] LVI did not publish quarterly or annual financial results after Q3 2022. The cash balances of LVI and three related entities in the LVI family which declared bankruptcy on March 10, 2023 have been tabulated below to determine LVI's cash balance on March 10, 2023.

LVI Group Total Cash on Hand*	10-Mar-23
LVI cash balance	$ 1
LVI Lux Holdings cash balance	0
LVI Sky Oak LLC cash balance	0
Rhombus Investments L.P. cash balance	0
Loyalty One cash balance	15
LVI group cash balance on March 10, 2023	$ 18

*LVI's cash balance per page 10 of the First Report of KSV Restructuring Inc. as CCAA Monitor of Loyalty One, Co. dated March 16, 2023. The remaining cash balances were per page 15 of LVI, LVI Lux Holdings, LVI Sky Oak, and Rhombus Investments' monthly operating reports all dated April 21, 2023.

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 23**

LVI Weighted Average Cost of Capital Page 1 of 3

As at November 5, 2021

($USD, millions; unless otherwise noted)

	Calculations	Reference	**Low**	**High**
Cost of Debt				
Pre-tax cost of debt	r_{dPt}	[1]	6.50%	7.75%
Income tax rate	t	[2]	27.0%	27.0%
After-tax cost of debt	$r_{dAt} = r_{dPt} * (1- t)$		**4.75%**	**5.66%**
Cost of Equity (under the modified CAPM)				
Risk-free rate	r_f	[3]	2.50%	2.50%
Equity risk premium	*ERP*	[4]	5.50%	5.50%
Levered beta	β	[5]	0.92	0.81
Size premium	*SP*	[6]	1.43%	1.43%
Cost of equity	$r_f + \beta(ERP) + SP$		**9.00%**	**8.41%**
Capital structure				
Debt %		[7]	40.0%	30.0%
Equity %		[7]	60.0%	70.0%
Total			100.0%	100.0%
Weighted Average Cost of Capital (rounded)			**7.30%**	**7.60%**

1080

Notes

[1] The range for LVI's pre-tax cost of debt was selected having had regard for the following noting that S&P initiation rating was B+ and Moody's initiation rating was B1 (equivalent to B+) while the TLB was rated BB-. In addition to this, we considered debt in place at LVI and ADS.

Corporate bond yields	BB	B	CCC
5 Year Term	3.37%	5.52%	11.06%
10 Year Term	4.48%	7.34%	11.53%
20 Year Term	5.42%	8.99%	11.84%

Source: Capital IQ

As of December 31, 2021, LVI had the following long-term debt outstanding:*

- $175M in term loan A due in November 2026 with a weighted average interest rate of 3.6%
- $500M in term loan B due in November 2027 with a weighted average interest rate of 5.0%

**LVI's Form 10-K for the period ended December 31, 2021*

As of December 31, 2021, ADS had the following long-term debt outstanding:*

- $658M in term loans due in December 2021 with an effective interest rate of 1.85% (LIBOR + margin)
- $850M in senior notes due December 2024 with an interest rate of 4.75%
- $500M in senior notes due in January 2026 with an interest rate of 7.00%

**ADS's Form 10-K for the period ended December 31, 2021*

[2] Based on the tax rate used in the Spin Date Projections.

[3] Based on Kroll guidance to be used in conjunction with the Kroll recommended equity risk premium as at November 5, 2021:

Kroll Normalized Risk-free Rate	2.50%

Source: Kroll Cost of Capital Navigator

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 23**
LVI Weighted Average Cost of Capital Page 3 of 3
As at November 5, 2021
($USD, millions; unless otherwise noted)

Notes

[4] Based on Kroll's recommended equity risk premium (as at November 5, 2021) of 5.50%; to be used in conjunction with the Kroll Normalized Risk-free Rate.
Source: Kroll Cost of Capital Navigator

[5] Based on the selected inputs on Schedule 112.

	Low	High
Unlevered Median Industry Beta	0.62	0.62
Industry D/E = Debt / Capital * (1 - Debt / Capital)	66.7%	42.9%
Effective Tax Rate	27.0%	27.0%
Beta (Relevered)	0.92	0.81

[6] Our range for the size premium applicable to LoyaltyOne was selected as the Low Cap as the 30-day VWAP is $818 million.

Deciles:	Low	High	Size premium
6	$ 1,592	$ 2,445	1.37%
7	912	1,592	1.54%
8	452	912	1.46%
Low Cap	452	2,445	1.43%

Source: Capital IQ, Kroll Cost of Capital Navigator

[7] We have selected debt and equity weightings having had regard for the capital structures on Schedule 112 with the high representing the spot debt to capital and the low representing the 5 year average debt to capital.

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 100**

LVI - Spin Date Projections

By year from 2018 to 2026, Q4 2021 presented separately

($USD, millions; unless otherwise noted)

	Financial Results from 2019 to Q3 2021				Spin Date Projection					
	2018	2019	2020	Q1 to Q3 2021	Q4 2021	2022	2023	2024	2025	2026
Revenues:	[1]	[1]	[1]	[1], [2]						
Redemption Revenue, Net	$ 697	$ 666	$ 494	$ 303	$ 213	$ 552	$ 619	$ 682	$ 746	$ 800
Issuance Revenue	250	236	227	177	58	222	221	225	231	238
Marketing Revenue - AMRP	18	16	8	6	4	14	16	18	20	20
Other Revenue - AMRP	20	21	17	14	10	35	39	42	44	44
Other Revenue - BL	13	13	17	6	2	9	10	11	12	13
Total Revenue	997	952	763	506	287	832	905	978	1,054	1,115
Memo: YoY Revenue Growth %		-5%	-20%	4%		5%	9%	8%	8%	6%
Operating Expenses										
Payroll & Benefits	155	149	142	105	38	147	151	156	161	166
Stock Compensation	10	8	8	7	2	10	10	11	11	12
Cost of Redemptions Expense	487	506	356	214	151	384	433	481	528	568
Data Processing/Equipment Exp	23	30	29	23	7	30	31	31	32	33
Occupancy Expense	20	19	16	11	4	17	17	17	18	18
Legal and Auditing Expense	5	6	4	4	1	5	5	5	5	5
Marketing Expense	29	24	23	15	13	31	33	35	37	38
All Other Expenses	42	40	21	19	6	20	21	22	23	23
Total Operating Expenses	771	781	600	398	223	644	702	758	815	862
Less: Depreciation & Amortization	80	76	78	28	9	30	31	31	31	31
Less: Interest Expense	6	2	(1)	(0)	(0)	30	28	28	27	25
Earnings before Tax	**$ 142**	**$ 93**	**$ 86**	**$ 81**	**$ 55**	**$ 128**	**$ 145**	**$ 160**	**$ 182**	**$ 197**
Less: Income Taxes @ 27%	38	25	23	22	15	35	39	43	49	53
Earnings before Tax	**$ 103**	**$ 68**	**$ 63**	**$ 59**	**$ 40**	**$ 94**	**$ 106**	**$ 117**	**$ 133**	**$ 143**

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 101**

LVI - Spin Date Projections Page 2 of 2

By year from 2018 to 2026, Q4 2021 presented separately

($USD, millions; unless otherwise noted)

	Financial Results from 2019 to Q3 2021				Spin Date Projection					
	2018	2019	2020	Q1 to Q3 2021	Q4 2021	2022	2023	2024	2025	2026
	[1]	[1]	[1]	[1], [2]						
Add: Normalizing Adjustments	(10)	51	1	4	1	0	0	0	0	0
Add: Depreciation & Amortization	80	76	78	28	9	30	31	31	31	31
Add: Interest Expense	6	2	(1)	(0)	(0)	30	28	28	27	25
Add: Stock Compensation	10	8	8	7	2	10	10	11	11	12
Add: Income Tax	38	25	23	22	15	35	39	43	49	53
Adjusted EBITDA	**$ 228**	**$ 230**	**$ 171**	**$ 120**	**$ 67**	**$ 199**	**$ 214**	**$ 231**	**$ 251**	**$ 264**
Memo: Adjusted EBITDA Margin %	*23%*	*24%*	*22%*	*24%*	*23%*	*24%*	*24%*	*24%*	*24%*	*24%*

Notes

[1] Sourced from the Spin Date Projections workbook unless otherwise noted. Document: L1 Model_August 2021_Aug Fcst_v10_BofA_vNewStructure_v3.xlsx.

[2] Included herein are the Q3 2021 forecasted results per the Spin Date Projections.

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 101**

LoyaltyOne - Spin Date Projections

By year from 2019 to 2026, Q4 2021 presented separately

($CAD, millions; unless otherwise noted)

	Financial Results from 2019 to Q3 2021			Spin Date Projection					
	2019	2020	Q1 to Q3 2021	Q4 2021	2022	2023	2024	2025	2026
	[1]	[1]	[1], [2]						
Memo: Miles Issued (millions)	5,511	4,964	3,418	1,310	4,949	5,134	5,288	5,447	5,603
Revenues:									
Redemption Revenue, Gross	$ 451	$ 312	$ 246	$ 92	$ 399	$ 408	$ 416	$ 426	$ 435
Cost of Redemptions	(411)	(280)	(224)	(86)	(366)	(377)	(388)	(400)	(411)
Redemption Revenue, Net	40	32	22	6	33	31	28	25	24
Issuance Revenue	313	304	221	73	281	279	284	292	300
Marketing Revenue	21	10	8	4	18	20	23	26	26
Other Revenue	28	23	17	12	44	49	52	55	55
Total Revenue	402	369	267	96	375	379	388	398	406
Memo: YoY Revenue Growth %		-8%	-2%		3%	1%	2%	3%	2%
Operating Expenses									
Payroll & Benefits	92	91	66	23	96	98	100	102	104
Stock Compensation	3	3	3	1	5	5	5	5	5
Cost of Redemptions Expense	8	7	5	2	7	7	7	8	8
Data Processing/Equipment Exp	28	27	20	7	28	28	29	29	30
Occupancy Expense	13	11	6	3	11	11	11	11	12
Consulting/Professional Exp	1	2	3	1	(9)	(9)	(10)	(10)	(10)
Legal and Auditing Expense	2	2	2	1	2	2	2	2	2
Marketing Expense	24	25	15	14	33	36	38	40	41
All Other Expenses	21	12	10	(1)	16	17	17	17	17
Total Operating Expenses	192	180	129	50	188	195	199	204	209
Less: Depreciation & Amortization	22	25	22	6	27	27	26	27	27
Less: Interest Expense	(2)	(1)	(1)	(0)	(1)	(1)	(1)	(1)	(1)
Earnings before Tax	**$ 190**	**$ 165**	**$ 116**	**$ 39**	**$ 162**	**$ 159**	**$ 163**	**$ 169**	**$ 171**

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 101**

LoyaltyOne - Spin Date Projections

By year from 2019 to 2026, Q4 2021 presented separately

($CAD, millions; unless otherwise noted)

	Financial Results from 2019 to Q3 2021			Spin Date Projection					
	2019	2020	Q1 to Q3 2021	Q4 2021	2022	2023	2024	2025	2026
	[1]	[1]	[1], [2]						
Add: Normalizing Adjustments	5	1	(0)	0	0	0	0	0	0
Add: Depreciation & Amortization	22	25	22	6	27	27	26	27	27
Add: Interest Expense	(2)	(1)	(1)	(0)	(1)	(1)	(1)	(1)	(1)
Add: Stock Compensation	3	3	3	1	5	5	5	5	5
Adjusted EBITDA	$ 218	$ 192	$ 140	$ 46	$ 192	$ 189	$ 193	$ 199	$ 202
Memo: Adjusted EBITDA Margin %	54%	52%	53%	48%	51%	50%	50%	50%	50%
CAD to USD Exchange Rate	0.754	0.745	0.801	0.797	0.792	0.792	0.792	0.792	0.792
USD Adjusted EBITDA	$ 164	$ 143	$ 112	$ 37	$ 152	$ 150	$ 153	$ 158	$ 160

Notes

[1] Sourced from the Spin Date Projections workbook unless otherwise noted. Document: L1 Model_August 2021_Aug Fcst_v10_BofA_vNewStructure_v3.xlsx.

[2] Included herein are the Q3 2021 forecasted results per the Spin Date Projections.

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 102**

BrandLoyalty - Spin Date Projections

By year from 2019 to 2026, Q4 2021 presented separately

(€EUR, millions; unless otherwise noted)

	Financial Results from 2019 to Q3 2021			Spin Date Projection					
	2019	2020	Q1 to Q3 2021	Q4 2021	2022	2023	2024	2025	2026
Revenues:	[1]	[1]	[1], [2]						
Short-term Loyalty Program	€ 446	€ 310	€ 181	€ 152	€ 350	€ 396	€ 439	€ 483	€ 519
Instant Loyalty Program	97	82	47	15	65	74	82	90	97
Other Revenue	37	33	16	10	28	31	35	38	41
Total Revenues	581	425	244	178	443	501	556	612	657
Memo: Revenue Growth %		-27%	-1%		5%	13%	11%	10%	8%
Operating Expenses									
Payroll & Benefits	64	57	38	15	52	53	56	58	61
Stock Compensation	3	3	3	1	3	3	4	4	4
Cost of Redemptions Expense	447	305	176	126	313	354	393	432	465
Data Processing/Equipment Exp	6	6	4	1	5	5	5	5	6
Occupancy Expense	8	7	5	2	6	6	7	7	7
Consulting/Professional Exp	3	2	1	0	1	2	2	2	2
Legal and Auditing Expense	2	2	1	0	2	2	2	2	2
Marketing Expense	5	4	2	1	4	4	4	4	4
All Other Expenses	16	5	5	4	9	9	10	10	11
Total Operating Expenses	555	391	235	151	396	439	482	525	561
Less: Depreciation & Amortization	53	52	8	3	8	8	9	8	8
Less: Interest Expense	4	0	0	0	0	0	0	0	0
Earnings before Tax	**€ (31)**	**€ (18)**	**€ 1**	**€ 24**	**€ 40**	**€ 55**	**€ 66**	**€ 78**	**€ 88**

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 102**

BrandLoyalty - Spin Date Projections

By year from 2019 to 2026, Q4 2021 presented separately

(€EUR, millions; unless otherwise noted)

	Financial Results from 2019 to Q3 2021			Spin Date Projection					
	2019	2020	Q1 to Q3 2021	Q4 2021	2022	2023	2024	2025	2026
	[1]	[1]	[1], [2]						
Add: One Time Restructuring Costs	43	(0)	0	0	0	0	0	0	0
Add: Depreciation & Amortization	53	52	8	3	8	8	9	8	8
Add: Interest Expense	4	0	0	0	0	0	0	0	0
Add: Stock Compensation	3	3	3	1	3	3	4	4	4
Adjusted EBITDA	€ 71	€ 37	€ 12	€ 28	€ 51	€ 66	€ 78	€ 90	€ 100
Memo: Adjusted EBITDA Margin %	*12%*	*9%*	*5%*	*16%*	*12%*	*13%*	*14%*	*15%*	*15%*
EUR to USD Exchange Rate	1.120	1.141	1.220	1.184	1.208	1.208	1.208	1.208	1.208
USD Adjusted EBITDA	$ 80	$ 42	$ 14	$ 33	$ 62	$ 79	$ 94	$ 109	$ 121

Notes

[1] Sourced from the Spin Date Projections workbook unless otherwise noted. Document: L1 Model_August 2021_Aug Fcst_v10_BofA_vNewStructure_v3.xlsx.

[2] Included herein are the Q3 2021 forecasted results per the Spin Date Projections.

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 103**

LVI - Actual Income Statements

For various periods from 2019 to Q3 2022

($USD, millions; unless otherwise noted)

	Full Year 2019	Full Year 2020	Q1 - Q3 2021	Q4 2021	Full Year 2021	Q1 2022	Q2 2022	Q3 2022
Revenues:	[1]	[1]	[1]	[1]	[1]	[1]	[1]	[1]
Redemption, net	$ 637	$ 473	$ 281	$ 164	$ 444	$ 85	$ 97	$ 92
Services	368	264	199	70	269	64	65	63
Other	28	28	17	5	22	6	10	8
Total Revenues	1,033	765	497	239	735	155	172	162
Operating Expenses								
Cost of operations	848	588	373	200	573	128	146	134
General and administrative	15	14	12	8	20	6	5	5
Depreciation and other amortization	32	29	26	9	35	9	9	7
Amortization of purchased intangibles	48	49	1	0	2	0	0	0
Goodwill impairment	0	0	0	50	50	0	423	0
Total Operating Expenses	943	680	412	268	680	144	583	147
Operating income (loss)	**$ 91**	**$ 85**	**$ 85**	**$ (29)**	**$ 55**	**$ 11**	**$ (411)**	**$ 16**
Gain on sale of business	0	(11)	0	0	0	0	0	0
Interest expense (income), net	2	(1)	(0)	6	6	9	9	12
Provision for income taxes	11	21	32	21	52	1	22	4
(Income) loss from investment in unconsolidated subsidiary	2	0	(4)	0	(4)	0	0	0
Net income	**$ 75**	**$ 75**	**$ 58**	**$ (56)**	**$ 2**	**$ 1**	**$ (442)**	**$ (0)**

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 103**

LVI - Actual Income Statements

For various periods from 2019 to Q3 2022

($USD, millions; unless otherwise noted)

	Full Year 2019	Full Year 2020	Q1 - Q3 2021	Q4 2021	Full Year 2021	Q1 2022	Q2 2022	Q3 2022
	[1]	[1]	[1]	[1]	[1]	[1]	[1]	[1]
Add: Interest expense (income), net	2	(1)	(0)	6	6	9	9	12
Add: Provision for income taxes	11	21	32	21	52	1	22	4
Add: Depreciation and other amortization	32	29	26	9	35	9	9	7
Add: Amortization of purchased intangibles	48	49	1	0	2	0	0	0
Add: Goodwill impairment	0	0	0	50	50	0	423	0
Add: Stock compesnation expense	9	7	6	(0)	6	2	2	1
Add: Strategic transaction & other costs	52	3	0	18	18	2	5	8
Less: Gain on sale of business	0	(11)	0	0	0	0	0	0
Less: (Income) loss from investment in unconsolidated	2	0	(4)	0	(4)	0	0	0
Adjusted EBITDA	$ 232	$ 173	$ 119	$ 47	$ 166	$ 25	$ 27	$ 33

Notes

[1] Sourced from LVI's 10-K and 10-Qs filed for the periods ending between September 30, 2021, and September 30, 2022.

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Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 104**

LoyaltyOne - Actual Income Statements

2018 Full Year and by Quarter from Q1 2019 to Q4 2022

($CAD, millions; unless otherwise noted)

	Actuals - Pre Spin [1]												Actuals - Post Spin					
	2018	2019				2020				2021				2022				
	Q1 - Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
	[2]	[2]	[2]	[2]	[2]							[3]	[3]	[3]	[3]	[3]	[4]
Memo: Miles Issued (millions) [5]	5,500	1,258	1,423	1,344	1,486	1,316	1,053	1,240	1,355	1,112	1,139	1,155	1,264	1,065	1,229	1,177	
Revenues:																	
Redemption Revenue, Gross	$ 466	$ 113	$ 106	$ 109	$ 122	$ 102	$ 60	$ 66	$ 83	$ 74	$ 80						
Cost of Redemptions	(367)	(104)	(97)	(100)	(110)	(92)	(52)	(60)	(76)	(67)	(73)						
Redemption Revenue, Net	99	9	9	9	12	10	9	6	7	7	7						
Issuance Revenue	324	77	78	78	80	79	74	74	76	74	74						
Marketing Revenue	24	6	6	5	5	4	2	2	2	2	3						
Other Revenue	25	7	7	7	7	7	5	5	5	6	5						
Total Revenue	472	99	100	99	104	100	90	88	91	89	88	$ 91	$ 89	$ 89	$ 85	$ 88	$ 80
Operating Expenses																	
Payroll & Benefits	97	21	25	24	22	22	22	25	23	22	23						
Stock Compensation	5	1	1	0	0	1	1	1	1	1	1						
Cost of Redemptions Expense	60	2	2	2	2	2	2	2	2	2	2						
Data Processing/Equipment Exp	18	5	7	7	8	7	7	7	7	7	7						
Occupancy Expense	14	3	3	3	3	4	3	2	2	2	2						
Consulting/Professional Exp	2	0	1	0	0	0	0	0	1	1	1						
Legal and Auditing Expense	2	0	0	1	1	1	0	1	1	1	0						
Marketing Expense	26	4	8	6	6	4	4	4	12	5	5						
All Other Expenses	19	5	5	6	4	4	2	3	4	4	4						
Total Operating Expenses	243	41	53	51	47	44	39	44	52	44	44	41	51	44	51	47	63
Less: Depreciation & Amortization	22	5	5	6	6	6	6	6	7	7	8	8	8	7	9	7	8
Less: Interest Expense	(1)	(0)	(1)	(1)	(1)	(1)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(1)	(1)
Earnings before Tax	**$ 208**	**$ 53**	**$ 42**	**$ 44**	**$ 51**	**$ 51**	**$ 45**	**$ 38**	**$ 32**	**$ 38**	**$ 37**	**$ 43**	**$ 31**	**$ 38**	**$ 26**	**$ 34**	**$ 10**

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 104**

LoyaltyOne - Actual Income Statements

2018 Full Year and by Quarter from Q1 2019 to Q4 2022

($CAD, millions; unless otherwise noted)

	Actuals - Pre Spin [1]													Actuals - Post Spin			
	2018	2019				2020				2021				2022			
	Q1 - Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
	[2]	[2]	[2]	[2]	[2]							[3]	[3]	[3]	[3]	[3]	[4]
Add: Normalizing Adjustments	(12)	0	0	4	1	0	0	0	0	(0)	0	0	5	0	5	5	
Add: Depreciation & Amortization	22	5	5	6	6	6	6	6	7	7	8	8	8	7	9	7	
Add: Interest Expense	(1)	(0)	(1)	(1)	(1)	(1)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(1)	
Add: Stock Compensation	5	1	1	0	0	1	1	1	1	1	1	1	3	1	0	0	
Adjusted EBITDA	**$ 222**	**$ 59**	**$ 48**	**$ 53**	**$ 58**	**$ 57**	**$ 51**	**$ 45**	**$ 39**	**$ 46**	**$ 45**	**$ 51**	**$ 46**	**$ 46**	**$ 40**	**$ 45**	

Notes

[1] Sourced from the Spin Date Projections workbook unless otherwise noted. Document: L1 Model_August 2021_Aug Fcst_v10_BofA_vNewStructure_v3.xlsx.

[2] As the Spin Date Projectionspresents 2018 and 2019 quarterly results in USD, we converted the results to CAD utilizing the Bank of Canada average exchange rates over year or quarter in question. As LVI's 10-K for the period ended December 31, 2021, did not present an average exchange rate for Q4 2021, we have utilized the Bank of Canada average exchange rate over the quarter.

	2018	Q1 2019	Q2 2019	Q3 2019	Q4 2019	Q4 2021
Bank of Canada USD to CAD Average Exchange Rate	1.30	1.33	1.34	1.32	1.32	1.26

[3] Sourced from LVI's 10-K and 10-Qs filed for the periods ending between September 30, 2021, and September 30, 2022. Figures were converted from USD to CAD utilizing exchange rates listed in the relevant financial statement.

[4] Figures were sources from a combinatinon of a) LoyaltyOne's Application Record dated March 10, 2023, for CCAA protection. Pg. 512. b) Financial statements outlined in footnote 3.

[5] 2018 miles issued per ADS 2019 10-K. Q1 2019 - Q2 2021 miles issued are per Spin Date Projection. Q3 2021 - Q3 2022 miles issued per LVI's 10-K and 10-Qs filed for the periods ending between September 30, 2021, and September 30, 2022.

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 105**

BrandLoyalty - Actual Income Statements

2018 Full Year and by Quarter from Q1 2019 to Q3 2022

(€EUR, millions; unless otherwise noted)

	Actuals - Pre Spin [1]												Actuals - Post Spin			
	2018	2019				2020				2021				2022		
	Q1 - Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3
	[2]	[2]	[2]	[2]	[2]							[3]	[2],[3]	[3]	[3]	[3]
Revenues:																
Issuance Revenue	€ 413	€ 86	€ 111	€ 98	€ 152	€ 77	€ 54	€ 67	€ 112	€ 66	€ 57					
Marketing Revenue	96	7	20	25	45	26	17	26	13	17	3					
Other Revenue	28	7	10	10	11	7	7	8	10	6	5					
Total Revenue	537	99	140	133	209	110	78	101	135	88	66	€ 82	€ 147	€ 80	€ 99	€ 94
Operating Expenses																
Payroll & Benefits	61	15	15	19	15	14	12	13	18	14	14					
Stock Compensation	3	1	1	0	0	1	1	1	1	1	1					
Cost of Redemptions Expense	373	73	103	122	150	76	56	75	98	64	47					
Data Processing/Equipment Exp	6	1	2	1	2	2	1	1	2	1	1					
Occupancy Expense	8	2	2	2	2	2	2	2	2	2	2					
Consulting/Professional Exp	3	1	1	1	1	1	0	1	1	0	0					
Legal and Auditing Expense	2	1	0	0	1	1	0	1	0	0	0					
Marketing Expense	8	1	1	2	1	1	1	1	1	1	1					
All Other Expenses	17	4	4	4	5	1	(1)	3	2	1	1					
Total Operating Expenses	481	98	129	152	176	97	73	97	124	84	67	74	184	81	499	97
Less: Depreciation & Amortization	53	13	13	13	13	13	13	13	13	3	3	3	3	2	2	2
Less: Interest Expense	6	1	1	1	0	0	0	0	(0)	0	0	0	0	0	(0)	(0)
Earnings before Tax	**€ (3)**	**€ (13)**	**€ (3)**	**€ (33)**	**€ 19**	**€ (0)**	**€ (8)**	**€ (9)**	**€ (2)**	**€ 1**	**€ (5)**	**€ 6**	**€ (40)**	**€ (4)**	**€ (402)**	**€ (5)**

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 105**
BrandLoyalty - Actual Income Statements
2018 Full Year and by Quarter from Q1 2019 to Q3 2022
(€EUR, millions; unless otherwise noted)

	Actuals - Pre Spin [1]												Actuals - Post Spin			
	2018	2019				2020				2021				2022		
	Q1 - Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3
	[2]	[2]	[2]	[2]	[2]							[3]	[2],[3]	[3]	[3]	[3]
Add: Goodwill Impairment	0	0	0	0	0	0	0	0	0	0	0	0	44	0	399	0
Add: Strategic Transaction Costs	0	0	0	0	0	0	0	0	0	0	0	0	8	1	0	0
Add: Restructuring Costs	0	7	0	35	1	(0)	0	0	0	0	0	0	0	0	0	2
Add: Depreciation & Amortization	53	13	13	13	13	13	13	13	13	3	3	3	3	2	2	2
Add: Interest Expense	6	1	1	1	0	0	0	0	(0)	0	0	0	0	0	(0)	(0)
Add: Stock Compensation	3	1	1	0	0	1	1	1	1	1	1	1	(0)	1	1	1
Adjusted EBITDA	**€ 59**	**€ 9**	**€ 13**	**€ 16**	**€ 33**	**€ 13**	**€ 6**	**€ 5**	**€ 12**	**€ 5**	**€ (1)**	**€ 9**	**€ 15**	**€ 0**	**€ (0)**	**€ 0**

Notes

[1] Sourced from the Spin Date Projections workbook unless otherwise noted. Document: L1 Model_August 2021_Aug Fcst_v10_BofA_vNewStructure_v3.xlsx.

[2] As the Spin Date Projections present 2018 and 2019 quarterly results in USD, we converted the results to EUR utilizing the Bank of Canada average exchange rates over year or quarter in question.

	2018	Q1 2019	Q2 2019	Q3 2019	Q4 2019	Q4 2021
BoC USD to CAD Average Exchange Rate	1.296	1.33	1.338	1.32	1.32	1.26
BoC CAD to EUR Average Exchange Rate	0.654	0.663	0.665	0.681	0.684	0.694
Implied USD to EUR exchange rate:	**0.85**	**0.88**	**0.89**	**0.90**	**0.90**	**0.87**

[3] Sourced from LVI's 10-K and 10-Qs filed for the periods ending between September 30, 2021, and September 30, 2022. Figures were converted from USD to CAD utilizing exchange rates listed in the relevant financial statement.

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 106**

LVI - Actual Balance Sheets

For points in time from 2019 to Q3 2022

($USD, millions; unless otherwise noted)

	12/31/2021	12/31/2022	12/31/2023	12/31/2024	12/31/2025	12/31/2026
Current Assets	[1]	[1]	[2]	[1]	[1]	[1]
Cash and Cash Equivalents	$ 132	$ 173	$ 226	$ 284	$ 360	$ 456
Account Receivables, Net	318	333	362	392	422	446
Inventory	155	160	165	175	180	185
Other Current Assets	34	25	27	29	32	34
Redemption Settlement Assets, Restricted	800	870	895	915	935	950
	1,438	1,561	1,675	1,795	1,929	2,071
Non-Current Assets						
Property, Plant & Equipment, Net	89	84	81	78	75	72
Right of Use Asset - Operating	102	86	70	58	46	34
Deferred Tax Asset, Net	72	76	82	89	96	101
Other Non-Current Assets	4	4	4	4	4	4
Intangible Assets, Net	3	2	1	0	0	0
Goodwill, Net	726	726	726	726	726	726
Total Non-Current Assets	995	977	963	954	946	937
Total Assets	**$ 2,433**	**$ 2,539**	**$ 2,639**	**$ 2,749**	**$ 2,875**	**$ 3,008**
Current Liabilities						
Accounts Payable	$ 71	$ 73	$ 80	$ 86	$ 93	$ 98
Accrued Expenses	69	72	79	85	91	96
Deferred Revenue	970	1,025	1,045	1,060	1,075	1,090
Other Current Liabilities	80	78	82	87	91	95
Current Operating Lease Liability	9	8	7	5	4	3
Current Debt	51	51	51	51	51	51
Total Current Liabilities	1,250	1,307	1,343	1,374	1,405	1,434

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Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 106**

LVI - Actual Balance Sheets

For points in time from 2019 to Q3 2022

($USD, millions; unless otherwise noted)

Non-Current Liabilities	12/31/2021	12/31/2022	12/31/2023	12/31/2024	12/31/2025	12/31/2026
Deferred Tax Liability, Net	(0)	(0)	(0)	-	-	-
Other Liabilities	133	138	150	162	174	185
Deferred Revenue	114	120	123	125	126	128
Long Term Operating Lease Liability	106	90	74	62	50	38
Long Term Debt	624	574	523	473	422	371
Total Non-Current Liabilities	977	922	870	821	772	722
Total Liabilities	**$ 2,227**	**$ 2,229**	**$ 2,213**	**$ 2,195**	**$ 2,178**	**$ 2,156**
Equity						
Common Stock	100	100	100	100	100	100
Additional Paid-in-Capital	923	933	943	954	965	977
Retained Earnings	106	199	305	422	555	698
Treasury Stock	-	-	-	-	-	-
Total Other Comprehensive Income	(26)	(26)	(26)	(26)	(26)	(26)
Plug	(897)	(897)	(897)	(897)	(897)	(897)
Total Equity	206	310	426	554	698	853
Total Liabilities and Equity	**$ 2,433**	**$ 2,539**	**$ 2,639**	**$ 2,749**	**$ 2,875**	**$ 3,008**

Notes

[1] Sourced from the Spin Date Projections workbook unless otherwise noted. Document: L1 Model_August 2021_Aug Fcst_v10_BofA_vNewStructure_v3.xlsx

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Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 107**

LVI - Actual Balance Sheets

For points in time from 2019 to Q3 2022

($USD, millions; unless otherwise noted)

	12/31/2018	12/31/2019	12/31/2020	9/30/2021	12/31/2021	3/31/2022	6/30/2022	9/30/2022
Current Assets	[1]	[1]	[2]	[2]	[2]	[2]	[2]	[2]
Cash and Cash Equivalents	$ 100	$ 110	$ 279	$ 199	$ 168	$ 140	$ 97	$ 73
Account Receivables, Net	281	317	271	291	288	271	255	246
Inventory	248	218	164	192	189	213	222	237
Other Current Assets	46	34	23	21	29	29	25	23
Redemption Settlement Assets, Restricted	559	601	693	734	735	700	672	610
	1,234	1,280	1,430	1,436	1,408	1,352	1,272	1,189
Non-Current Assets								
Property, Plant & Equipment, Net	91	102	98	84	80	75	70	64
Right of Use Asset - Operating	-	116	114	103	100	96	92	85
Deferred Tax Asset, Net	44	45	70	72	58	58	48	48
Intangible Assets, Net	103	53	5	4	3	3	2	2
Goodwill, Net	693	691	736	709	650	640	191	178
Investment in unconsolidated subsidiary	-	-	1	-	-	-	-	-
Other Non-Current Assets	3	4	4	3	25	25	25	25
Total Non-Current Assets	934	1,010	1,028	974	916	897	428	402
Total Assets	**$ 2,167**	**$ 2,291**	**$ 2,458**	**$ 2,410**	**$ 2,324**	**$ 2,249**	**$ 1,700**	**$ 1,591**
Current Liabilities								
Accounts Payable	$ 161	$ 98	$ 75	$ 75	$ 103	$ 81	$ 93	$ 117
Accrued Expenses	60	77	67	50	145	137	127	131
Deferred Revenue	766	808	898	924	925	917	874	791
Current Operating Lease Liability	-	9	10	10	10	9	9	8
Current Debt	25	0	-	-	51	51	51	51
Other Current Liabilities	124	126	65	132	118	134	123	121
Total Current Liabilities	1,136	1,118	1,115	1,190	1,352	1,328	1,277	1,219

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 107**
LVI - Actual Balance Sheets
For points in time from 2019 to Q3 2022
($USD, millions; unless otherwise noted)

	12/31/2018	12/31/2019	12/31/2020	9/30/2021	12/31/2021	3/31/2022	6/30/2022	9/30/2022
Non-Current Liabilities								
Deferred Revenue	109	114	106	97	97	95	94	88
Long Term Operating Lease Liability	-	121	118	107	103	100	96	88
Long Term Debt	159	-	-	-	603	592	580	568
Deferred Tax Liability, Net	(0)	(0)	-	-	-	-	-	-
Other Liabilities	52	40	25	24	21	21	20	18
Total Non-Current Liabilities	320	275	248	227	825	808	790	762
Total Liabilities	**$ 1,455**	**$ 1,393**	**$ 1,364**	**$ 1,417**	**$ 2,177**	**$ 2,136**	**$ 2,067**	**$ 1,981**
Equity								
Common Stock	-	-	-	-	0	0	0	0
Additional Paid-in-Capital	(83)	(134)	-	-	267	270	271	272
Retained Earnings	(83)	(20)	-	-	(55)	(54)	(496)	(496)
Treasury Stock	-	-	-	-	-	-	-	-
Total Other Comprehensive Income	(85)	(88)	0	48	(65)	(103)	(142)	(166)
Parent Investment in Sub	-	-	1,094	1,042	-	-	-	-
Plug	963	1,140	-	-	-	-	-	-
Total Equity	712	898	1,094	1,091	147	113	(367)	(390)
Total Liabilities and Equity	**$ 2,167**	**$ 2,291**	**$ 2,458**	**$ 2,507**	**$ 2,324**	**$ 2,249**	**$ 1,700**	**$ 1,591**

Notes

[1] Sourced from the Spin Date Projections workbook unless otherwise noted. Document: L1 Model_August 2021_Aug Fcst_v10_BofA_vNewStructure_v3.xlsx

[2] Sourced from LVI's 10-K and 10-Qs filed for the periods ending between September 30, 2021, and September 30, 2022.

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Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 108**

LoyaltyOne and BrandLoyalty - Actual Balance Sheets

As at December 2020 and February 2021

($USD, millions; unless otherwise noted)

	Dec-20		Feb-21	
	LoyaltyOne	BrandLoyalty	LoyaltyOne	BrandLoyalty
Current Assets	[1]	[1]	[1]	[1]
Cash and Cash Equivalents	$ 148	$ 131	$ 100	$ 98
Account Receivables, Net	169	86	172	82
Inventory	0	164	0	163
Other Current Assets	10	13	9	13
Redemption Settlement Assets, Restricted	693	-	703	-
	1,021	394	984	355
Non-Current Assets				
Property, Plant & Equipment, Net	73	25	71	23
Right of Use Asset - Operating	36	78	36	76
Deferred Tax Asset, Net	5	46	5	47
Intangible Assets, Net	1	5	0	4
Goodwill, Net	193	543	193	536
Investment in unconsolidated subsidiary	-	-	-	-
Other Non-Current Assets	3	1	2	1
Total Non-Current Assets	311	697	308	687
Total Assets	**$ 1,332**	**$ 1,091**	**$ 1,292**	**$ 1,043**
Current Liabilities				
Accounts Payable	$ 20	$ 49	$ 14	$ 39
Accrued Expenses	30	37	26	37
Deferred Revenue	898	-	902	-
Current Operating Lease Liability	2	8	2	8
Current Debt	-	-	-	-
Other Current Liabilities	4	69	51	80
Total Current Liabilities	954	162	995	165

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Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 108**

LoyaltyOne and BrandLoyalty - Actual Balance Sheets

As at December 2020 and February 2021

($USD, millions; unless otherwise noted)

	LoyaltyOne	BrandLoyalty	LoyaltyOne	BrandLoyalty
Non-Current Liabilities	[1]	[1]	[1]	[1]
Deferred Revenue	106	-	102	-
Long Term Operating Lease Liability	48	70	48	67
Long Term Debt	-	-	-	-
Deferred Tax Liability, Net	(0)	0	(0)	0
Other Liabilities	14	10	14	10
Total Non-Current Liabilities	168	79	164	77
Total Liabilities	**$ 1,122**	**$ 241**	**$ 1,159**	**$ 242**
Equity				
Common Stock	-	-	-	-
Additional Paid-in-Capital	-	-	-	-
Retained Earnings	201	(141)	205	(132)
Treasury Stock	-	-	-	-
Total Other Comprehensive Income	27	(27)	21	(36)
Parent Investment in Sub	-	-	-	-
Plug	-	-	-	-
Total Equity	228	(168)	226	(167)
Total Liabilities and Equity	**$ 1,350**	**$ 73**	**$ 1,385**	**$ 74**

Notes

[1] Sourced from the Spin Date Projections workbook unless otherwise noted. Document: L1 Model_August 2021_Aug Fcst_v10_BofA_vNewStructure_v3.xlsx.

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Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 109**

LVI Market Approach: Somewhat Comparable Companies: Financial and Market Data

As at November 5, 2021

($USD, millions; unless otherwise noted)

			Market Data			*Historical Income Statement Data*				*Forecasted Results*					
Comparable Companies Data [1]															
Company	**Industry**	**Geography**	**Market Cap**	**Net Debt**	**Enterprise Value**	**LTM Revenue**	**LTM Interest**	**LTM EBITDA**	**LTM EBITDA %**	**FY2021E EBITDA**	**FY2022E EBITDA**	**FY2023E EBITDA**	**FY2021E Revenue**	**FY2022E Revenue**	**FY2023E Revenue**
Advantage Solutions Inc.	Advertising	United States	$ 2,845	$ 1,866	$ 4,818	$ 3,420	$ (180)	$ 404	12%	$ 522	$ 558	$ 567	$ 3,520	$ 4,039	$ 4,115
Nielsen Holdings plc	Research and Consulting Services	United States	7,660	5,562	13,414	3,478	(299)	1,171	34%	1,492	1,552	1,643	3,503	3,635	3,788
The Interpublic Group of Companies, Inc.	Advertising	United States	14,341	2,769	17,232	8,843	(153)	1,742	20%	1,745	1,769	1,877	9,066	9,417	9,782
Omnicom Group Inc.	Advertising	United States	14,624	1,842	17,219	14,191	(175)	2,207	16%	2,345	2,356	2,440	14,128	14,283	14,697
WPP plc	Advertising	United Kingdom	16,981	3,973	22,285	17,116	(300)	1,789	10%	2,574	2,655	-	15,447	15,904	-
Publicis Groupe S.A.	Advertising	France	16,792	2,524	20,771	13,179	(199)	2,435	18%	2,708	2,811	2,916	12,191	12,602	12,916
Thryv Holdings, Inc.	Advertising	United States	1,055	602	1,687	1,116	(66)	335	30%	330	264	219	1,061	904	780
Harte Hanks, Inc.	Advertising	United States	50	21	80	190	(1)	11	6%	11	14	-	181	177	-

Notes

[1] Figures sourced from Capital IQ.

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Somewhat Comparable companies: Company Descriptions [1]

Comparable	Geography	Industry	Business Description
Advantage Solutions Inc.	United States	Advertising	Advantage Solutions Inc. provides outsourced solutions to consumer goods companies and retailers in North America and internationally. It operates in two segments, Sales and Marketing. The Sales segment offers brand-centric services, such as headquarter relationship management; analytics, insights, and intelligence; administration; and brand-centric merchandising services. This segment also provides retailer-centric services comprising retailer-centric merchandising, in-store media, and digital commerce. The Marketing segment offers brand-centric services, including shopper and consumer marketing, and brand experiential services; and retailer-centric services, such as retail experiential, private label, digital marketing, and digital media and advertising. The company was formerly known as Karman Holding Corp. and changed its name to Advantage Solutions Inc. in March 2016. The company was founded in 1987 and is headquartered in Irvine, California.
Nielsen Holdings plc	United States	Research and Consulting Services	Nielsen Holdings plc, together with its subsidiaries, operates as a measurement and data analytics company worldwide. The company provides viewership and listening data, and analytics principally to media publishers and marketers, and advertising agencies for television, computer, mobile, CTV, digital, and listening platforms. It also offers television audience measurement services; digital audience measurement services; video advertising services; and independent measurement and consumer research primarily servicing radio, advertisers, and advertising agencies in the audio industry. In addition, it offers consumer behavioral and transactional data. Nielsen Holdings plc provides marketing solutions. The company was founded in 1923 and is based in New York, New York.
The Interpublic Group of Companies, Inc.	United States	Advertising	The Interpublic Group of Companies, Inc. provides advertising and marketing services worldwide. It operates in three segments: Media, Data & Engagement Solutions, Integrated Advertising & Creativity Led Solutions, and Specialized Communications & Experiential Solutions. The Media, Data & Engagement Solutions segment provides media and communications services, digital services and products, advertising and marketing technology, e-commerce services, data management and analytics, strategic consulting, and digital brand experience under the IPG Mediabrands, UM, Initiative, Kinesso, Acxiom, Huge, MRM, and R/GA brand names. The Integrated Advertising & Creativity Led Solutions segment offers advertising, corporate, and brand identity services; and strategic consulting. Specialized Communications & Experiential Solutions segment provides public relations and other specialized communications services, events, sports and entertainment marketing, and strategic consulting. The company was formerly known as McCann-Erickson Incorporated and changed its name to The Interpublic Group of Companies, Inc. in `January 1961. The Interpublic Group of Companies, Inc. was founded in 1902 and is headquartered in New York, New York.
Omnicom Group Inc.	United States	Advertising	Omnicom Group Inc., together with its subsidiaries, offers advertising, marketing, and corporate communications services. It provides a range of services in the areas of advertising and media, precision marketing, commerce and branding, experiential, execution and support, public relations, and healthcare. The company's services include advertising, branding, content marketing, corporate social responsibility consulting, crisis communications, custom publishing, data analytics, database management, digital/direct marketing and post-production, digital transformation consulting, entertainment marketing, experiential marketing, field marketing, sales support, financial/corporate business-to-business advertising, graphic arts/digital imaging, healthcare marketing and communications, and instore design services. Its services also comprise interactive marketing, investor relations, marketing research, media planning and buying, retail media planning and buying, merchandising and point of sale, mobile marketing, multi-cultural marketing, non-profit marketing, organizational communications, package design, product placement, promotional marketing, public affairs, public relations, retail marketing, retail media and e-commerce, search engine marketing, shopper marketing, social media marketing, and sports and event marketing services. It operates in the North and Latin America, Europe, the Middle East and Africa (EMEA), and the Asia Pacific. The company was incorporated in 1944 and is based in New York, New York.

Somewhat Comparable companies: Company Descriptions [1]

Comparable	Geography	Industry	Business Description
WPP plc	United Kingdom	Advertising	WPP plc, a creative transformation company, provides communications, experience, commerce, and technology services in North America, the United Kingdom, Western Continental Europe, the Asia Pacific, Latin America, Africa, the Middle East, and Central and Eastern Europe. The company operates through three segments: Global Integrated Agencies, Public Relations, and Specialist Agencies. It offers advertising, marketing, brand strategies, and campaigns across all media; and provides media planning and buying services. It also provides media investment; data and technology, and content services. The company also offers public relations and specialist agency services. WPP plc was founded in 1985 and is based in London, the United Kingdom.
Publicis Groupe S.A.	France	Advertising	Publicis Groupe S.A. provides marketing, communications, and digital business transformation services in North America, Europe, the Asia Pacific, Latin America, Africa, and the Middle East. The company offers advisory services for brand strategy, and repositioning and their identity under the Publicis Worldwide, Saatchi & Saatchi, Leo Burnett, Marcel, Fallon, and BBH brands; online advertising services under the Razorfish and Moxie brand names; crisis communications, press relations, public affairs, institutional relations, financial communications, and strategy management services; media consulting, planning, and buying services; performance marketing services; and e-commerce services. It also designs and delivers brand content for various channels, such as television, print, radio, cinema, and billboards, as well as digital, including display and social networks under the Prodigious, Harbor, and The Pub brand names. In addition, the company operates Epsilon PeopleCloud, a unified data and technology platform; and Publicis Sapient, a technological, digital, and consulting platform. Further, it provides healthcare communication services under the Digitas Health, Publicis Health Media, and Saatchi & Saatchi Wellness brands for the healthcare and well-being sectors. It serves clients in the automotive, retail, financial services, consumer products, and media sectors. Publicis Groupe S.A. was founded in 1926 and is headquartered in Paris, France.
Stagwell Inc.	United States	Advertising	Stagwell Inc. provides digital transformation, performance media and data, consumer insights and strategy, and creativity and communications services. The company operates through three segments: Integrated Agencies Network, Brand Performance Network, and Communications Network. It designs and builds digital platforms and experiences that support the delivery of content, commerce, service, and sales; creates websites, mobile applications, back-end systems, content and data management systems, and other digital environments; designs and implements technology and data strategies; and develops software and related technology products, including artificial intelligence (AI)-based communications technology, cookie-less data platforms for audience targeting and activation, software tools for e-commerce applications, specialty media solutions in the augmented reality space, and text messaging applications for consumer engagement. The company also provides audience analysis, and media buying and planning services; and strategic insights and guidance services that offers business content, product, communications, and media strategies. In addition, it offers strategy development, advertising creation, live events, immersive digital experiences, cross platform engagement, and social media content services; and leadership, investor and financial relations, social media, executive positioning and visibility, strategic communication, public relation, and public affair services. Further, the company provides Stagwell Marketing Cloud, a suite of software-as-a-service (SaaS) and data-as-a-service (DaaS) technology solutions, including research and insights, communications technology, specialty media, and media studios; and tech-driven solutions for in-house marketers. Stagwell Inc. is headquartered in New York, New York.

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Somewhat Comparable companies: Company Descriptions [1]

Comparable	Geography	Industry	Business Description
Thryv Holdings, Inc.	United States	Advertising	Thryv Holdings, Inc. provides digital marketing solutions and cloud-based tools to the small-to-medium sized businesses (SMBs). It operates through Thryv U.S. Marketing Services, Thryv U.S. SaaS, Thryv International Marketing Services, and Thryv International SaaS segments. The company provides print and digital solutions, which includes print yellow pages, internet yellow pages, search engine marketing, and other digital media solutions, such as online display and social advertising, online presence and video, and search engine optimization tools. The company also offers Thryv, a SMB end-to-end customer experience platform, which offers customer relationship management, omnichannel email and text marketing automation, scheduling and appointment management, estimating, invoicing, payments, social media management, reputation management, document management, and centralized customer communication; Hub by Thryv, a franchisor with real-time oversight and day-to-day management of multiple location. In addition, it provides Marketing Center, a marketing and advertising platform for paid advertising campaigns with automated recommendations, tagging, and landing page creation; Thryv Add-ons provides local marketing and lead generation solution including GMB Optimization services, HIPPA protections, and SEO tools; ThryvPay, a payment solution that allows users to get paid via credit card and ACH. The company was formerly known as Dex Media Holdings, Inc. Thryv Holdings, Inc. is headquartered in DFW Airport, Texas.
Harte Hanks, Inc.	United States	Advertising	Harte Hanks, Inc. operates as a customer experience company in the United States and internationally. It operates through three segments: Marketing Services, Customer Care, and Fulfillment & Logistics Services. The company provides strategic guidance to help clients to plan and execute omni-channel marketing programs; audience identification, profiling, segmentation and prioritization, predictive modeling, and data strategy services; data hygiene and cleansing services; print, broadcast, direct mail, website, app, display, social, mobile, search engine marketing, and voice services; Website and app development, e-commerce enablement, database building and management, platform architecture creation, and marketing automation services; and outsourcing marketing operations solutions. It also offers customer experience management services comprising interact and resolve consumer concerns across hardware and software platforms, healthcare benefit plans, and recalls or a myriad of other customer service issues; CRM and digital transformation solutions to create meaningful customer interactions by connecting content between agent or AI-driven interfaces and web-based self-help tools and community forums; and intelligence-based B2B solutions that understand audiences and their behaviors, and then inspire and drive action to deliver results. In addition, the company provides product, print-on-demand, and mail fulfillment solutions, such as printing on demand, managing product recalls, and distributing literature and promotional products; custom solutions to engage audiences, target customers, support conferences, and appreciate employees; and third-party logistics and freight optimization services. It primarily serves B2B, consumer brand, financial services, retail, and healthcare vertical markets. The company was founded in 1923 and is headquartered in Chelmsford, Massachusetts.

Notes

[1] Figures sourced from Capital IQ.

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 111**

LVI Market Approach: Somewhat Comparable Companies: Company Descriptions

($USD, millions; unless otherwise noted)

Announcement Date	Target	Buyer	Target Business Description
6/25/2020	MDC Partners Inc.	Stagwell Inc. (NasdaqGS:STGW)	As of August 2, 2021, MDC Partners Inc. was acquired by Stagwell Marketing Group LLC. MDC Partners Inc. provides marketing, advertising, activation, communications, and strategic consulting solutions in the United States, Canada, and internationally. It offers global advertising and marketing, data analytics and insights, mobile and technology experiences, direct marketing, business consulting, database and customer relationship management, sales promotion, corporate communications, market research, social media strategy and communications, product and service innovation, and e-commerce management services; corporate identity, design, and branding services; and media buying, planning, and optimization services. MDC Partners Inc. is headquartered in New York, New York.
7/12/2019	The Kantar Group Limited	Bain Capital Private Equity, LP	The Kantar Group Limited provides audience measurement and media research services. It offers consulting services on brand development and marketing insight for brands that solve client's marketing questions about market, equity, positioning, innovation, and communications; value-based strategies; research solutions to marketing issues; healthcare consulting and advisory services to pharmaceutical, biotech, and medical device/diagnostic companies that help to evaluate opportunities, launch products, and maintain brand/market leaderships; and insights ranging from audience research, strategic advice, competitive intelligence, consumer behavior, and digital insights for brands, publishers, agencies, and industry bodies. It provides Digital Video AI tool to evaluate online video ads against the behavioral and creative metrics. It also provides retail insights and consulting services for retailers and branded manufacturers to transform the purchase behaviors of consumers, shoppers, and retailers; market monitoring, analytics, and market research solutions in the fields of FMCG, impulse products, fashion, baby, telecommunications, entertainment, and other markets; digital accessing and deriving insight from consumer opinions and behaviors; data collection services ranging from sample management and survey design to programming and reporting aspects; advertising effectiveness, strategic communication, media, and brand equity research services; subscription services, and research and consulting solutions; and advisory options in the areas of growth strategies around new market entry, innovation, brand switching, and stakeholder management. It serves Fortune 500 companies, small businesses, national governments, media owners, and NGOs in the United Kingdom and internationally. The Kantar Group Limited has strategic alliances with Benenson Strategy Group, Twitter, and comScore. The Kantar Group Limited was formerly known as Kantar Limited and changed its name to The Kantar Group Limited in November 1994. The company was founded in 1993 and is based in London, United Kingdom with additional offices in Buenos Aires, Argentina; Singapore; and New York, New York.
12/18/2017	IWCO Direct Holdings Inc.	Steel Connect, Inc. (NasdaqCM:STCN)	IWCO Direct Holdings Inc. provides marketing solutions and direct mail production services for insurance, healthcare, financial services, and telecom industries. The company's services includes, TARGETImpact, STRATImpact, CHANNELImpact, CREATEImpact, TECHImpact, MAILImpact, CLEARImpact, and Mail-Gard. TARGETImpact is a service that applies advanced analytics for campaign. The company was founded in 1969 and is based in Chanhassen, Minnesota. As of February 25, 2022, IWCO Direct Holdings Inc. operates as a subsidiary of InstantWeb Holdings, LLC.

Notes

[1] Source: Capital IQ

Loyalty Ventures Inc. and LoyaltyOne, Co. **Schedule 112**

LVI - Weighted Average Cost of Capital Somewhat Comparable Company Betas

As at November 5, 2021

($USD, millions; unless otherwise noted)

	Ticker	Beta	Book Value of Debt [1]	Stock Price	Number of Common Shares Outstanding	Minority Interest	Market Value of Equity [2]	Total Capital	Spot Debt/ Equity	5-Yr Avg Debt/ Equity	Spot Debt/ Capital	5-Yr Avg Debt/ Capital	5-Yr Avg Effective Tax Rate [3]	Beta (Unlevered)
Advantage Solutions Inc. [4]	NASDAQ:ADV	0.84	2,040	8.93	318.57	96.40	2,941	4,981	69%	95%	41%	48%	21%	0.48
Nielsen Holdings plc	IQ422760	1.41	6,104	21.34	358.93	192.00	7,852	13,956	78%	110%	44%	50%	37%	0.84
The Interpublic Group of Companies, Inc.	NYSE:IPG	1.00	5,259	36.42	393.76	122.50	14,463	19,722	36%	47%	27%	31%	22%	0.73
Omnicom Group Inc.	NYSE:OMC	0.84	6,273	68.80	212.56	752.80	15,377	21,650	41%	40%	29%	28%	29%	0.66
WPP plc	LSE:WPP	1.25	9,216	14.47	1,173.70	611.08	17,592	26,808	52%	62%	34%	38%	16%	0.82
Publicis Groupe S.A.	ENXTPA:PUB	0.80	6,765	67.11	250.21	(38.25)	16,754	23,519	40%	57%	29%	35%	33%	0.58
Thryv Holdings, Inc.	NASDAQ:THRY	0.78	612	31.06	33.96	-	1,055	1,667	58%	109%	37%	49%	21%	0.42
Harte Hanks, Inc.	NASDAQ:HHS	1.37	47	7.20	6.98	-	50	97	93%	170%	48%	48%	21%	0.59
Metrics														
Average		1.04								86.1%	36.1%	40.7%		0.64
Median		0.92								78.4%	35.6%	42.7%		0.62
High		1.41								170.0%	48.3%	50.1%		0.84
Low		0.78								39.8%	26.7%	28.0%		0.42

Selected - High Debt / Capital	**30%**
Selected - Low Debt / Capital	**40%**
Selected - Unlevered Beta	**0.62**

Notes

[1] Debt includes short term and long term interest-bearing debt, capital leases, and preferred equity.

[2] Market Value of Equity includes common stock and minority interests.

[3] Where 5 year average tax rates were not meaningful, a statutory income tax rate was applied.

[4] The 2 year debt / equity and debt / capital ratios were used in place of the 5 year ratios due to outliers.

Appendix A

Curriculum Vitae of A. Scott Davidson

A. Scott Davidson, HBA, CPA, CA, CBV joined Kroll (then Duff & Phelps) in 2010 (on the acquisition of his firm). He is a Managing Director in the Toronto office and leads the Canadian Disputes, Investigations and Valuation practices. Scott has more than 30 years of experience in business valuation, financial advisory services and expert testimony.

Scott has been named to Who's Who Legal: Consulting Experts, a publication focused solely on identifying the world's leading consulting experts in the categories of Financial Advisory and Valuation – Quantum of Damages and Arbitration Expert Witnesses.

Scott has completed numerous valuations of companies involved in a variety of industries for various purposes, including financial litigation support, corporate finance activities, financial reporting and income tax. He has been retained on matters in a number of geographies and jurisdictions. He has qualified as an expert and has given evidence on business valuation, damage quantification and other financial issues in matters in various Courts and before various arbitral panels and other triers of fact.

He has completed numerous expert valuation and other reports quantifying financial loss/damages pursuant to a wide variety of litigation and dispute matters, including post acquisition purchase price disputes, intellectual property disputes, shareholder disputes, dissent and oppression, breach of contract and other contract disputes, construction disputes, franchise disputes, product pricing, product liability, breach of fiduciary duty, securities violations and disputes, expropriation, fidelity bond and business interruption insurance claims and negligent and fraudulent misrepresentation.

He has also been appointed as mediator and as arbitrator on commercial disputes.

Scott has also provided financial advisory services as intermediary in corporate mergers, acquisitions, divestitures and finance transactions (including fairness opinions); transfer pricing consulting and related valuation services in connection with international corporate reorganizations, disputes and compliance matters; and investigative accounting reviews in civil and corporate matters.

Scott is the author of various publications, including numerous articles for professional journals and a speaker and lecturer for professional organizations.

Scott is a graduate of the Ivey School of Business, University of Western Ontario. He is a Chartered Professional Accountant and a Chartered Business Valuator. Scott is a past director of the CICA Investigative and Forensic Accounting Alliance.

Scott is also Past Chair of the Board of Governors of St. Clement's School, Toronto, an independent, university preparatory school for girls.

Notable Larger, International and Arbitration Assignments

- Financial expert on a number of disputes relating to large construction projects where the amounts at issue range in the hundreds of millions of dollars.
- Financial expert on behalf of property developer concerning losses suffered from being deprived of opportunity to purchase and developed lands - $300 million issue.
- Financial expert retained by defendant in international arbitration (Singapore) of $200 million dispute concerning quick-serve restaurant chain in China.
- Financial / valuation expert retained in numerous disputes concerning cannabis companies operating in Canada and the United States.
- Financial expert retained by defendant retailer in $1 billion multi-year class action litigation.
- Financial expert on behalf of insurers in international arbitration concerning political risk insurance claim relating to European mining project - $100 million issue.
- Financial / valuation expert retained by defendants in large family dispute concerning the values of various private company interests, the propriety of many non-arm's length transactions and the investments made by various trusts over a 30+ year period.
- Financial expert retained to assess solvency of a well-known loyalty program.
- Financial expert retained by claimant in international arbitration (Japan) of $1 billion dispute involving alleged breach of contract for the long term supply of uranium.
- Financial expert retained by defendants in multi-billion-dollar health care cost recovery litigation.
- Financial expert retained by Atomic Energy of Canada Limited ("AECL") in a $1 billion dispute involving increased costs and lost profits in connection with the supply of medical isotopes and the construction of dedicated nuclear isotope facilities.
- Financial expert retained by international consumer goods company in post-acquisition purchase price dispute relating to $400 million acquisition of a European company with operations in various geographies, particularly Europe and Asia.
- Financial / valuation expert retained by Chinese / other companies to assess fair value in several Cayman Islands Section 238 dissent matters (business enterprise values in $ billions).

- Financial expert on $100 million course-of-construction insurance claim and related litigation concerning alleged contractor negligence in installation of tubing and shut off rods in nuclear reactor and consequent multi-year delay.

- Financial expert retained by Barrick Gold Corporation in $800 million dispute with Xstrata plc, and Goldcorp over unsuccessful acquisition of El Morro copper/gold project in Chile.

- Financial expert retained by European consumer products company in 100 million Euro franchise and contract disputes relating to use of trademarks and brands in business operations in EMEA (Europe, Middle East and Africa).

- Financial expert retained by defendant in parallel U.S. and Canadian multi-billion dollar class action suits against public mining company relating to financial disclosures concerning cost estimates and delays on international mining project.

- Financial expert retained by major North American automaker to assist with fair value and damages quantification in oppression and dissent action brought by minority shareholder of public subsidiary in connection with going-private transaction.

- Financial expert concerning quantum of merger synergies in connection with antitrust regulatory review of multi-billion dollar acquisition in the oil and gas industry.

- Financial expert retained by major international uranium producer in dispute over multi-year supply contract and related arrangements.

- Financial expert retained by mining company plaintiff in Peruvian arbitration concerning increased costs and lost profits due to delays on mine project.

- Financial / valuation expert retained by former Directors of now-insolvent public company and their D&O insurers relating to breach of fiduciary duty and related claims brought by various lenders and other creditors.

Expert Witness Experience for the Years 2003 - 2023

Some 75 testimonies over career – predominantly at trials and arbitrations:

- Telco – Financial expert retained by major telco player to quantify losses suffered due to loss of access to shared wireless network - $1 billion issue – 2023.

- Big Oil – Financial expert retained by supermajor to address off-shore oil project cost issues in arbitration – $50 million issue - 2023.

- Pakootas et al v. Teck Metals – Deposition testimony in Washington, USA matter as financial expert for Teck concerning potential molybdenum mine project and related issues – 2023.

- Quick Service Restaurant chain ats regional development agent – Financial expert retained by international QSR chain to address damages and valuation issues in international arbitration of dispute with development agent – $70 million issue - 2023.

- Toronto Transit Commission ats Walsh – Financial expert on behalf of TTC concerning costs, losses and related financial matters relating to the construction of the Steeles West station as part of the the Toronto-York Spadina Subway Extension (TYSSE) Project - $200 million issue – 2023.

- FGL Holdings and Kingstown Capital - Valuation expert retained to assess fair value in Cayman Islands Section 238 dissent matter – 2022.

- Remington Development Corporation v. Canadian Pacific Railway Company et al – Financial expert concerning losses suffered by Remington from being deprived of opportunity to purchase and develop lands in Calgary - $300 million issue – 2022.

- Shoppers Drug Mart re: Ontario store Associates – Financial expert on behalf of defendant Shoppers Drug Mart in multi-year class action litigation - $1 billion issue - 2022.

- B v. Fcompany (disguised) – Financial expert on behalf of former CEO in arbitration concerning various matters including stock option valuation and non-arm's length transactions – 2022.

- Cresco v. Fiorello Pharmaceuticals – Deposition testimony in New York, USA matter as financial expert for Cresco entities concerning losses suffered and related issues in connection with failed acquisition of New York based cannabis company – 2022.

- Energizer re: Duracell – Financial expert on behalf of Energizer in action related to alleged misuse of various trademarks – 2022.

- Atomic Energy of Canada Limited re: Canada Forgings – Financial expert on behalf of AECL concerning losses and other financial issues in action relating to the procurement process for the refurbishment of nuclear reactors – 2022.

- Toll Brothers re: Southern California Gas Company – Deposition testimony in California, USA matter as financial expert for Toll Brothers concerning ability to pay and related financial issues – 2021.

- Insurers and Investment Fund (disguised) – Financial expert on behalf of insurers in international arbitration concerning political risk insurance claim relating to European mining project - $100 million issue – 2021.

- F v. XYZ LLP (disguised) – Financial expert on behalf of international accounting firm in action brought by former partner – 2020.

- Sport Maska dba CCM Hockey re: Bauer – Financial expert on behalf of CCM in trademark infringement claim concerning ice skates – 2020.

- Sport Maska dba CCM Hockey re: Bauer – Financial expert on behalf of CCM in patent infringement claim concerning ice skates - $60 million issue – 2020.

- Bourgeois v. Ford Credit of Canada Limited Class Action – Financial / damages expert on behalf of Ford in class action in Quebec Superior Court concerning rebates on financed vehicles - $70 million issue – 2019.

- Bourdages v. DaimlerCanada Chrysler Inc.Class Action – Financial / damages expert on behalf of Chrysler in class action in Quebec Superior Court concerning rebates on financed vehicles - $65 million issue – 2019.

- C v. T (disguised) – Damages expert in international arbitration concerning alleged breach of contract for the long term supply of uranium - $1 billion issue – 2019.

- Stikeman Elliott LLP re: Morgan Stanley – Damages expert on behalf of Stikemans concerning losses suffered by Morgan Stanley solar division relating to major solar panel installation project - $150 million issue – 2018.

- Credit Suisse AG re: Ferdinand Dippenaar et al – Deposition testimony in Nevada, USA matter as valuation and financial expert for defendants/insurers concerning various D&O claims – 2017.

- Elder Advocates of Alberta Society et al re: Her Majesty the Queen in Right of Alberta and Alberta Health Services – Financial expert relating to accommodation charges in long term care facilities – 2016/17.

- Mr. C v. Messrs. ABD (disguised) – Valuation expert in private arbitration relating to shareholder oppression and fair value buyout of minority interest in large private company – $450 million issue – 2016.

- York University re: Access Copyright – Valuation and financial expert in Federal court in matter relating to fair-dealing guidelines and royalties on copyright-protected works – 2016.

- EquiGenesis Corporation and Canada Revenue Agency – Valuation expert in Tax Court concerning various valuation issues – 2016.

- Teva Canada v. Pfizer – Teva's financial expert in a pharmaceutical patent dispute concerning losses suffered as a result of having been wrongfully held off the market – 2014.

- Barrick Gold Corp v. Xstrata, Goldcorp and New Gold – Barrick's financial expert on loss/damages re: El Morro mine in Chile - $800 million issue – 2011.

- Atomic Energy of Canada Limited re: Nordion Inc. – AECL's financial expert re: losses and other financial issues concerning non-continuation of dedicated isotope facility project – $1.6 billion issue – 2011.

- Ontario Securities Commission re: Sextant and Otto Spork – OSC witness on valuation matters – 2011.

- ratiopharm re: Patented Medicines Pricing Review Board – Expert witness for ratiopharm concerning drug profitability – 2010.

- BP Global – Expert witness for BP concerning losses suffered in breach of contract – 2010.

- Coal Valley Resources Limited re: Milner Power – Expert witness for Coal Valley (subsidiary of Sherritt International) concerning rates of return in the coal mining industry – 2009.

- Crystalline Data Structures et al and Brainhunter (Ottawa) Inc. – Expert witness for Brainhunter concerning valuation and losses suffered by plaintiff – 2008.

- Neighbouring Rights Collective of Canada – Expert witness for NRCC concerning financial matters relevant to proposed tariff on commercial radio – 2007.

- Ontario Lottery and Gaming Corporation and Laserdata Technology Inc. – Expert witness for OLGC concerning losses suffered by plaintiff – 2005.

- Linton et al ats Sandor re: RE/MAX Horizons Inc. – Expert witness on valuation for Lawyers Professional Indemnity Fund – 2004.

- Essroc Canada Limited and Towne Concrete Forming Ltd. – Expert witness for Essroc concerning losses suffered by plaintiff – 2004.

- Westinghouse Canada Inc. et al ats New Brunswick Power Corporation – Expert witness for Westinghouse concerning losses suffered by NB Power – 2003.

- Daimler Chrysler Canada Inc. et al v. Coopers & Lybrand et al – Expert witness for Daimler Chrysler on losses suffered by Chrysler pension funds on investments in Castor Holdings – 2003.

- Mark Shoom, In Trust and Magnum Financial Corp. and Promis Systems Corporation Ltd. – Expert witness for Promis concerning fair value of plaintiff's shares of public company – 2003.

- 1248671 Ontario Inc. v. Michael Foods Inc. – Expert witness for Michael Foods concerning losses suffered on breach of contract – 2003.

Publications and Presentations

Authored various articles for professional journals and spoke at professional and academic conferences including the following:

- Articles appearing in various journals concerning matters including the impact of debt guarantees on business value, valuations of high technology companies, valuing trust assets, the use of probability assessments in business valuations / financial damage quantifications and financial aspects of intellectual property licensing and royalty rates
- 2006 The Advocates Society: Advanced Litigation Skills Program (on challenging business valuation experts at trial)
- 2007 Insight: Dealing with Dissent and Oppression, Actions and Remedies (panel moderator)
- 2008 Osgoode Hall Law School Professional Development seminar on Litigating Shareholder Disputes (on accounting and valuation issues)
- 2009 ADR Institute of Canada Annual National Conference (on using experts in mediation and arbitration)
- 2012 contributing author “Damages in Intellectual Property Cases in Canada” and “Accounting of Profits in Intellectual Property Cases in Canada” by Duff & Phelps
- 2019 Moderator and panelist of American Bar Association panel presentation on M&A Post-Acquisition Disputes
- 2020 Panelist on Damages at Tel Aviv International Arbitration Day
- 2020 Panelist on Quantification of Damages at CanArbWeek (Canadian Arbitration Week)
- 2021 Experts Panelist at CanArbWeek (Canadian Arbitration Week)

Katie Gosnell, CPA, CA, CBV, CFA
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Email: katie.gosnell@kroll.com

Professional Experience

2022 – cont. Senior Director
2021 – 2022 Director
2018 – 2021 Vice President
Kroll Canada Limited, Toronto, ON (formerly Duff & Phelps Canada Ltd.)

- Kroll is a global financial services firm with expertise in complex valuation, corporate finance, disputes and investigations and regulatory consulting. Kroll also advises the world's leading standard setting bodies on valuation issues and best practices. Kroll's more than 2,000 professionals are located in over 70 offices in 20 countries.

2015 –2018 Associate
Cohen Hamilton Steger & Co. Inc., Toronto, ON

- Cohen Hamilton Steger is a business valuation, damages quantifications and forensic accounting firm with offices in Toronto and Ottawa.

2014 - 2015 Senior Staff Accountant, Assurance
2012 – 2014 Staff Accountant, Assurance
Ernst & Young, Toronto, ON

- Ernst & Young is a major public accounting and consulting firm.

Academic and Professional Qualifications

Bachelor of Commerce (Honours), Queen's University	2012
Chartered Professional Accountant (CPA, CA)	2015
Chartered Financial Analyst (CFA)	2016
Chartered Business Valuator (CBV), Placed 2nd in Canada on the Membership Qualification Exam	2017

Representative Engagements

Business Valuation – Retained in numerous cases to prepare business valuation reports and critique opposing expert reports in the context of litigation and tax planning/corporate reorganizations for a variety of industries including telecommunications, consumer products and manufacturing.

Quantification of Financial Loss – Retained in a number of cases to prepare expert reports quantifying the damages in relation to intellectual property infringement claims.

Cannabis Experience (selected) – Retained to value the damages associated with the alleged breach of contract of a supplier agreement between two Canadian-based cannabis companies. Retained to quantify the damages relating to a frustrated acquisition of an SSO by an MSO in the United States.

Expropriation – Retained in a number of cases to quantify damages associated with the expropriation of a variety of businesses. Appeared at OMB mediation.

Land Claims – Retained in a number of cases to prepare and critique expert reports proposing a model for establishing the value of historical monetary losses incurred based on equitable principles for cases heard by the Specific Claims Tribunal.

Shareholder Disputes – Retained to value a shareholder's interest for the purposes of a buyout in accordance with the shareholders agreement.

Professional Associations

Member of the CICBV Education Committee

Member of the CICBV Continuing Professional Development Management Advisory Council

Member of the 2022 CICBV Congress Organizing Committee

Member of the 2022 CICBV Toronto Workshop Committee

Publications – Books

2020 Contributing Author of Chapter 19 Monetary Relief – Quantum for the Intellectual Property Disputes Law Book

Other

Member of The York School's Finance Committee. The York School is a co-educational independent school delivering the IB curriculum from JK to Grade 12.

Appendix B

Acknowledgement of Expert's Duty

See next pages

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FORM 53

Courts of Justice Act

ACKNOWLEDGMENT OF EXPERT'S DUTY

(General heading)

ACKNOWLEDGMENT OF EXPERT'S DUTY

1. My name is A. Scott Davidson. I live at Toronto, in the Province of Ontario.
2. I have been engaged by or on behalf of Bread Financial Holdings Inc. to provide evidence in relation to the above-noted court proceeding.
3. I acknowledge that it is my duty to provide evidence in relation to this proceeding as follows:

   (a) to provide opinion evidence that is fair, objective and non-partisan;

   (b) to provide opinion evidence that is related only to matters that are within my area of expertise; and

   (c)to provide such additional assistance as the court may reasonably require, to determine a matter in issue.

4. I acknowledge that the duty referred to above prevails over any obligation which I may owe to any party by whom or on whose behalf I am engaged.

Date February 14, 2024

Signature

NOTE: This form must be attached to any expert report under subrules 53.03(1) or (2) and any opinion evidence provided by an expert witness on a motion or application.

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FORM 53

Courts of Justice Act

ACKNOWLEDGMENT OF EXPERT'S DUTY

(General heading)

ACKNOWLEDGMENT OF EXPERT'S DUTY

1. My name is Kathryn Gosnell. I live at Toronto, in the Province of Ontario.
2. I have been engaged by or on behalf of Bread Financial Holdings Inc. to provide evidence in relation to the above-noted court proceeding.
3. I acknowledge that it is my duty to provide evidence in relation to this proceeding as follows:
   (a) to provide opinion evidence that is fair, objective and non-partisan;
   (b) to provide opinion evidence that is related only to matters that are within my area of expertise; and
   (c) to provide such additional assistance as the court may reasonably require, to determine a matter in issue.
4. I acknowledge that the duty referred to above prevails over any obligation which I may owe to any party by whom or on whose behalf I am engaged.

Date February 14, 2024

Kath Gosnell

Signature

NOTE: This form must be attached to any expert report under subrules 53.03(1) or (2) and any opinion evidence provided by an expert witness on a motion or application.

Appendix C

Scope of Review

In preparing our report, we have reviewed and relied on information contained in the following:

1. November 9, 2023. Motion Record (enforceability of tax matters agreement), CV-23-00696017-00CL;

2. Bank of Canada Exchange Rate Lookup Tool;

3. October 13, 2021. Loyalty Ventures Inc. Form 10 Information Sheet;

4. Affidavit of Joseph L. Motes III affirmed February 9 2024;

5. November 3, 2021. Loyalty Ventures Inc. Form 8-K Completion of Separation of Loyalty Ventures from ADS;

6. November 4, 2021. Quarterly Report of Loyalty Ventures Inc. Form 10-Q for the fiscal quarter ended September 30, 2021;

7. September 22, 2021. 09222021 Question Tracker;

8. February 3, 2022. Loyalty Ventures Inc. FQ4 2021 Earnings Call;

9. November 25, 2022. "One year since the emergence of COVID-10 virus variant Omicron" World Health Organization;

10. December 17, 2020. Bidder #3 Project Angus Round 2 Bid;

11. December 17, 2020. Bidder #2 Project Angus Round 2 Bid;

12. January 13, 2021. Bidder #7 Project Angus Proposal Letter;

13. March 10, 2023. Declaration of Charles Horn in Support of Chapter 11 Petitions and First Day Motions;

14. March 10, 2023. "Loyalty Ventures Inc. Announces Bankruptcy Filings and Plan to Delist from the Nasdaq Global Select Market" Loyalty Ventures Inc.;

15. October 13, 2021. Email "RE: Model Scenario" sent from Jack Taffe to Bruno Scalzitti;

16. L1 Model_August 2021_Aug Fcst_v10_BofA_vNewStructure_v3.xlsx;

17. October 13, 2021. ADS Project Legacy: Go/No Go Decision Board of Directors Meeting Slides;

18. September 27, 2021. Email from Adam Quine of Bank of America to Jack Taffe RE: LV TLB Lender Presentation & Private Supplement;

19. September 29, 2021. Bank of America engagement letter to LVI for up to $825 million senior secured credit facilities;

20. August 17, 2021. Emails between Claudia Mennen and Charles Horn Et al. RE: script, regarding BrandLoyalty's Q4 2021 projections;

21. "Inflation" Bank of Canada accessed via https://www.bankofcanada.ca/core-functions/monetary-policy/inflation/#:~:text=and%20financial%20welfare.-,Measures%20of%20inflation,consumer%20price%20index%20(CPI) on February 8, 2024;

22. "Two per cent inflation target" European Central Bank accessed via https://www.ecb.europa.eu/mopo/strategy/pricestab/html/index.en.html on February 8, 2024;

23. October 2021. Loyalty Ventures Inc. Illustrative Spin-Off Valuation Materials;

24. March 12, 2021. Amending agreement between LoyaltyOne and Sobeys Capital;

25. August 11, 2022. Quarterly Report of Loyalty Ventures Inc. Form 10-Q for the fiscal quarter ended June 30, 2022;

26. April 15, 2021. Letter from Morgan Stanley to Charles Horn confirming Morgan Stanley's engagement as lead financial advisor;

27. November 1, 2021. "What is Loyalty Ventures Worth? Spin Should Act as a Catalyst to ADS" Morgan Stanley Research;

28. February 7, 2022. E&Y ASC 350 Valuation Analysis of Alliance Data Systems Corporation;

29. November 9, 2023. "Rating Symbols and Definitions" Moody's Investors Service;

30. June 9, 2023. "S&P Global Ratings Defintions" S&P Global;

31. December 18, 2020. Email from Brad Whitman (Morgan Stanley) to Charles Horn, Jeffrey Tusa RE Angus/MS Notes on Current Status;

32. August 11, 2022. Loyalty Ventures Inc. FQ2 2022 Earnings Call;

33. March 14, 2022. Loyalty Ventures Inc. Form 8-K Comments on Operations in Russia;

34. August 11, 2022. Loyalty Ventures Inc. Form 8-K FQ2 2022 Investor Presentation;

35. November 8, 2022. Loyalty Ventures Inc. FQ3 2022 Earnings Call;

36. June 7, 2022. Loyalty Ventures Inc. Form 8-K Announcement that Sobeys is leaving Air Miles program;

37. March 22, 2019. Alliance Data Memo on SSP of LoyatlyOne Contract with Sobeys;

38. May 17, 2021. Email from Laura Santillan of ADS to Jason Lawrence of LoyaltyOne Re: Sobeys ME discussion with EY;

39. Pensford forward 1-Month LIBOR curve based on market data from October 29, 2021;

40. IHS Markit Comparative World Overview updated October 15, 2021;

41. September 21, 2021. Email from David Van Hoy of Bank of America to Jeff Chestnut of ADS RE: Loyalty Ventures Discussion (LV / Sound Point);

42. September 15, 2021. Email from Jack Taffe to Jeff Tusa Re: Lender/Investor Questions;

43. November 8, 2022. Quarterly Report of Loyalty Ventures Inc. Form 10-Q for the fiscal quarter ended September 30, 2022;

44. S&P Capital IQ;

45. LMGCI_CONSOLIDATING_BS_CAD 2021-10-31.xlsx;

46. May 6, 2022. Quarterly Report of Loyalty Ventures Inc. Form 10-Q for the fiscal quarter ended March 31, 2022;

47. May 8, 2022. Third Report of KSV Restructuring Inc. as CCAA Monitor of Loyalty One, Co.;

48. April 21, 2023. LVI Operating Report;

49. April 21, 2023. LVI Lux Operating Report;

50. April 21, 2023. LVI Sky Oak Operating Report;

51. April 21, 2023. Rhombus Investments Operating Report;

52. Kroll Cost of Capital Navigator;

53. February 25, 2022. Annual Report of Alliance Data Systems Form 10-K for the fiscal year ended December 31, 2021;

54. March 10, 2023. LoyaltyOne's Application Record for CCAA Protection;

55. February 28, 2019. Annual Report of Loyalty Ventures Inc. Form 10-K for the fiscal year ended December 31, 2019;

56. November 3, 2021. “Canada: Forecast summary.” Economist Intelligence Unit;

57. February 11, 2020. “World Economy: EIU Global Forecast – Coronavirus Threatens Global Growth.” Economist Intelligence Unit;

58. March 12, 2020. “World Politics: Quick View – WHO Declares Coronavirus Outbreak Global Pandemic.” Economist Intelligence Unit;

59. November 5, 2021. “Statement from the Chief Public Health Officer of Canada” Public Health Agency of Canada;

60. November 2, 2021. “COVID-19 Weekly Epidemiological Update.” World Health Organization;

61. September 2, 2021. “Canada: Country outlook.” Economist Intelligence Unit;

62. October 15, 2021. “Canada's employment rate returns to pre-pandemic level.” Economist Intelligence Unit;

63. May 20, 2021. “Canadian annual inflation jumps in April.” Economist Intelligence Unit;

64. September 23, 2021. “’An expensive winter’: Rising gas prices to mean higher heating bills.” National Observer;

65. September 28, 2021. “Canada will not seek closer ties with China any time soon.” Economist Intelligence Unit;

66. October 15, 2021. “Monthly Housing Market Update.” RBC Economics;

67. October 18, 2021. “Canada Housing Starts -4.4% In Sep from Aug.” Dow Jones Institutional News;

68. October 27, 2021. “Bank of Canada maintains policy rate and forward guidance, ends quantitative easing.” Bank of Canada;

69. September 22, 2021. “Canada’s federal election: some key takeaways.” Economist Intelligence Unit;

70. November 2, 2021. “Canada: Country outlook.” Economist Intelligence Unit;

71. June 17, 2018. “Quarterly Economic Forecast,” TD Economics;

72. June 17, 2019. “Quarterly Economic Forecast,” TD Economics;

73. June 17, 2020. “Quarterly Economic Forecast,” TD Economics;

74. June 17, 2021. “Quarterly Economic Forecast,” TD Economics;

75. October 4, 2021. “Long-Term Economic Forecast,” TD Economics;

76. November 5, 2021. “Eastern Europe struggles to contain deadly Covid-19 wave.” Economist Intelligence Unit;

77. September 16, 2021. “World Europe economy: EIU's latest assumptions.” Economist Intelligence Unit;

78. October 21, 2021. “Regional Economic Outlook Europe.” International Monetary Fund;

79. September 23, 2021. “Economic Outlook Europe Q4 2021.” S&P Global Ratings;

80. October 1, 2021. “Europe chart of the week: why are energy prices so high? Economist Intelligence Unit;

81. October 22, 2021. “Energy politics returns to centre stage in Europe” Economist Intelligence Unit;

82. September 10, 2021. “Europe chart of the week: house prices are booming.” Economist Intelligence Unit;

83. October 11, 2021. “Europe chart of the week: when will interest rates rise?” Economist Intelligence Unit;

84. October 28, 2021. “Dollar index drops on euro rise after ECB comments.” Reuters;

85. September 15, 2021. “Global currency outlook.” RBC Global Asset Management;

86. October 2020. "Regional Economic Outlook: Europe," IMF;

87. October 2021. "Regional Economic Outlook: Europe," IMF;

88. October 29, 2021. "United States of America: Forecast Summary." Economist Intelligence Unit;

89. June 2020. "eurosystem staff macroeconomic projections for the euro area," European Central Bank;

90. June 2021. "ECB staff macroeconomic projections for the euro area," European Central Bank;

91. May 2023. "Loyalty Management Market Size, Share, and COVID-19 Impact Analysis 2023-2030" Fortune Business Insights;

92. "2023 Consumer Trends Index" Marigold;

93. August 2, 2022. "Winning in loyalty" McKinsey & Company;

94. October 2022. "Coping with the big switch: how paid loyalty programs can help bring consumers back to your brand" McKinsey & Company;

95. February 2023. "Adoption of in-house vs. third-party technology in loyalty programs worldwide 2022" Statista;

96. June 2022. "Average memberships in loyalty programs in the U.S. 2015-2022" Statista;

97. November 8, 2021. “Initiate Coverage of Loyalty Ventures with a BUY Rating and $63 Price Target,” Sidoti & Company, LLC ;

98. July 1, 2020. "McKinsey Survey Reveals Consumer Sentiment Improving But Shifting Brands and Behaviors" Forbes;

99. December 14, 2021. "US consumer sentiment and behaviors during the coronavirus crisis" McKinsey & Company;

100. November 16, 2017. "Not so happy New Year: Ontario Rewards Points Legislation coming into force January 1, 2018" Osler;

101. February 26, 2021. Annual Report of Alliance Data Systems Form 10-K for the fiscal year ended December 31, 2020;

102. December 15, 2021. Form 8-K Lender Presentation by Loyalty Ventures Inc.;

103. August 2019. BrandLoyalty Project Bicycle Confidential Information Memorandum presented by Bank of America Merrill Lynch and Morgan Stanley;

104. Loyalty Ventures Inc. Corporate Structure (Projected);

105. August_2021_Spinco_Model.xlsx;

106. L1 Model_August 2021_Aug Fcst_vMS_2.xlsx;

107. SpinCo Model_9.1.21.xlsx;

108. SpinCo Model_9.3.21.xlsx;

109. LoyaltyOne - RAP SU Charts (September 2021) v6.xlsx;

110. Lender_Model.xlsx;

111. August 21, 2021. Email from Jeff Tusa of ADS to Scott Tolchin Et al. of Bank of America Re: SpinCo Model;

112. August 21, 2021. Email from Julie McLaughlin of ADS to Geoff Ellis Et al. of EY RE: EY / ADS Initial Spin Materials;

113. August 23, 2021. Email from Jack Taffe of ADS to Robert Scully Et al. of Bank of America Re: Legacy BOD Slide Updates;

114. September 1, 2021. Email from Jack Taffe of ADS to Rashmi Bhagwat Et al. of Bank of America RE: LVI Strategy Deck;

115. September 3, 2021. Email from Jack Taffe of ADS to Rashmi Bhagwat Et al. of Bank of America RE: LVI Strategy Deck;

116. September 7, 2021. Email from Jack Taffe of ADS to Brennan Smith Et al. of Bank of America RE: LVI Strategy Deck; and

117. September 13, 2021. Email from Jeff Tusa of ADS to jack Taffe of ADS Et. al RE: LV RCF Lender Presentation.

We did not undertake any audit, review or other procedures of any kind to verify the accuracy or completeness of the above information, other than as may be noted in this report.

Appendix D

Valuation Definitions and Approach

As noted in the text of this report, to the extent that the fairness analysis in our report herein, or parts thereof, may be considered to be a valuation under CICBV standards, and this reporting also constitutes a valuation report, then the following is also noted and adopted by reference.

Fair Market Value

1.1 Fair market value is defined as the highest price available in an open and unrestricted market between informed, prudent parties acting at arm's length and under no compulsion to act, expressed in terms of money or money's worth.

Price vs. Value

1.2 Fair market value in the notional marketplace must be differentiated from the concept of price established in the open marketplace. There may be many prices for a particular business. The actual price at which a sale takes place may be higher or lower than a notional value due to many factors, including different purchasers' negotiating strengths, risk assessment, structure of the transaction, synergies and non-economic considerations.

Valuation Approaches

1.3 There are two generally accepted approaches to value, being the going-concern approach and the liquidation approach. In view of the positive outlook and plans in place for LVI and LoyaltyOne, in addition to the solvency work conducted in Section 9, we consider a going-concern approach, rather than a liquidation approach, to be applicable to the question of fairness of the Spin Transaction in this matter as at the Spin Date (or the "**Valuation Date**").

1.4 Under a going-concern approach various valuation methods can be used. These include:

- Earnings based methods such as discounted cash flow, capitalized earnings and capitalized cash flow;
- Market-based methods such as those based on the trading prices of comparable public companies and acquisition multiples of precedent transactions; and,
- Cost method, which is based on the amount that would be currently required to replace the service capacity of an asset.

1.5 As set out in Section 8 of the report, we have assessed the fairness of the Spin Transaction based on an earnings approach method, with tests of reasonableness based on market-based methods.

Restrictions and Limitations

1.6 The preparation of a valuation conclusion is a complex process that generally is not susceptible to partial analysis. Alteration of any one part of the analysis may change the conclusion set out in this report. We recommend consideration of the conclusions, commentary and calculations as a whole, so that the business itself and the valuation can be best understood.

1.7 Our scope of review is inherently limited by the nature of the valuation report being provided. The conclusion expressed may have been different had a Comprehensive Valuation Report been provided. There are three types of Valuation Reports: Comprehensive, Estimate and Calculation. These reports are not only distinguished by the valuator's scope of review and amount of disclosure provided, but also by the level of assurance being provided in the conclusion; with the Comprehensive Valuation Report providing the highest assurance and the Calculation Valuation Report providing the lowest. We have not been engaged to provide a Comprehensive Valuation Report. Our Estimate-level of reporting does not constitute a Comprehensive Valuation as defined by the Canadian Institute of Chartered Business Valuators. The provision of a Comprehensive Valuation Report would entail additional information gathering, research, analysis, review and cost from that provided in preparing this report.

1.8 We reserve the right (but will be under no obligation) to review and/or revise any and all assumptions and/or calculations included or referred to in this report and, if we consider it necessary, to revise our conclusion in light of any information existing at the loss quantification date which becomes known to us after the date of this report.

Appendix E

LVI's Weighted Average Cost of Capital

1.1 As discussed in the main text of this report, WACC is an estimate of the required rate of return on invested capital (equity and interest-bearing debt). It is calculated by weighting the required returns on interest-bearing debt (cost of debt) and common equity capital (cost of equity) in proportion to their estimated percentages in an expected capital structure.

1.2 The general formula for calculating the WACC is:

$$WACC = (w_d \times r_{dPt}(1-t)) + (w_e \times E(r_e))$$

where:

WACC	=	Weighted average cost of capital;
W_d	=	Debt weighting as a percentage of the total invested capital;[130]
R_{dPt}	=	Pre-tax cost of debt;
t	=	Effective corporate income tax rate;
W_e	=	Equity weighting as a percentage of the total invested capital; and,
$E(r_e)$	=	Expected return on equity.[131]

Cost of Debt

1.3 The cost of debt is the rate a prudent investor would require on interest-bearing debt. Since the interest on debt capital is deductive for income tax purposes, it is appropriate to use the after-tax interest rate (calculated using the company's corporate income tax rate) in the calculation of WACC.

1.4 We estimated LVI's cost of debt based on the cost of debt for a 20-year BB- bond of 6.50% (low end) and a 20-year BB- bond of 7.75% (high end) at the Spin Date based the credit rating issued by S&P on LVI's TLB (BB-) and on the S&P issuer rating for LVI overall (B+).

[130] The equity and debt weightings should add up to 100% as the equity and debt components represent the entirety of the total invested capital.
[131] Also referred to as the "cost of equity" or "required return on equity".

1.5 Applying LVI's effective corporate income tax rate of 27% to the above pre-tax cost of debt, LVI's after-tax cost of debt ranged from 4.75% to 5.66% (refer to Schedule 23).

Target Capital Structure – Debt and Equity Weightings

1.6 We observed that debt levels in the capital structure of somewhat comparable companies ranged between 30% to 40% debt (refer to Schedule 112). Therefore, we estimated that LVI's debt to equity percentage ranges using those metrics; from 30% debt / 70% equity to 40% debt / 60% equity (refer to Scheule 23).

Cost of Equity

1.7 We estimated LVI's cost of equity using the modified Capital Asset Pricing Model ("**CAPM**"). The modified CAPM approach estimates the cost of equity of a company by adding a market risk premium to a risk-free rate to capture the overall risk of the market to capture the systematic risks of the market, and various risk premiums to capture unsystematic risks inherent to LVI. The modified CAPM is determined as follows:

$$E(r_e) = r_f + \beta(ERP) + SP + CSRP$$

where:

E(re)	=	Expected return on equity (or "Cost of Equity");
rf	=	Risk-free rate;
β	=	Beta;
ERP	=	Equity risk premium ("ERP");
SP	=	Size premium; and,
CSRP	=	Company-specific risk premium.

1.8 These inputs are discussed below.

1.9 Our firm, Kroll is a leading and oft-quoted authority on the metrics to be used for a number of the above inputs.

Risk-free Rate (Rf)

1.10 A risk-free rate of return can be measured by examining average country yields for government-issued treasury bonds with long-term maturities. The yields on government-issued treasury bonds are used as a proxy for the risk-free rate as markets perceive these securities as the closest financial instrument to a riskless asset.

1.11 Kroll has concluded that absent the impact of unconventional monetary policy by major central banks around the world, the normalized risk-free rate for the United States would be 2.50%.[132]

Equity Risk Premium (ERP)

1.12 The expected return of the market portfolio is the premium investors demand to invest in the market portfolio as opposed to the riskless asset.

1.13 The equity risk premium is determined using a number of indicators based on historical data. Historical data measures average past equity risk premium estimates in public stock and bond markets.

1.14 At the Spin Date, research conducted by Kroll recommends an ERP for the US of 5.50%.[133]

Beta

1.15 Beta is a measure of LVI's systematic risk as a result of general market movements. Specifically, beta is a standardized measure calculated as the expected covariance between the excess return on the subject company stock and the excess market return, divided by the expected variance of excess return on the market portfolio. Beta is presented mathematically as follows:

$$\beta_s = \frac{\mathrm{cov}(R_s, R_m)}{\mathrm{var}(R_m)}$$

[132] Source: Kroll Cost of Capital Navigator.
[133] Ibid.

1.16 Beta can be derived from either the subject company's share price or the share prices of somewhat comparable public companies. As LVI is a private company, we have relied on the share prices of somewhat comparable public companies.

1.17 We estimated LVI's unlevered beta to be in the range of 0.81 to 0.92, which is based on the debt to capital range discussed above and the median unlevered beta of LVI's somewhat comparable public companies (refer to Schedule 23).

Size Premium (SP)

1.18 The size premium refers to the tendency, historically, of the shares of companies with smaller market capitalizations to outperform the shares of companies with larger market capitalizations. Put another way, all else being equal, investors in companies with smaller market capitalizations demand a higher return to compensate for the higher perceived risk.

1.19 For purposes of the analysis herein, we selected a size premium for LVI of 1.43%.[134]

Company-Specific Risk Premium (CSRP)

1.20 We considered, but not identify any factors that makes LVI unique from its peer group such that it would require the application of a company-specific risk premium.

Conclusion – Cost of Equity

1.21 We concluded that the cost of equity for LVI ranges between 8.41% and 9.00% (refer to Schedule 23).

Conclusion – WACC

1.22 We concluded that LVI's WACC ranges between 7.30% and 7.60% (refer to Schedule 23).

[134] Kroll Decile Low Capitalization size grouping (market capitalization in the range of $452 million to $2,445 million).

Appendix F

Economic Overview – Canada and Europe

With quoted sources from circa the Spin Date

Canada

1.1 In 2019, the Canadian economy grew at a rate of 1.9%.[135] In December 2019, the novel Coronavirus originated in Wuhan, a city in the central Huebei province of China.[136] On March 11, 2020, the World Health Organisation ("**WHO**") declared the Coronavirus ("**COVID-19**") outbreak a global pandemic, as it had spread to 114 countries, with more than 126,000 cases.[137] As of early November 2021, there were 1,725,151 cases of COVID-19 and 29,115 deaths reported in Canada.[138] Globally, 246 million COVID-19 cases have been confirmed and nearly 5 million deaths had been reported as of October 31, 2021.[139] Canada has administered over 58 million doses of COVID-19 vaccines and over 84% percent of the eligible population is considered fully vaccinated. The Delta variant accounts for most reported cases nationally throughout the fourth wave, and the government continues to focus on heightened public health measures and vaccinations to combat the highly contagious variant.[140]

1.2 Real GDP contracted by 5.3% in 2020, as economic activity continued to experience huge disruptions due to measures taken to slow the spread of COVID-19. This contraction is sharper than what occurred during the global financial crisis.[141] In 2022, it is expected that the economy will continue to recover from the pandemic induced recession through the support of fiscal stimulus measures and pent-up household demand. Growth will be slower than the expected expansion of 5.4% in 2021, with economic expansion in 2022 expected to be 3.6% due to a slightly less demand in household consumption and government investments making smaller contributions. Export growth is expected to be stronger in 2022 than in 2021 given this year's supply chain disruptions weighing on growth in goods shipments, while import growth is expected to slow. Inflation is expected to average 3.1% in 2021 due to supply chain bottlenecks, and oil, industrial, and food prices rising globally. In 2022, it is expected that inflation will fall close to the Bank of Canada's **(BoC)** target of 2%. Inflation contributing factors such as, regular planned increases to the federal government's carbon tax, continued supply chain issues, expensive accommodation, and interprovincial trade barriers are forecast to be offset by falling

[135] November 3, 2021. "Canada: Forecast summary." Economist Intelligence Unit.
[136] February 11, 2020. "World Economy: EIU Global Forecast – Coronavirus Threatens Global Growth." Economist Intelligence Unit.
[137] March 12, 2020. "World Politics: Quick View – WHO Declares Coronavirus Outbreak Global Pandemic." Economist Intelligence Unit.
[138] November 5, 2021. "Statement from the Chief Public Health Officer of Canada" Public Health Agency of Canada.
[139] November 2, 2021. "COVID-19 Weekly Epidemiological Update." World Health Organization.
[140] November 5, 2021. "Statement from the Chief Public Health Officer of Canada" Public Health Agency of Canada.
[141] September 2, 2021. "Canada: Country outlook." Economist Intelligence Unit.

prices for oil and non-oil commodities and monetary tightening by the BOC. Price growth is expected to slow to an annual average of 1.9% in 2023-2026.[142]

1.3 In 2020, the unemployment rate in Canada increased to 9.6% from 5.7% in 2019. Going forward, unemployment is expected to decrease to 7.7% in 2021, 6.5% in 2022, 6.3% in 2023, 6.1% in 2024, and 6.0% in 2025.[143] In September 2021, Statistics Canada data indicated a net 157,000 jobs were created, and unemployment fell by 0.2 percentage points from August to 6.9%. This is the lowest rate of unemployment since February 2020. As of October 15, 2021, 19.1 million Canadians are employed, returning to pre-pandemic levels and far exceeding market predictions. However, population growth over the last 18 months demonstrates that the unemployment rate is still more than 1 percentage point higher than it was in February 2020 and the total of hours worked is 1.5% lower. Long-term unemployment rates remain much higher making up 27.3% of total unemployment, compared to the pre-pandemic norm of 15.6%. Strong job creation is expected to continue for 2021.[144]

1.4 Though the oil and gas sector, along with its exports, took a large hit in 2020 due to the spike in unemployment and sharp decline in consumer spending, global oil prices have made a strong recovery. In April 2021, Canadian petrol prices hit a record increase of 62.5% year-on-year.[145] As of September 2021, natural gas price levels were the highest seen in over six years. Lessening COVID-19 restrictions and a reopening economy have driven demand up, though production has not been able to keep up. Due to hesitant investment in the sector and storage levels sitting at 5-year lows, high gas prices are expected to continue into the winter.[146]

1.5 Trade and political tensions between Canada and China are expected to remain heightened in the coming years following the September 24 release of two Canadians who had been detained in China for almost three years. Though the immediate issue has been resolved, increased tensions add to existing trade pressures, meaning that any meaningful strengthening of Canada-China relations is unlikely between 2022 and 2026.[147] Trade relations with the United States have become more predictable under the administration of President Biden, though discussions surrounding the Buy American procurement policies and continued pipeline issues remain in dispute. These points of contention are not expected to affect top-levels of Canadian-US relations, given areas of potential collaboration between governments especially regarding climate change.[148]

1.6 The Canadian housing market picked up nationwide in September 2021, deviating from the spring's cooling trend. Canada's composite MLS Home Price Index was

[142] November 2, 2021. "Canada: Country outlook." Economist Intelligence Unit.
[143] November 3, 2021. "Canada: Forecast summary." Economist Intelligence Unit.
[144] October 15, 2021. "Canada's employment rate returns to pre-pandemic level." Economist Intelligence Unit.
[145] May 20, 2021. "Canadian annual inflation jumps in April." Economist Intelligence Unit.
[146] September 23, 2021. "'An expensive winter': Rising gas prices to mean higher heating bills." National Observer.
[147] September 28, 2021. "Canada will not seek closer ties with China any time soon." Economist Intelligence Unit.
[148] November 2, 2021. "Canada: Country outlook." Economist Intelligence Unit.

$750,400 in September, increasing 1.7% from August and 21.5% from a year ago. Demand-supply conditions continue to heavily favour sellers, fueling competitive bidding wars. Activity remains elevated in Western Canada where buyers are under less pressure to bid prices higher. New listings declined at 1.6% m/m reversing the 0.8% increase seen in August. Resales increased slightly at 0.9% from August, concentrated in smaller markets in Ontario, Quebec, and New Brunswick.[149] According to the Canada Mortgage and Housing Corporation, Canadian housing starts dropped to 271,068 units in September 2021, a 4.4 % decrease from 284,757 units in August 2021, due to construction slowing in urban areas. However, housing starts remain high on a historical basis, despite falling back from current rates.[150]

1.7 In a meeting on October 27, 2021, the BoC announced it would leave the overnight rate unchanged at 0.25% until excess capacity is absorbed, and the 2% inflation target is "sustainably achieved." This inflation target is expected to occur in the middle quarters of 2022. The bank also announced the end of its quantitative easing measures, as they move into a reinvestment phase. During this phase it will purchase Government of Canada bonds solely to replace maturing bonds.[151]

1.8 On September 20, 2021, a federal election resulted in another Liberal Party minority government. With the start of the next parliament, the Liberal Party and Prime Minister Justin Trudeau will focus on three issues that were highlighted during the election as most important to voters: the pandemic, the climate crisis, and indigenous rights.[152]

1.9 The Canadian dollar depreciated to an average of C$1.34:US$1 in 2020,[153] before reaching a six-year high against the US dollar in May 2021, at C$1.2:US$1. This was led by rising oil prices, US monetary easing, and the leveling off of the bond-buying programme by the BoC.[154] The Canadian dollar is expected to recover more than its pandemic losses by year end, finishing 2021 at an average of C$1.26:US$1. However, it is expected that the Canadian dollar will begin to depreciate again to an average of C$1.29:US$1 in 2022, as global oil prices begin to fall again and the Fed begins to raise interest rates.[155]

1.10 The table below provides a summary of key economic indicators for Canada:

[149] October 15, 2021. “Monthly Housing Market Update.” RBC Economics.
[150] October 18, 2021. “Canada Housing Starts -4.4% In Sep from Aug.” Dow Jones Institutional News.
[151] October 27, 2021. “Bank of Canada maintains policy rate and forward guidance, ends quantitative easing.” Bank of Canada.
[152] September 22, 2021. “Canada’s federal election: some key takeaways.” Economist Intelligence Unit.
[153] November 3, 2021. “Canada: Forecast summary.” Economist Intelligence Unit
[154] September 2, 2021. “Canada: Country outlook.” Economist Intelligence Unit.
[155] November 2, 2021. “Canada: Country outlook.” Economist Intelligence Unit.

Table X
Canada Economic Outlook
Summary of Key Indicators

		Actual				Forecast					
		2017	2018	2019	2020	2021	2022	2023	2024	2025	2026
(% change, y-o-y):											
Real GDP	[1]	3.0	2.4	1.9	-5.3	5.4	3.6	2.3	2.5	2.2	2.0
Real Personal Disposable Income	[1]	3.8	1.3	2.2	8.7	-2.9	0.1	1.1	1.4	1.6	0.9
Consumer Price Index	[1]	1.6	2.2	2.0	0.7	3.1	2.5	1.9	2.0	1.9	1.8
Housing Starts (SAAR, 000s)	[2]	220	214	209	219	273	215	208	20	212	214
Unemployment Rate (%)	[1]	6.4	5.9	5.7	9.6	7.7	6.5	6.3	6.1	6.0	5.4
C$:US$, average	[1]	1.30	1.30	1.33	1.34	1.26	1.29	1.30	1.30	1.30	1.32
C$:US$, year-end	[1]	1.25	1.36	1.30	1.28	1.28	1.30	1.31	1.30	1.31	1.33
Lending rate (av; %)	[1]	3.2	4.0	4.0	2.5	2.5	2.6	2.9	3.4	3.8	4.2
Deposit rate (av; %)	[1]	0.1	0.1	0.1	0.1	0.1	0.1	0.2	0.2	0.2	0.3
Overnight target rate (av, %)	[1]	0.7	1.4	1.8	0.6	0.3	0.4	0.8	1.1	1.4	1.8
Long-term government bond yield (av; %)	[1]	1.8	2.3	1.6	0.8	1.2	1.3	1.6	2.5	2.7	3.1

Note:

1. November 3, 2021. "Canada: Forecast Summary." Economist Intelligence Unit, retrieved through Factiva on January 10, 2024.

2. Actuals from “Quarterly Economic Forecast,” TD Economics, for the dates: June 19, 2018, June 17, 2019, June 17, 2020, & June 17, 2021. Forecast from “Long-Term Economic Forecast”, TD Economics, October 4, 2021.

Europe

With quoted sources from circa the Spin Date

1.1 In December 2019, a novel coronavirus originated in Wuhan, a city in the central Huebei province of China.[156] On March 11, 2020, the WHO declared the COVID-19 outbreak a global pandemic, as it had spread to 114 countries, with more than 126,000 cases.[157] As of November 5, 2021, Eastern Europe has the highest rates of deaths related to Covid-19 per capita in the world. This contrasts with the situation in Western Europe, where cases have been rising close to the previous January 2021 peak in some countries, but the fatality rate is down to 2.35 deaths per million as of October 27 (compared to 7.87 on January 25).[158]

1.2 59% of the total population of the European Union ("**EU**") is full vaccinated, but country-specific rates vary greatly. Countries such as France, Italy, and Ireland have introduced vaccine passports to allow access to public places and social functions, boosting vaccine take-up. Notably, 80% of the population in Malta and Portugal are now fully vaccinated, and more than 70% of the population in Belgium, Denmark, and Spain. To contrast, vaccination rates in Bulgaria sit at 16%.[159] Eastern Europe's vaccination coverage is among the lowest in world, due to high levels of vaccine hesitancy, reflecting mismanagement of vaccination campaigns and widespread distrust of government.[160] Despite overall high rates of vaccination throughout Europe, the onset of Delta variant is expected to cause a return in some restrictions for many countries over the winter to prevent healthcare systems from becoming overwhelmed. It is unlikely countries in the EU will return to full lockdown, but uncertainty remains elevated due the risk of new infection waves and virus mutations, especially amid uneven vaccination rates in populations across European countries.[161]

1.3 The European economy returned to growth in the second quarter of 2021, due to many countries rolling back public health safety measures.[162] The economic impact of the COVID-19 pandemic has been substantially irregular across Europe. On average emerging market economies in Europe experienced shallower recessions with real GDP contracting by 2%, compared to the 6.4% average decline in advanced European countries.[163] Most Eastern European governments avoided imposing severe economic restrictions owing to social and political opposition, causing recovery to happen at a much faster rate and economies such as Russia and Romania have now returned to their pre-pandemic size.[164] As of October 2021,

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[156] February 11, 2020. "World Economy: EIU Global Forecast – Coronavirus Threatens Global Growth." Economist Intelligence Unit.
[157] March 12, 2020. "World Politics: Quick View – WHO Declares Coronavirus Outbreak Global Pandemic." Economist Intelligence Unit.
[158] November 5, 2021. "Eastern Europe struggles to contain deadly Covid-19 wave." Economist Intelligence Unit.
[159] September 16, 2021. "World Europe economy: EIU's latest assumptions." Economist Intelligence Unit.
[160] November 5, 2021. "Eastern Europe struggles to contain deadly Covid-19 wave." Economist Intelligence Unit.
[161] October 21, 2021. "Regional Economic Outlook Europe." International Monetary Fund.
[162] September 16, 2021. "World Europe economy: EIU's latest assumptions." Economist Intelligence Unit.
[163] October 21, 2021. "Regional Economic Outlook Europe." International Monetary Fund.
[164] September 16, 2021. "World Europe economy: EIU's latest assumptions." Economist Intelligence Unit

advanced European economies are forecast to expand by 5.2% and emerging European economies by 6% in 2021. Recovery is expected to consolidate in 2022 and growth is projected at 4.4% in advanced European economies and 3.6% in emerging European economies. Risks are tilted downward due to threats of COVD-19 strain mutations and spread in unvaccinated populations, prolonged supply disruptions, and high energy prices.[165]

1.4 The European labor market has also been recovering. S&P Global Ratings estimates that around 1.2% of European workers were still on short-term work in July 2021, compared to roughly 12% in April 2020. In France employment in Q2 was already back to its pre-COVID-19 levels, while job postings continue to increase in the country and across Europe. This year's current unemployment average of 7.9% is likely to fall to its pre-pandemic levels by the end of 2022.[166]

1.5 At the end of August 2021, headline inflation in Europe picked up to 5% owing to supply bottlenecks, higher commodity prices, and the release of pent-up demand. The expiration of a temporary value-added tax ("**VAT**") cut in Germany reweighted the consumer price index ("**CPI**") also contributing to rising inflation, as has the pass-through of exchange rate depreciation in some emerging European economies such as Turkey. Current major drivers include spiking energy prices that appear unlikely to abate soon and no significant broad-base increase in services in most countries yet, which is normally associated with wage pressures. The International Monetary Fund forecasts inflation to ease in 2022, as supply-side constraints abate, and energy prices stabilize. After peaking at 2.1% in 2021, annual inflation in advanced European economies is expected to moderate to 1.8% in 2022, while inflation in emerging European economies is projected to decrease to 7.2% in 2022, compared to 8.5% in 2021. However, in countries where local currencies depreciated more, such as Turkey and Belarus, rates are projected to be much higher. Uncertainty is still high due to risks of further virus waves, prolonged supply disruptions, high energy prices, and potential issues in real estate markets.[167]

1.6 Wholesale energy prices across Europe are spiking due to shortages in natural gases from Norway and Russia, resulting in higher electricity and gas bills for households.[168] Concerns over Russia limiting gas flows to Europe to force the approval of the Nord Stream 2 pipeline and conflict over EU gas regulation, decarbonisation, and nuclear power is expected to worsen as the crisis continues. This marks the first energy crisis since European economies moved away from coal and oil. The US has responded with offers to support the European energy market. However, liquefied natural gas allocation and transport capacity from the US is insufficient to meet demand.[169] Record-high demand for coal from Asia and an increase in the cost of carbon permits under the EU's Emissions Trading Scheme have increased coal prices, eliminating the option to fully rely on coal during the shortage. The renewable energy sector has experienced uncommonly low wind

[165] October 21, 2021. "Regional Economic Outlook Europe." International Monetary Fund.
[166] September 23, 2021. "Economic Outlook Europe Q4 2021." S&P Global Ratings.
[167] October 21, 2021. "Regional Economic Outlook Europe." International Monetary Fund.
[168] October 1, 2021. "Europe chart of the week: why are energy prices so high? Economist Intelligence Unit.
[169] October 22, 2021. "Energy politics returns to centre stage in Europe" Economist Intelligence Unit.

volumes, further eliminating reliance on the supply of renewables as well. Energy prices account for 10% of the inflation basket and will be a large driver of inflation in the coming months.[170]

1.7 The global pandemic exacerbated the trend of rising house prices in the euro area, which has been growing faster than consumer prices since 2016. European Central Bank ("**ECB**") support has resulted in historically low borrowing costs and increased demand for houses. The divergence in prices has raised concerns that current measures of inflation are understated. Prices related to the housing market are not currently included in the euro area's inflation measure. In July 2021, the ECB announced plans to consider including the cost of owner-occupied housing in the inflation measure, which may cause inflation to rise. House prices in the euro area are expected to moderate in 2021 and 2022. Household savings are likely to decrease as pandemic-related factors dissipate and spending refocuses from durable goods and housing to hospitality and leisure. However, the divergence between consumer price and house inflation will continue.[171]

1.8 Norway's central bank, Norges Bank became the first West European central bank to raise its policy interest rate since the start of the pandemic on September 23, 2021. A 25-basis point increase took the policy rate to 0.25%. Notably, this was due to rapid recovery from the 2020 recession and concerns about the impact of low interest rates on the housing market, rather than rising inflation. Europe's central banks hold the view that current inflation spikes will be transitory, and that premature tightening could negatively impact economic recovery and financing conditions for businesses.[172] The ECB has its key policy rate set at -0.5%, expanding its net asset purchases to EUR1.85trn (US$2.23trn, or more than 10% of euro zone GDP) under its emergency programme. The ECB moved to a symmetrical inflation target of 2%, implying that it would tolerate above target inflation.[173] The Economic Intelligent Unit forecasts the ECB will remain highly accommodative, maintaining their key interest rate until 2025. The Bank of England ("BoE") is also forecasts to maintain an accommodative stance. In 2022 the BoE cut its main rate to its lowest level ever at 0.1%. The BoE is not expected to raise rates before mid-2022. The Federal Reserve is expected to increase rates in the second half of 2022, but if this happens sooner then expected policy rates are likely to increase in Western Europe.[174]

1.9 On October 28, 2021, the euro rose sharply against the U.S dollar, heading for its biggest daily gain since May at nearly 0.7%. It traded at $1.1638 in the afternoon in New York, after ECB reaffirmed its policy statement to continue buying bonds and holding down interest rates. The move was instigated by interpretations that the ECB will lack in pushback against market expectations of rate hikes next year.[175] This comes after months of underperforming expectations. The euro's recent

[170] October 1, 2021. "Europe chart of the week: why are energy prices so high? Economist Intelligence Unit.
[171] September 10, 2021. "Europe chart of the week: house prices are booming." Economist Intelligence Unit.
[172] October 11, 2021. "Europe chart of the week: when will interest rates rise?" Economist Intelligence Unit
[173] September 16, 2021. "World Europe economy: EIU's latest assumptions." Economist Intelligence Unit
[174] October 11, 2021. "Europe chart of the week: when will interest rates rise?" Economist Intelligence Unit
[175] October 28, 2021. "Dollar index drops on euro rise after ECB comments." Reuters.

weakness can be owed to the ECB's approach to monetary policy. In comparison with central banks in the U.S and Canada, which are moving towards reducing bond purchases, the ECB is likely to continue with asset purchases for the foreseeable feature. The ECB also recently unveiled a set of criteria to guide eventual increases in European interest rates which sets the harmonized CPI index to 2%, a target that has only been exceeded a handful of times since 2012. There is sufficient leeway in how these rules will be interpreted, and the bank could keep policy even if inflation were to rise.[176] Increased volatility is expected as investment managers rebalance their portfolios across currencies and central banks chart adjustment to monetary policies adopted during the pandemic.[177]

1.10 The table below provides a summary of key economic indicators for Europe:

Table X
Europe Economic Outlook
Summary of Key Indicators

				Forecast		
		2019	2020	2021	2022	2023
(% change, y-o-y):						
Real GDP	[1]	1.6	-5.0	5.5	4.1	2.3
Headline Inflation	[1]	3.0	2.0	4.2	3.5	3.0
Unemployment Rate (%)	[3]	7.5	7.9	7.9	7.7	7.3
U$:€, average	[2]	1.12	1.14	1.19	1.17	1.15
U$:€, year-end	[2]	1.11	1.19	1.18	1.16	1.14
3 month EURIBOR	[3]	-0.40	-0.40	-0.50	-0.50	-0.50
Deposit Rate (Eurozone, ECB)	[4]	-0.43	-0.50	-0.50	-0.50	-0.50
Refinancing Rate (Eurozone, ECB)	[4]	0.00	0.00	0.00	0.00	0.00

Note:

1. Actuals from "Regional Economic Outlook: Europe," IMF, for the dates October 2020 and October 2021. Forecasts from "Regional Economic Outlook: Europe," IMF, October 2021.
2. October 29, 2021. "United States of America: Forecast Summary." Economist Intelligence Unit.
3. Actuals from "Eurosystem staff macroeconomic projections for the euro area," European Central Bank, June 2020, and "ECB staff macroeconomic projections for the euro area." European Central Bank, September 2021. Forecasts from "ECB staff macroeconomic projections for the euro area." European Central Bank, September 2021.
4. September 23, 2021. "Economic Outlook Europe Q4 2021: A Faster-Than-Expected Liftoff." S&P Global Ratings

[176] September 15, 2021. "Global currency outlook." RBC Global Asset Management.
[177] October 28, 2021. "Dollar index drops on euro rise after ECB comments." Reuters.

Appendix G

Brief Overview – North American Loyalty and Rewards Programs

With quoted sources from circa the Spin Date

Industry Background

1.1 The loyalty program industry offers rewards, discounts, and other incentives to attract and retain consumers. The industry is growing rapidly; a market research report published in May 2023 projected the market will grow at a 23.7% compound annual growth rate ("**CAGR**") between 2023 and 2030, making it a $28.65 billion USD industry by 2030.[178]

1.2 North America has the largest loyalty market share. As shown in the figure below, the $1.71 billion market in North America as of 2022 is expected to grow rapidly by 2030.[179]

1.3 The tremendous projected growth in the loyalty program industry is supported by consumers' attitudes: 43% of consumers reported their intention to increase participation in loyalty programs in 2023 over 2022.[180] According to a survey conducted by McKinsey & Company in 2021, members of top-performing loyalty programs are:[181]

- 64% more likely to purchase from that brand more frequently;
- 50% more likely to recommend that brand to others;
- 35% more likely to choose that brand over competitors; and,

[178] May 2023. "Loyalty Management Market Size, Share, and COVID-19 Impact Analysis 2023-2030" Fortune Business Insights
[179] May 2023. "Loyalty Management Market Size, Share, and COVID-19 Impact Analysis 2023-2030" Fortune Business Insights
[180] "2023 Consumer Trends Index" Marigold
[181] August 2, 2022. "Winning in loyalty" McKinsey & Company

- 31% more willing to pay a higher price to stay with that brand.

1.4 These statistics are even more drastic when it comes to *paid* loyalty programs. A paid loyalty program is based upon a participation fee (e.g., a membership or subscription fee), such as Amazon Prime. Per a McKinsey & Company survey conducted in 2020, with paid loyalty programs, as compared to prior to joining the program, members were:[182]

- 43% more likely to purchase from that brand weekly;
- 59% more likely choose that brand over competitors; and,
- 62% more likely to spend more money on that brand.

1.5 In addition to being separated by paid and unpaid loyalty programs, the industry is also bifurcated into "on-premise" and cloud-based programs. The cloud-based segment of the industry is expected to witness the greatest growth in the coming years.[183]

1.6 Further, the industry is separated into third-party loyalty programs, such as Air Miles and BrandLoyalty, and in-house loyalty programs, such as Target Red Card. A September 2022 survey found that the split between the two was nearly even: over 52% of respondents reported using in-house programs, whereas nearly 48% reported adopting a third-party loyalty technology vendor.[184]

Competitive Landscape

1.7 The loyalty program industry was heavily saturated at the time of the Spin. On average, a U.S. consumer belonged to roughly 17 different loyalty programs, but actively used less than half of those.[185]

Industry Outlook

1.8 The industry was significantly impacted by the COVID-19 pandemic and global supply chain challenges: Pandemic-related lockdowns reduced traffic for retailers and travel-related programs suffered due to travel restrictions.[186] In the travel- and transportation-related segment of the industry, social distancing requirements, border closures, and reduced flight availability led to "reduced customer activity and limited visibility into future travel events," reducing the potential for near-term growth.[187] Moreover, the onset of the pandemic and global supply chain issues led

[182] October 2022. "Coping with the big switch: how paid loyalty programs can help bring consumers back to your brand" McKinsey & Company
[183] May 2023. "Loyalty Management Market Size, Share, and COVID-19 Impact Analysis 2023-2030" Fortune Business Insights.
[184] February 2023. "Adoption of in-house vs. third-party technology in loyalty programs worldwide 2022" Statista
[185] June 2022. "Average memberships in loyalty programs in the U.S. 2015-2022" Statista
[186] Motes Affidavit, Exhibit N and Motes Affidavit, Exhibit O.
[187] November 8, 2021. "Initiate Coverage of Loyalty Ventures with a BUY Rating and $63 Price Target," Sidoti & Company, LLC

to higher marketing and payroll costs in the sector.[188] Additionally, lockdowns led to a marked shift to online purchasing, which negatively impacted any programs focused on selling programs to and/or reaching customers via brick and mortar retailers.[189]

1.9 The macroeconomic decline associated with these factors was troubling for the loyalty program industry. According to a McKinsey & Company survey conducted of U.S. consumers in June 2020, 40-50% of consumers "shifted stores, websites, or brands during the [financial] crisis and 20% [switched] primary stores or brands. Further, more than half say they plan to stick with the new store or brand."[190] With respect to the supply chain issues, another McKinsey & Company survey conducted in October 2021 found that over the prior three months, 60% of U.S. consumers had found that the products they wished to purchase were out of stock. In such cases, the survey found that only 13% of these consumers waited for the item to come back in stock versus 39% who switched brand or product and 32% who switched retailers.[191]

1.10 However, the at the time of the Spin, it was projected that the market would rebound quickly. For example, S&P Global Ratings noted in its initiation report for LVI that it was assuming mid-single digit GDP growth in the U.S. and Canada in 2021.[192] Moody's similarly noted an "improving global retail environment"[193] and that consumer confidence was stabilizing.[194] In the summer of 2021, the market began to see increased leisure travel activity. This trend was expected to persist throughout the rest of 2021 and into 2022.[195]

1.11 S&P also noted, however, that the increase in travel could come with its own risks: recovery in travel could lead to higher-than-anticipated redemption of travel reward points, which could impact loyalty programs' cash flows and liquidity.[196] Moody's also discussed that there was a "potential for shifts in consumer travel and consumption habits as the Coronavirus pandemic subsides."[197]

[188] Motes Affidavit, Exhibit N.
[189] Motes Affidavit, Exhibit O.
[190] July 1, 2020. "McKinsey Survey Reveals Consumer Sentiment Improving But Shifting Brands and Behaviors" Forbes
[191] December 14, 2021. "US consumer sentiment and behaviors during the coronavirus crisis" McKinsey & Company
[192] Motes Affidavit, Exhibit N.
[193] Motes Affidavit, Exhibit O.
[194] Motes Affidavit, Exhibit O.
[195] November 8, 2021. "Initiate Coverage of Loyalty Ventures with a BUY Rating and $63 Price Target," Sidoti & Company, LLC.
[196] Motes Affidavit, Exhibit N.
[197] Motes Affidavit, Exhibit O.

Barriers to Entry

1.12 In 2016, the Canadian Parliament passed the Protecting Rewards Points Act, which prohibited "the expiration of rewards points in consumer loyalty programs."[198] This ruling negatively impacted loyalty programs' growth in Canada.[199]

1.13 On average, a customer in the United States belongs to 17 different loyalty programs.[200] The fact that there are large, existing bases of consumers already loyal to a particular brand or program is a "barrier against competition from new coalition-based entrants, as it would be challenging to amass a comparable number of collectors without incurring significant costs."[201] Analysts warned that while the risk to losing sponsors to other coalition-based programs was insignificant, third-party loyalty providers (like LVI) were at risk of sponsors leaving to pursue proprietary in-house loyalty programs, giving that brand greater control over data and customers.[202]

[198] November 16, 2017. "Not so happy New Year: Ontario Rewards Points Legislation coming into force January 1, 2018" Osler.
[199] November 1, 2021. "What is Loyalty Ventures Worth? Spin Should Act as a Catalyst to ADS" Morgan Stanley Research.
[200] August 2, 2022. "Winning in loyalty" McKinsey & Company.
[201] Motes Affidavit, Exhibit O.
[202] Motes Affidavit, Exhibit O.

Appendix H

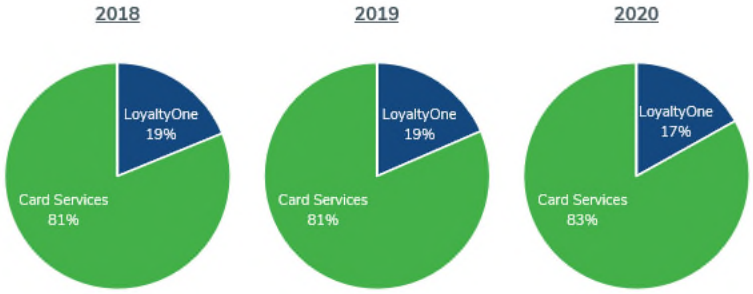
Additional Background Information on ADS and LVI

ADS

1.1 ADS (now Bread) is a financial services company which provides lending, saving, and payment solutions. Its primary line of business consists of private label and co-branded credit card programs. These programs allow non-financial businesses, or partners, to launch branded credit cards to incentivise customers to shop at the partners' business with the associated credit card. This lets partners save on credit card processing fees and consequently offers perks to consumers who use them.

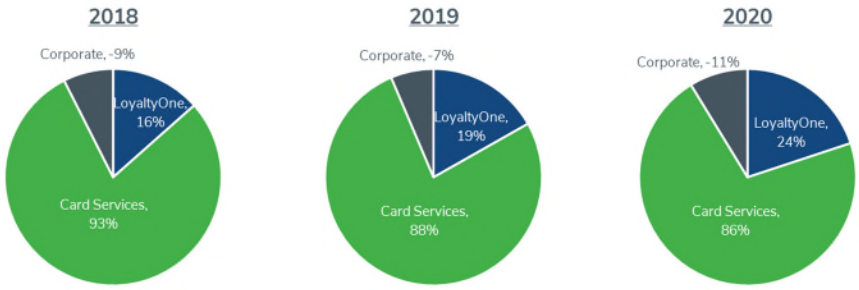
1.2 Bread (formerly ADS) is publicly traded (NYSE:BFH), with a current market capitalization of approximately $1.7 billion.[203] In 2022, Bread had approximate revenues of $2.2 billion, operating income of $300 million, and net income of $223 million.[204]

1.3 In 2020 (i.e., prior to the Spin Transaction), ADS operated in two segments: LoyaltyOne and Card Services.[205] The LoyaltyOne segment operated the Air Miles program and BrandLoyalty.[206] Between 2018 and 2020, the LoyaltyOne segment accounted for between 17% and 19% of ADS' total revenue; between $764.8 million and $1.1 billion.[207]



[203] As of February 7, 2024 (per Capital IQ).
[204] S&P Capital IQ.
[205] February 26, 2021. Annual Report of Alliance Data Systems Form 10-K for the fiscal year ended December 31, 2020, at p. 3.
[206] February 26, 2021. Annual Report of Alliance Data Systems Form 10-K for the fiscal year ended December 31, 2020, at p. 4. To be clear, after the Spin Transaction, the LoyaltyOne segment solely operated the Air Miles program and BrandLoyalty operated as a distinct segment.
[207] February 26, 2021. Annual Report of Alliance Data Systems Form 10-K for the fiscal year ended December 31, 2020, at F-17.

1.4 In 2018 and 2019, the LoyaltyOne segment made up nearly 16% and 19% of ADS' total EBITDA[208], respectively.[209] In 2020, the LoyaltyOne segment represented more than 24% of ADS' total EBITDA.

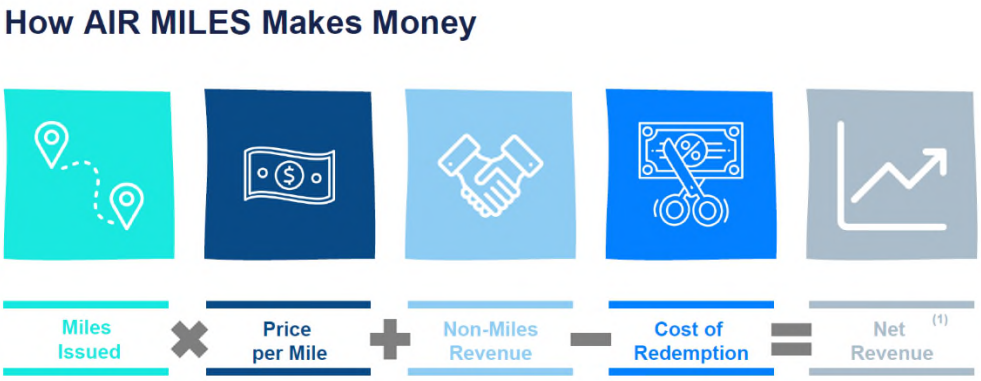


Air Miles

1.5 Air Miles generated income as follows:[210]

- When consumers shopped at Air Miles' sponsors, they were issued "miles" associated with that transaction.
- The sponsor, for example, Sobeys, paid Air Miles a fee for the miles issued.
- When the consumer later redeemed the miles for a reward, Air Miles paid for that reward; the cost of which is the "Redemption Value."
- Air Miles earned the difference between the Redemption Value and the fee paid by sponsors for miles issued.

[208] Earnings before Interest, Taxes, Depreciation and Amortization. Throughout our analysis, we have used adjusted EBITDA, which is EBITDA excluding the gain on the sale of Precima, strategic transaction costs, asset and goodwill impairments and restructuring and other changes. We use these terms interchangeably, unless otherwise noted.
[209] February 26, 2021. Annual Report of Alliance Data Systems Form 10-K for the fiscal year ended December 31, 2020, at F-62-63. Adjusted EBITDA is net of securitization funding costs and interest expenses on deposits.
[210] December 15, 2021. Form 8-K Lender Presentation by Loyalty Ventures Inc., at slide 12. Non-miles revenue refers to revenue from marketing or investment income. See Motes Affidavit, Exhibit K.



BrandLoyalty

1.6 BrandLoyalty had two different types of programs: "**Collect and Redeem**" and "**Spend and Get**." The Collect and Redeem program was responsible for 77% of total BrandLoyalty revenue in 2020, whereas the Spend and Get Program was only responsible for 19% of 2020 total revenue.[211]

1.7 The Collect and Redeem program was a short-term loyalty program, targeted at specific, existing shopper segments, aimed at increasing their spend at BrandLoyalty retailers.[212] For example, the customer received a stamp for certain amounts spent, and once the total spend requirement was met, they could redeem for a medium-to-high-value reward. At the point of redemption, the reward was either free or significantly discounted.[213] Examples of rewards from this program included knives, ovenware, and glassware etc.[214]

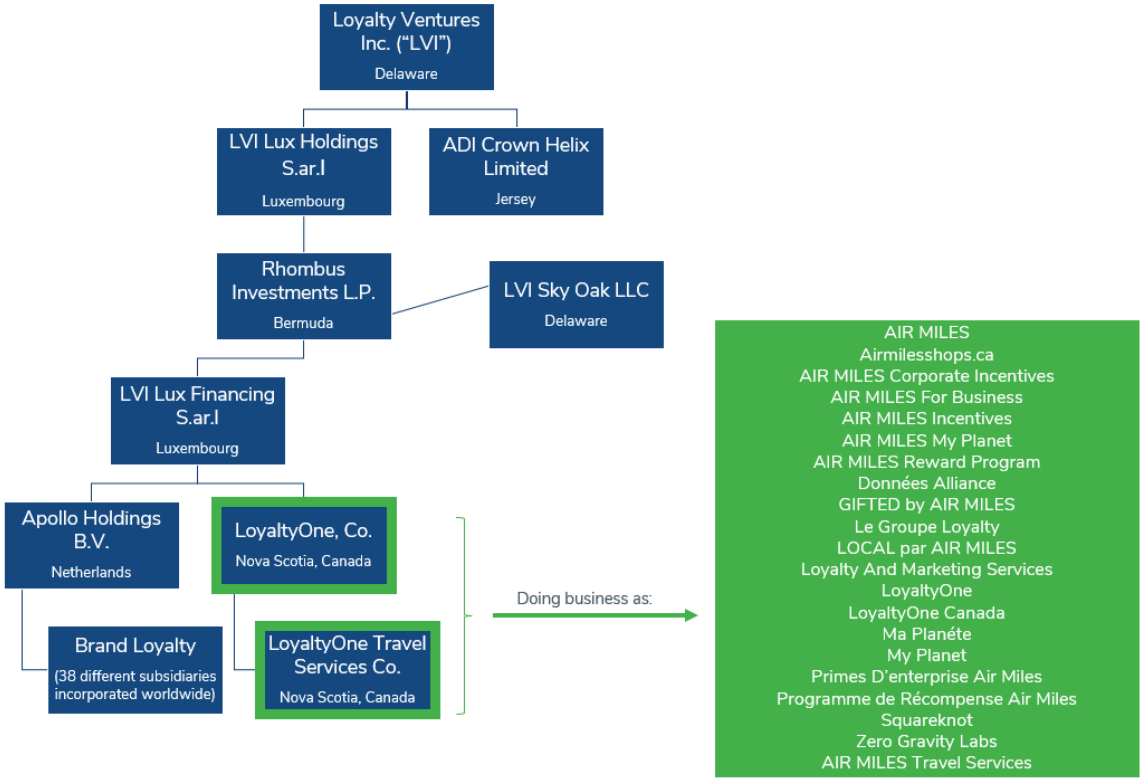
1.8 The Spend and Get program was an instant loyalty program, designed to generate new customers for the BrandLoyalty retailers.[215] Rewards in this program tended to be low-value, branded gifts.[216] Consumers earned rewards from this program at the checkout counter after achieving a predefined spend requirement.[217]

1.9 As shown below, BrandLoyalty generated income as follows. The net revenue per campaign was the total rewards redeemed, multiplied by the selling price, less the cost of the reward and campaign costs. In the Collect and Redeem program, consumers had the right to return the reward.[218, 219]

[211] Motes Affidavit, Exhibit K.
[212] Motes Affidavit, Exhibit K.
[213] August 2019. BrandLoyalty Project Bicycle Confidential Information Memorandum presented by Bank of America Merrill Lynch and Morgan Stanley.
[214] Motes Affidavit, Exhibit K.
[215] Motes Affidavit, Exhibit K.
[216] Motes Affidavit, Exhibit K.
[217] August 2019. BrandLoyalty Project Bicycle Confidential Information Memorandum presented by Bank of America Merrill Lynch and Morgan Stanley.
[218] Motes Affidavit, Exhibit K.
[219] 'December 15, 2021. Form 8-K Lender Presentation by Loyalty Ventures Inc., at slide 14.

LVI Corporate Structure[220]

1.10 LVI's corporate structure after the Spin Date is as follows:



[220] Figure was made using the list of LVI subsidiaries (see Motes Affidavit, Exhibit H, at Ex. 21.1) and Loyalty Ventures Inc. Corporate Structure (Projected).

LVI Disclosures Regarding Its Financial Projections

1.11 As part of Bank of America's efforts to syndicate LVI's lending in connection with the Spin Transaction (described in further detail below), Bank of America facilitated a Q&A session between potential investors and LVI's management, specifically Charles Horn, Chief Executive Officer and President at LVI, Jeff Chesnut, Chief Financial Officer at LVI, Jack Taffe, Vice President of Treasury and Corporate Development at LVI, and Jeffrey Tusa, Senior Vice President of Corporate Development and Treasurer at LVI.

1.12 Areas of investors' questions and LVI managements' responses included the following:

Summary of the Bank of America Investor Q&A

Topic	LVI Answer
Sales Declines	"AIR MILES adopted the revised revenue recognition standard ('ASC 606') at the start of 2018...As a result, the Company experienced an impact in its recognition criteria related to recording revenue on a net basis versus gross." "In late 2018 and in 2019, the presentation of Revenue switched to a net basis, as LV started outsourcing inventory to third party. Without this change, the decline would have only been 1%."
EBITDA Margin Declines from 2014 to 2019	"Exclusive of exited businesses, margins have been steady since 2015 other than the post-expiry period in 2017."
Decline in adjusted EBITDA of $6.6 million USD between TTM Aug. 31, 2021 and Sep. 30, 2021	"[T]he model was developed in August before the month ended. August came in ahead of plan, and the company expects LTM September will as well. In terms of the trough being June, we note that TTM 9/30/21 Adj. EBITDA of $160.7 is higher than TTM 6/30/21 Adj. EBITDA of $150.0 shown in the model."
Customer Relationships	"Larger clients tend to operate on 3 to 5 year contracts. Discussions typically begin about 12 months prior to end of term renewal depending on the sponsor. Both parties generally have terms that they may want modified, and trade-offs are made as required. Economics have generally remained stable. Renewals for the larger clients are generally more focused on collectively solving their latest business challenges rather than negotiating economics. Only disclosed contract is BMO (2023 renewal)."
Customer Renewal and Retention	"LV prepares analysis on the value they have provided through their partnership. Economics have generally remained stable – it also depends on the negotiating power of the sponsor (BMO has more than AMEX for instance)." "Renewals for the larger clients are generally more focused on collectively solving their latest business challenges rather than negotiating economics, but to the extent our price per mile is pressured, we can adjust our cost per mile since we control the currency (i.e. we can change the number of miles needed to redeem)."
Optimization of Supply Chain	"BL is evaluating sourcing a portion of production closer to Europe, which would increase manufacturing costs, but reduce shipping costs and provide delivery assurance relative to current sourcing arrangements."

Source: September 22, 2021. 09222021 Question Tracker.

Senior Credit Facilities

Interest Rate on Senior Credit Facilities

1.13 The TLB was issued at a floating rate, with the interest rate calculated as a Base Rate[221] plus 3.5% per annum.[222]

1.14 The TLA and Revolver interest rates were both calculated using the same Base Rate as in the TLB interest rate, but also included an additional margin that was dependent upon the Consolidated Total Leverage Ratio. This additional margin was 2.00% to 2.75% for TLA and an additional 3.00% to 3.75% for the Revolver.

Financial Covenants on Senior Credit Facilities

1.15 The Consolidated Total Leverage Ratio was defined as the "ratio of (a) Consolidated Funded Indebtedness as of such date to (b) Consolidated EBITDA for the period of the four (4) fiscal quarters most recently ended."[223] Per the Credit Agreement, the Consolidated Funded Indebtedness refers to the sum of the following, without duplication:[224]

- the outstanding principal amount of all obligations;
- all purchase money indebtedness;
- all drawn and unreimbursed letters of credit and similar instruments;
- all obligations in respect of the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business);
- all Attributable Indebtedness, meaning the capitalized amount of any finance leases, the capitalized amount of remaining lease payments on any synthetic lease obligation, and the amount of obligations outstanding that would be characterized as a principal if a securitization transaction was structured as a loan;
- all guarantees with respect to the outstanding indebtedness described above, of persons other than LVI or its subsidiaries; and,
- all indebtedness described above of any partnership or joint venture to which LVI or a subsidiary is a general partner or joint venturer.

[221] Per Motes Affidavit, Exhibit S, "'Base Rate' means for any day a fluctuating rate per annum…" determined based on various parameters set out in the Credit Agreement.
[222] November 3, 2021. Loyalty Ventures Inc. Form 8-K Completion of Separation of Loyalty Ventures from ADS. Assuming the interest is paid in USD rather than Euros.
[223] Motes Affidavit, Exhibit S.
[224] Motes Affidavit, Exhibit S.

1.16 The TLA and Revolver were subject to a financial maintenance covenant, meaning that the Consolidated Total Leverage Ratio could not exceed certain amounts over certain periods, as shown below.[225]

Four Fiscal Quarters Ending	Maximum Consolidated Total Leverage Ratio
December 31, 2021 – September 30, 2022	5.00:1.00
December 31, 2022 – September 30, 2023	4.50:1.00
December 31, 2023 and each fiscal quarter thereafter	4.25:1.00

1.17 LVI was also required to pay a quarterly commitment fee, between 0.40% and 0.50% per annum, of the unused portion of the of the aggregate Revolver. The quantum of the fee was dependent on the Total Coverage Ratio.[226]

Consolidated Total Leverage Ratio	Commitment Fee
≥4.25:1.00	0.50%
>3.25:1.00 but ≤3.75:1.00	0.45%
≤3.25:1.00	0.40%

1.18 Further, the Credit Agreement required that, beginning December 31, 2022, LVI prepay the TLB with a portion of the Excess Cash Flow,[227] the amount of which was to be determined by the Consolidated Secured Leverage Ratio.[228]

[225] November 3, 2021. Loyalty Ventures Inc. Form 8-K Completion of Separation of Loyalty Ventures from ADS
[226] See Motes Affidavit, Exhibit S.
[227] Defined in the Credit Agreement as: "'Consolidated Excess Cash Flow' means, for any period for the Company and its Subsidiaries on a consolidated basis, an amount (if positive) equal to Consolidated Net Income for such period plus…" numerous add backs and adjustments, the details of which, for the sake of brevity are not listed here.
[228] Per the Credit Agreement, the Consolidated Secured Leverage Ratio is the "ratio of (a) Consolidated Secured Indebtedness as of such date to (b) Consolidated EBITDA for the period of the four (4) fiscal quarters most recently ended," where "Consolidated Secured Indebtedness" is all Consolidated Funded Indebtedness (defined at paragraph 1.15) secured by liens.

Appendix I

Overview of LVI Projections Proximate to the Spin Date

1.1 The following table details projections that we observed to have been prepared prior to the Spin Date.

Summary of Forecasts Prepared Contemporaneously

Model Description	Date of Analysis	Data Included
ADS Goodwill Impairment Valuation	7/1/2021	LoyaltyOne Co. and BrandLoyalty DCFs for the six months ended 12/31/2021 through 2025E. LoyaltyOne Co. in $CAD, BrandLoyalty in €EUR. LoyaltyOne Co. values include corporate overhead.
August 2021 SpinCo Model	8/21/2021	LoyaltyOne Segment forecast, including income statement, balance sheet, and cash flow statement, 2021E - 2026E
MS August Forecast	8/23/2021	LoyaltyOne Segment forecast, including income statement, balance sheet, and cash flow statement, 2021E - 2026E, forecasts by segment (AMRP, BL, Corporate) in USD, CAD, and EUR (where applicable), capex/D&A, balance sheet as of 6/30/2021
September 1, 2021 SpinCo Model	9/1/2021	LoyaltyOne Segment forecast, including income statement, balance sheet, and cash flow statement, 2021E - 2026E
September 3, 2021 SpinCo Model	9/3/2021	LoyaltyOne Segment forecast, including income statement, balance sheet, and cash flow statement, 2021E - 2026E
Rating Agency Model	9/7/2021	LoyaltyOne Segment forecast, including income statement, balance sheet, and cash flow statement, 2021E - 2026E, charts for rating agency presentations, old models
Lender Model	9/13/2021	LoyaltyOne Segment forecast, including income statement, balance sheet, and cash flow statement, 2021E - 2026E
BofA August Forecast	10/13/2021	LoyaltyOne Segment forecast, including income statement, balance sheet, and cash flow statement, 2021E - 2026E, forecasts by segment (AMRP, BL, Corporate) in USD, CAD, and EUR (where applicable), capex/D&A, balance sheet as of 6/30/2021

Sources: February 7, 2022. E&Y ASC 350 Valuation Analysis of Alliance Data Systems Corporation, August_2021_Spinco_Model.xlsx, L1 Model_August 2021_Aug Fcst_vMS_2.xlsx, SpinCo Model_9.1.21.xlsx, SpinCo Model_9.3.21.xlsx, LoyaltyOne - RAP SU Charts (September 2021) v6.xlsx, Lender_Model.xlsx, L1 Model_August 2021_Aug Fcst_v10_BofA_vNewStructure_v3.xlsx.

1.2 Although the models varied slightly from each other, the “bottom line” Adjusted EBITDA amounts in each were generally consistent, as demonstrated in the table below. The highlighted amounts indicate a deviation from the other models.

LVI Consolidated Adjusted EBITDA

($USD, millions)

Model Description	2021E	2022E	2023E	2024E	2025E	2026E
	$	$	$	$	$	$
ADS Goodwill Impairment Valuation		212.9	220.7	234.5	251.5	
August 2021 SpinCo Model	181.6	198.6	213.9	230.9	250.6	264.2
MS August Forecast	181.6	198.6	213.9	230.9	250.6	264.2
September 1, 2021 SpinCo Model	185.6	198.6	213.9	230.9	250.6	264.2
September 3, 2021 SpinCo Model	187.0	198.6	213.9	230.9	250.6	264.2
Rating Agency Model	187.0	198.6	213.9	230.9	250.6	264.2
Lender Model	187.0	198.6	213.9	230.9	250.6	
BofA August Forecast	187.0	198.6	213.9	230.9	250.6	264.2

Sources: February 7, 2022. E&Y ASC 350 Valuation Analysis of Alliance Data Systems Corporation, August_2021_Spinco_Model.xlsx, L1 Model_August 2021_Aug Fcst_vMS_2.xlsx, SpinCo Model_9.1.21.xlsx, SpinCo Model_9.3.21.xlsx, LoyaltyOne - RAP SU Charts (September 2021) v6.xlsx, Lender_Model.xlsx, L1 Model_August 2021_Aug Fcst_v10_BofA_vNewStructure_v3.xlsx.

1.3 The ADS Goodwill Impairment Valuation is the only analysis performed entirely by a third party, EY. It was prepared for ADS for an ASC 350 valuation analysis in February 2022, with a July 1, 2021 valuation date. The analysis provided annual EBITDA amounts for 2022 through 2025 and for the six months ended December 31, 2021. Because the amounts therein were provided in CAD (for LoyaltyOne Co., which includes the segment corporate overhead) and EUR (for BrandLoyalty), we converted them to USD so that the comparison to the other models was "apples-to-apples". In converting the amounts, we used the forecasted exchange rates as found in the Bank of America August Forecast.[229] Additionally, the ADS Goodwill Impairment Valuation presented EBITDA amounts rather than Adjusted EBITDA amounts. To address this deviation from the presentation in the other forecasts, we added back stock-based compensation (referred to therein as "non-cash incentive compensation").

1.4 The August 2021 SpinCo Model was prepared by LVI Management (then at ADS) and sent to Bank of America personnel in connection with the debt raise that Bank of America was arranging.[230] The model was also shared with EY, the advisor to ADS' board of directors.[231] The model contained quarterly pro forma historical data for 2018 through 2020 and quarterly forecasts for 2021 through 2026. It provided the data on a consolidated basis such that it is not possible to break out the EBITDA derived from Air Miles versus BrandLoyalty, for example.

[229] L1 Model_August 2021_Aug Fcst_v10_BofA_vNewStructure_v3.xlsx.
[230] August 21, 2021. Email from Jeff Tusa of ADS to Scott Tolchin Et al. of Bank of America Re: SpinCo Model. Bank of America was the lead arranger of the debt financing for the Spin transaction (see Motes Affidavit, paragraph 47).
[231] August 21, 2021. Email from Julie McLaughlin of ADS to Geoff Ellis Et al. of EY RE: EY / ADS Initial Spin Materials. See also Motes Affidavit, paragraph 42.

1.5 The MS August Forecast was also prepared by LVI Management. It was sent to Morgan Stanley, ADS' financial advisor in the Spin process.[232] While this model also contained quarterly pro forma historical data for 2018 through 2020 and quarterly forecasts for 2021 through 2026, it is more robust than the August 2021 SpinCo Model. The MS August Forecast also included financial data by segment (Air Miles, BrandLoyalty, and Corporate), in USD and each segments' respective local currencies.

1.6 Both the August 2021 SpinCo Model and the MS August Forecast estimated 2021 Adjusted EBITDA has $182 million USD. Beginning with the September 1, 2021 SpinCo Model, LVI Management begins to assess restructuring costs as a result of the Spin. In an email to Bank of America personnel, Jack Taffe explains that the September 1, 2021 SpinCo Model "includes a change to Adj. EBITDA based on the $4mm we're adding back as pro forma cost saves for the actions taken this month."[233] As a result, 2021 estimated Adjusted EBITDA in the September 1, 2021 SpinCo Model increased to $185.6 million USD. The September 1, 2021 SpinCo Model is similar in content to the MS August Forecast: it contains quarterly pro forma data from 2018 through 2026 on a consolidated basis.

1.7 The construction of the September 3, 2021 SpinCo Model is identical to that of the September 1, 2021 SpinCo Model. The restructuring costs were further revised in the September 3, 2021 SpinCo Model: they went from $4.02 million USD in the September 1, 2021 SpinCo Model to $5.41 million USD in the September 3, 2021 SpinCo Model. Both the September 1 and September 3, 2021 SpinCo Models were shared with Bank of America for use in connection with the debt raise.[234]

1.8 A few days later, on September 7, 2021, LVI circulated a new version of the model to Bank of America that was used for the presentations to the rating agencies, the Rating Agency Model.[235] This model was similar to the September 3, 2021 SpinCo Model but also contained additional data such as charts used within the presentation to the rating agencies and older versions of the model.

1.9 LVI management then shared another new model with Bank of America, the Lender Model, which it stated was "the version shared with the rating agencies" and was to be shared with the lenders as well.[236] This version of the model only projects financials out through 2025.

[232] August 23, 2021. Email from Jack Taffe of ADS to Robert Scully Et al. of Bank of America Re: Legacy BOD Slide Updates.
[233] September 1, 2021. Email from Jack Taffe of ADS to Rashmi Bhagwat Et al. of Bank of America RE: LVI Strategy Deck.
[234] September 1, 2021. Email from Jack Taffe of ADS to Rashmi Bhagwat Et al. of Bank of America RE: LVI Strategy Deck; September 3, 2021. Email from Jack Taffe of ADS to Rashmi Bhagwat Et al. of Bank of America RE: LVI Strategy Deck.
[235] September 7, 2021. Email from Jack Taffe of ADS to Brennan Smith Et al. of Bank of America RE: LVI Strategy Deck.
[236] September 13, 2021. Email from Jeff Tusa of ADS to jack Taffe of ADS Et. al RE: LV RCF Lender Presentation.

1.10 Finally, on October 13, 2021, LVI shared with Bank of America the Bank of America August Forecast.[237] Similar in construction to the MS August Forecast, this model – which we refer to as the Spin Date Projections – was significantly more robust than the SpinCo Models and the Lender and Rating Agency Models.

[237] See, for example, September 27, 2021. Email from Adam Quine of Bank of America to Jack Taffe RE: LV TLB Lender Presentation & Private Supplement, where the model is being circulated by Bank of America "for lenders".

Appendix J

Overview of Spin Transaction Agreements between ADS and LVI

1.1 LVI provided the following disclosure regarding each of these agreements in its annual filing for the period that ended on December 31, 2021.

Title of Agreement	Description of Agreement
Separation and Distribution Agreement	"Governs the overall terms of the Separation. Generally, the Separation and Distribution Agreement includes ADS' and Loyalty Ventures' agreements relating to the restructuring steps taken to complete the Separation, including the assets and rights transferred, liabilities assumed and related matters. The Separation and Distribution Agreement provides for ADS and Loyalty Ventures to transfer specified assets between the companies that operate the LoyaltyOne segment after the Distribution, on the one hand, and ADS' remaining businesses, on the other hand."[238]
Tax Matters Agreement	"Governs ADS' and Loyalty Ventures' respective rights, responsibilities and obligations with respect to taxes, including taxes arising in the ordinary course of business, and taxes, if any, incurred as a result of the failure of the Distribution (and certain related transactions) to qualify for tax-free treatment for U.S. federal income tax purposes. The Tax Matters Agreement also sets forth the respective obligations of the parties with respect to the filing of tax returns, the administration of tax contests and assistance and cooperation on tax matters. Under the Tax Matters Agreement, ADS generally is responsible for all of the pre-Separation taxes of Loyalty Ventures and its subsidiaries ("Loyalty Ventures Group") and is entitled to all the Loyalty Ventures Group's pre-Separation refunds, and Loyalty Ventures is generally responsible for all post-Separation taxes with respect to the Loyalty Ventures Group."[239]
Transition Services Agreement	"Sets forth the terms on which each of Loyalty Ventures and ADS will provide certain historically shared services to the other, on a transitional basis. Transition services will include various corporate, administrative and information technology services. Both parties are obligated, subject to

[238] Motes Affidavit, Exhibit H, at p. F-7.
[239] Motes Affidavit, Exhibit H, at p. F-7.

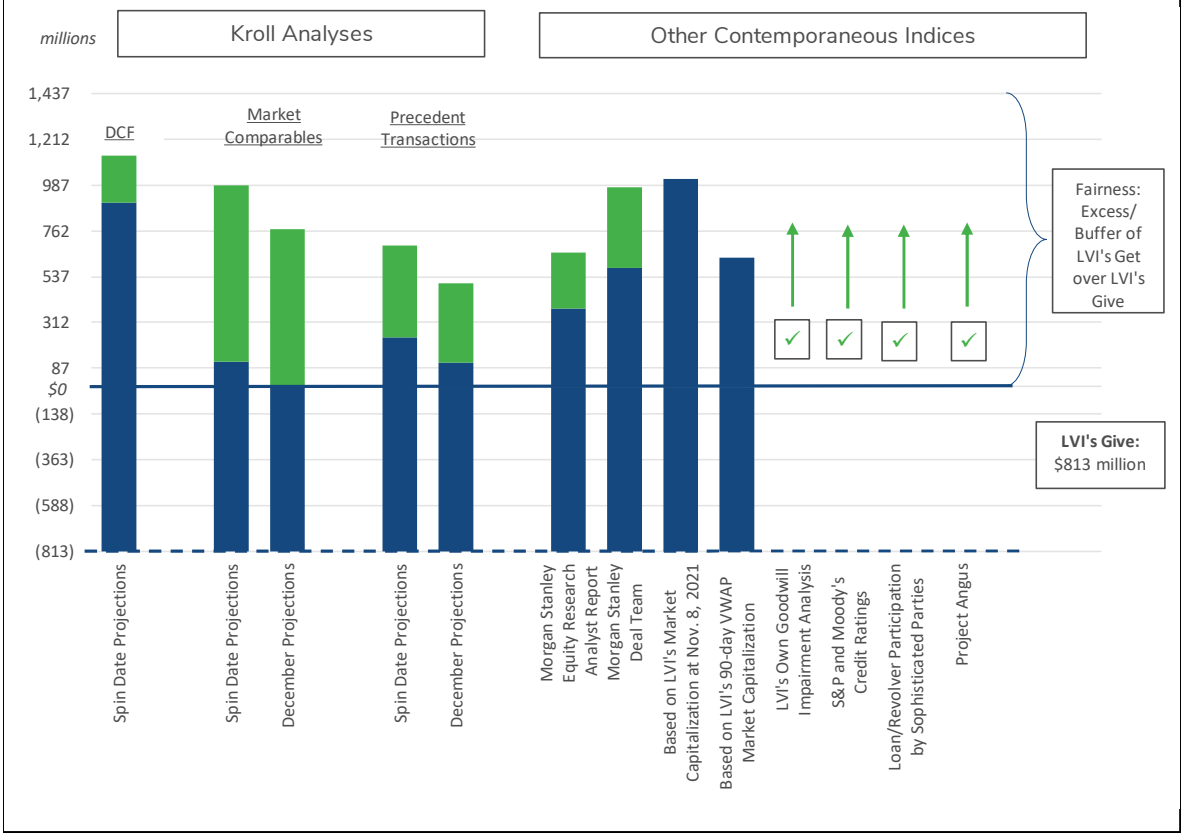
	certain customary exceptions, to provide such services in substantially the same manner as such services have been provided during the 12-month period prior to the distribution."[240]
Employment Matters Agreement	"Governs each company's respective compensation and benefit obligations with respect to current and former employees, directors and consultants. The Employee Matters Agreement sets forth general principles relating to employee matters in connection with the Separation, such as the assignment of employees, the assumption and retention of liabilities and related assets, expense reimbursements, workers' compensation, leaves of absence, the provision of comparable benefits, employee service credit, the sharing of employee information and duplication or acceleration of benefits."[241]
Registration Rights Agreement	"Provides ADS with certain customary demand registration, shelf takedown and piggyback registration rights with respect to its shares of Loyalty Ventures' common stock, subject to certain customary limitations."[242]

[240] Motes Affidavit, Exhibit H, at p. F-7 and F-8.
[241] Motes Affidavit, Exhibit H, at p. F-8.
[242] Motes Affidavit, Exhibit H`, at p. F-8.

Appendix K

Replicated Chart of Summary of Fairness of the Spin Transaction as at the November 5, 2021 Spin Date from the LVI Perspective but Notionally Using the Amount of $813 Million for LVI's Give

Summary of Analyses of Fairness of the Spin Transaction as at the November 5, 2021 Spin Date from the LVI Perspective, but Notionally Using the Amount of $813 Million for LVI's Give



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This is Exhibit “B” referred to in the Affidavit of A. Scott Davidson affirmed by A. Scott Davidson of the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on February 14, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

FB5E31A9D41548D...

Commissioner for Taking Affidavits (or as may be)

RJ REID

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PRIVILEGED AND CONFIDENTIAL

January 15, 2024
File No.: 1540421001

By Email

A. Scott Davidson & Kathryn Gosnell
Kroll Canada Limited
Bay Adelaide Centre
333 Bay Street, Suite 1210
Toronto, ON M5H 2R2
scott.davidson@kroll.com
katie.gosnell@kroll.com

Dear Mr. Davidson and Ms. Gosnell,

Re: LoyaltyOne, Co., et al. v. Bread Financial Holdings, Inc.

We write further to the letter of retainer dated December 20, 2023 wherein we retained you, on behalf of our client Bread Financial Holdings, Inc. ("**Bread**"), as an independent expert to advise and, as necessary, provide an expert opinion in relation to certain valuation matters in dispute between Bread and LoyaltyOne, Co. ("**LoyaltyOne**").

The dispute between Bread and LoyaltyOne arises from the spinoff of LoyaltyOne into Loyalty Ventures Inc. ("**LVI**"), a newly created public company and specifically the Tax Matters Agreement entered into by the parties. The Spinoff Transaction occurred on November 5, 2021 (the "**Spin Date**").

Questions

The purpose of this letter is to request your expert opinion on the following issues:

1. In your view, from a business and financial perspective, in considering the value of the consideration given and received in relation to the Tax Matters Agreement, is it reasonable to only consider the impact of and associated value transfer consequences of the Tax Matters Agreement from the perspective of LoyaltyOne, or should it be considered from the perspective of LoyaltyOne and LVI together in the context of the overall spinoff transaction?

2. If your answer to the above question is that the value of the consideration given and received should be considered in the context of the overall spinoff transaction, then was the spinoff transaction, including the arrangement under the Tax Matters Agreement, fair, from a financial point of view, to LVI as at the Spin Date? Further, does your fairness analysis indicate that the value of the consideration received by LVI was conspicuously less than that given to ADS in exchange under the spinoff transaction?

3. Having regard to, amongst other things, their then-anticipated future cash flows and the then-net realizable value of their assets, were LVI and LoyaltyOne solvent as at the Spin Date? More

particularly, at the Spin Date, was there a reasonably foreseeable expectation of a liquidity shortage that would deprive LVI or LoyaltyOne of the ability to pay their debts as they generally became due?

4. If your answer to the above question is that LVI and LoyaltyOne were solvent as at the Spin Date, what intervening events relevant to their business outlook and condition occurred between the Spin Date and the CCAA Date that negatively impacted the solvency of LVI and LoyaltyOne?

In answering the second question, please determine the appropriate value of the consideration given by LVI to ADS to effect the spinoff transaction and use this value in your analysis. In addition, please consider whether the spinoff transaction is fair if the consideration given by LVI to ADS is assumed to be US$812,409,000, being the sum of the liabilities incurred by LVI and its net loss of assets arising from the spinoff transaction as stated in the Preliminary Information Statement filed by LVI on October 13, 2021 as part of its Form 10 disclosure with the U.S. Securities Exchange Commission.

Instructions

Under our *Rules of Civil Procedure,* your report is required to contain the following information:

1. Your name, address and area of expertise;

2. Your qualifications and employment and educational experiences in your area of expertise. We ask you to attach your curricula vitae to your final report or include it within the body of the report.

3. The instructions provided to you in relation to the proceeding.

4. The nature of the opinion being sought and each issue in the proceeding to which the opinion relates.

5. Your opinion respecting each issue and, where there is a range of opinions given, a summary of the range and the reasons for your opinion within that range.

6. Your reasons for your opinion, including:

    a. a description of the factual assumptions on which the opinion is based;

    b. a description of any research conducted by you that led you to form your opinion; and

    c. a list of every document, if any, relied on by you in forming your opinion.

7. An acknowledgement of expert's duty (Form 53) signed by you.

The last item, Form 53, contains an acknowledgment by you of your duty as an expert as set out in Rule 4.1 of the *Rules of Civil Procedure.* In particular, you have the following duties in providing evidence in this proceeding:

(a) to provide opinion evidence that is fair, objective and non-partisan;

(b) to provide opinion evidence that is related only to matters that are within your area of expertise; and

(c) to provide such additional assistance as the court may reasonably require, to determine a matter in issue.

These duties prevail over any other obligation which you may owe to Bread on whose behalf you will be engaged.

Documents

We have provided you with the documents and information we believe are necessary for you to form your opinion in respect of the above issues. If for any reason you believe that you require any additional information, please advise us.

If you have any questions about the issues identified above, please do not hesitate to contact us.

Yours truly,

Maria Konyukhova

/sc

cc: Eliot Kolers, *Stikeman Elliott LLP*
Ashley Taylor, *Stikeman Elliott LLP*
Lesley Mercer, *Stikeman Elliott LLP*
RJ Reid, *Stikeman Elliott LLP*

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.

APPLICANT

Court File No. CV-23-00707017-0000

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERICAL LIST
Proceeding Commenced at Toronto

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

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

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

MOTION RECORD
(Motions relating to Tax Matters Agreement returnable April 29-30, 2024)

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