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

MOTION RECORD
(ENFORCEABILITY OF TAX MATTERS AGREEMENT)

November 9, 2023

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AND TO: **THE SERVICE LIST**

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

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TAB 1

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Applicant

NOTICE OF MOTION
(ENFORCEABILITY OF TAX MATTERS AGREEMENT)

The Applicant LoyaltyOne, Co. and KSV Restructuring Inc. in its capacity as Monitor of the Applicant (the "**Monitor**") will make a motion jointly to Justice Conway or another judge presiding over the Commercial List on a date and at a time to be fixed at a case conference at the courthouse at 330 University Avenue, Toronto.

PROPOSED METHOD OF HEARING: The motion is to be heard by videoconference.

THE MOTION IS FOR:

(a) a declaration, sought by the Applicant, that the Tax Matters Agreement between Alliance Data Systems Corporation (now known as Bread Financial Holdings, Inc.) ("**Bread**") and Loyalty Ventures Inc. ("**LVI**") dated November 5, 2021 (the "**TMA**") is not and was never binding on the Applicant;

(b) in the alternative, if the TMA is found to have been binding on the Applicant:

(i) a determination, sought by the Applicant and the Monitor, pursuant to section 5 of the Third Schedule of the *Companies Act,* R.S.N.S. 1989, c.

81, as amended (the "**NSCA**"), that the provisions in the TMA requiring the Applicant to pay to Bread an amount equivalent to the proceeds received in respect of certain disputed tax amounts (the "**Proceeds Payment Provisions**") are oppressive and unenforceable against the Applicant (the "**Oppression Proceeding**");

(ii) a declaration, sought by the Applicant, that the TMA is unconscionable and void with respect to the Applicant; and

(iii) a determination, sought by the Monitor, pursuant to section 96 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**"), as incorporated into section 36.1 of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), that the Proceeds Payment Provisions are a transfer at undervalue and void and unenforceable by Bread (the "**TUV Proceeding**");

(c) in the further alternative, if (i) the TMA is found to have been binding on the Applicant and (ii) the Proceeds Payment Provisions are not found to be void by reason of being oppressive or a transfer at undervalue, a determination, sought by the Applicant, that Bread's only entitlement with respect to its claims for payment under the Proceeds Payment Provisions of the TMA (as disclaimed by the Applicant) is as an unsecured claim in an amount to be determined, if necessary;

(d) an Order, substantially in the form included in the motion record, *inter alia*, authorizing the Monitor to commence and continue the Oppression Proceeding and the TUV Proceeding, indemnifying the Monitor for any costs award against it in connection with the Oppression Proceeding or the TUV Proceeding, securing

such indemnity claim by the Administration Charge (as defined in the Initial Order, as defined below) granted in the Initial Order and increasing the maximum aggregate amount of the Administration Charge accordingly;

(e) costs of this motion, if it is opposed; and

(f) such further and other relief as to this Honourable Court may seem just.

THE GROUNDS FOR THE MOTION ARE:

Background

(g) the Applicant, a Nova Scotia unlimited liability company, historically operated the marketing program known as the AIR MILES® Reward Program;

(h) on March 10, 2023, the Applicant was granted protection under the CCAA pursuant to an initial order of the Court (as amended and restated, the "**Initial Order**") in this proceeding (the "**CCAA Proceeding**");

(i) pursuant to the Initial Order, the Monitor was appointed as monitor of the Applicant;

(j) also on March 10, 2023, the Applicant's ultimate parent, LVI, and three of its affiliates, commenced proceedings under chapter 11 of title 11 of the United States Code before the United States Bankruptcy Court for the Southern District of Texas;

(k) substantially all of the operating assets of the Applicant have been realized upon, and the Applicant's assets now consist of the following, which will not be sufficient to repay its secured lenders in full:

(i) undistributed remaining net proceeds from the Sale Transaction (defined below) and cash on hand (collectively with the net sale proceeds, the "**Cash**"), all of which is subject to a security interest in favour of the administrative agent (the "**Credit Facility Agent**") for the Applicant's secured lenders; and

(ii) contingent claims including a claim against the Canada Revenue Agency ("**CRA**") for reimbursement of approximately $96 million paid to CRA, without admission of liability, in respect of the disputed assessment of taxes for the Applicant's 2013 tax year, as described below (the "**Tax Dispute**", and such amount the "**Disputed Amount**");

(l) the Applicant must take material (and expensive) steps in early 2024 to prepare for a trial in the Tax Dispute litigation scheduled later that year;

(m) Bread has asserted that it is entitled to payment by the Applicant of an amount equal to the proceeds (if any) of the Tax Dispute pursuant to the Proceeds Payment Provisions of the TMA;

(n) if Bread is correct that the Tax Dispute is ultimately for its own benefit, then the Credit Facility Agent will not permit the Applicant to use the Cash to pursue this litigation with the CRA because, among other things, the Applicant's secured lenders would not benefit from any potential recovery;

(o) on the other hand, if the Applicant is entitled to retain the proceeds of the Tax Dispute, then the Credit Facility Agent will permit the Applicant to use a portion of the Cash to prepare for and pursue that claim because the Applicant's secured lenders would benefit from any potential recovery;

(p) to ensure that the Applicant has sufficient time (and funding) to prepare to litigate the Tax Dispute in 2024, a timely determination regarding whether the Applicant is entitled to retain the proceeds of that litigation, free and clear of any claims asserted by Bread, is necessary;

Status of this CCAA Proceeding

(q) the Applicant has sold substantially all of its operating assets to two affiliates of Bank of Montreal pursuant to an asset purchase agreement approved by this Court on May 12, 2023 which closed on June 1, 2023 (the "**Sale Transaction**");

(r) pursuant to an order of this Court (the "**Ancillary Relief Order**"), upon closing of the Sale Transaction, the Applicant's directors and officers were deemed to have resigned (subject to certain limited exceptions) and the Monitor was authorized and empowered, but not required, to exercise any powers which may be properly exercised by a board of directors or any officers of the Applicant to cause the Applicant, (through its assistants then engaged, if any), to take the actions described in the Ancillary Relief Order;

(s) certain assets of the Applicant were excluded from the Sale Transaction, including the proceeds of the Tax Dispute;

(t) on July 5, 2023, this Court granted an Order (the "**Stay Extension and Distribution Order**") authorizing the Applicant to make distributions of Cash to the Credit Facility Agent up to the full amount of the Applicant's "Obligations" (as that term is defined in the credit agreement entered into between LVI, Brand Loyalty Group B.V., Brand Loyalty Holding B.V. and Brand Loyalty International B.V., as borrowers, the Applicant and certain other subsidiaries of LVI, as

guarantors, the lenders party thereto, and the Credit Facility Agent dated as of November 3, 2021, as amended, the "**Credit Agreement**");

(u) as of March 9, 2023, the day prior to the commencement of this CCAA Proceeding, there was approximately US$656 million of principal estimated to be outstanding under the credit facilities established under the Credit Agreement;

(v) interest and costs have continued to accrue since that date;

(w) the purchase price under the Sale Transaction was US$160,259,861.40, subject to certain downwards adjustments of up to US$10 million and, accordingly, it is anticipated that the lenders under the Credit Agreement will incur a significant shortfall as the total distributions to the Credit Facility Agent will not be sufficient to provide them recovery in full;

(x) an initial distribution was made by the Applicant to the Credit Facility Agent in July of 2023 pursuant to the Stay Extension and Distribution Order;

(y) the Applicant is holding the remaining portion of the Cash subject to the terms of the Stay Extension and Distribution Order;

Tax Dispute

(z) the Applicant has an outstanding dispute with CRA regarding certain corporate income taxes – in 2015, the CRA began an audit of the Applicant's 2013 income tax return and in December 2019, the CRA issued an assessment denying the Applicant's deduction of a "reasonable reserve" in connection with the provision of services to be rendered and provided after the end of the year;

(aa) the denial of the Applicant's deduction in the amount of approximately $349 million resulted in the assessment of approximately $110 million owing (inclusive of interest and penalties) in respect of the 2013 tax year;

(bb) in July 2020, the Applicant filed an appeal with the Tax Court of Canada to have the 2013 assessment overturned;

(cc) to date, the Applicant has paid to CRA approximately $96 million of the amounts assessed and it continues to dispute the 2013 assessment;

(dd) to the extent that the Applicant is successful in the Tax Dispute litigation, it may be entitled to a repayment of the $96 million Disputed Amount;

(ee) the Tax Dispute is scheduled for trial in fall 2024;

Bread Asserts Entitlement to the Disputed Amount

(ff) the Applicant is an indirect subsidiary of LVI, a Delaware corporation;

(gg) LVI is a holding company that was formed as part of a 'spin-off' from Bread in November 2021 (the "**Spin-off Transaction**"), which involved LVI and Bread entering into a series of transactions to, among other things:

(i) spin-off LVI from Bread's business; and

(ii) transfer direct ownership of certain subsidiaries, including the Applicant, to LVI;

(hh) as part of the Spin-off Transaction:

(i) on October 21, 2021, Joseph L. Motes III, one of Bread's senior executives and the only director of the Applicant at that time, caused the Applicant to pay a dividend of US$68 million (the "**Dividend**"), which was ultimately received by Bread as a dividend;

(ii) on November 3, 2021, Bread required LVI to borrow, and the Applicant to guarantee, US$675 million pursuant to the Credit Agreement and then caused LVI to transfer certain proceeds of the Credit Agreement to Bread; and

(iii) a number of agreements were entered into between Bread and LVI, including the TMA;

(ii) the Proceeds Payment Provisions of the TMA purport to require that any member of the Loyalty Ventures Group (as defined in the TMA, which includes the Applicant) pay to Bread the proceeds of certain tax disputes, including interest but net of certain costs, to Bread within 30 days of receipt thereof;

(jj) Bread asserts that the Proceeds Payment Provisions apply to the proceeds of the Tax Dispute, if any;

Bread is Not Entitled to the Proceeds of the Tax Dispute – the TMA was Never Binding on the Applicant

(kk) although the TMA was executed by LVI purportedly "on behalf of itself and the members of the Loyalty Ventures Group", which was defined to include the Applicant, the Applicant is not a signatory to the TMA;

(ll) neither LVI nor Bread had any corporate or other legal authority to execute the TMA on behalf of the Applicant;

(mm) the Applicant did not pass any corporate resolutions or take any other actions to validate, confirm, or assent to the TMA;

(nn) the Applicant's direct acceptance and execution, which was not obtained, was required for the TMA to have any binding effect on the Applicant;

(oo) the Applicant received no consideration in exchange for its inclusion in the TMA and the Proceeds Payment Provisions of the TMA;

The Proceeds Payment Provisions are Oppressive and Unconscionable

(pp) the entirety of the Spin-off Transaction (including the Dividend and the Proceeds Payment Provisions), was for the sole benefit of Bread, without any economic purpose or benefit whatsoever to LVI or the Applicant, and ultimately caused their insolvencies;

(qq) in the alternative, to the extent that the TMA could be found to be binding on the Applicant, which it is not, the requirement to pay an amount equivalent to the proceeds of any return of the Disputed Amount received violates the Applicant's securityholders' and other stakeholders' reasonable expectations that the proceeds of the Tax Dispute would not be paid to Bread, or any other party, for no consideration;

(rr) accordingly, that requirement, if applicable, is oppressive or unfairly prejudicial to or unfairly disregards the interests of the Applicant's securityholders and other stakeholders;

(ss) in the further alternative, to the extent that the TMA could be found to be binding on the Applicant, which it is not, the requirement to pay an amount equivalent to the proceeds of any tax disputes received was unconscionable and void with respect to the Applicant because it was a wholly improvident bargain imposed on the Applicant by Bread, which in the circumstances had no bargaining power whatsoever;

The Proceeds Payment Provisions are a Transfer at Undervalue

(tt) the purported requirement under the Proceeds Payment Provisions of the TMA that the Applicant pay to Bread for no or little consideration an amount equivalent to the proceeds of tax disputes received was a transfer at undervalue because:

(i) at the time the TMA was entered into, Bread, LVI, and the Applicant were not operating at arm's length;

(ii) the purported transfer under the Proceeds Payment Provisions occurred less than five years prior to the commencement of this CCAA Proceeding; and

(iii) the Applicant was insolvent at the relevant time or was rendered insolvent by the purported transfer;

(uu) to the extent that the TMA could be found to be binding on the Applicant, which it is not, as a result of the transfer at undervalue, the Proceeds Payment Provisions should be found to be void and not enforceable by Bread;

A Notice to Disclaim the TMA has Already been Delivered in any Event

(vv) on October 27, 2023, the Applicant delivered to Bread a notice to disclaim or resiliate the TMA pursuant to section 32 of the CCAA without prejudice to the Applicant's position that the TMA does not bind the Applicant and/or is otherwise unenforceable and void as against the Applicant, in whole or in part;

(ww) Bread has advised that it will be objecting to the disclaimer;

(xx) pursuant to section 32(7) of the CCAA, any loss suffered by Bread as a result of disclaimer is to be a provable claim;

Other Grounds

(yy) the provisions of the CCAA, including sections 32 and 36.1;

(zz) the provisions of the BIA;

(aaa) the provisions of the NSCA, including the Third Schedule, section 5; and

(bbb) such further and other grounds as the lawyers may advise and this Honourable Court may permit.

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

(ccc) the affidavit of Cynthia Hageman, to be sworn;

(ddd) the affidavit of Jeffrey Fair, to be sworn;

(eee) the fifth report of the Monitor, to be filed; and

(fff) such further and other evidence as the lawyers may advise and this Honourable Court may permit.

November 8, 2023

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AND TO: **THE SERVICE LIST**

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PROCEEDING COMMENCED AT TORONTO

NOTICE OF MOTION
(ENFORCEABILITY OF TAX MATTERS AGREEMENT)

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TAB 2

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

ONTARIO
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AFFIDAVIT OF CYNTHIA HAGEMAN
(Affirmed November 9, 2023)

I, **CYNTHIA HAGEMAN**, of the city of Dallas, in the State of Texas, in the United States of America, MAKE OATH AND SAY:

1. From April 2006 until November 5, 2021, I was employed as internal legal counsel in a number of different positions by an affiliate of Alliance Data Systems Corporation, now known as Bread Financial Holdings, Inc. ("**ADS**" until March 23, 2022, and "**Bread**" thereafter). As such, I have personal knowledge of the circumstances and discussions regarding the Tax Matters Agreement dated November 5, 2021 (the "**TMA**"), certain other aspects of the larger Spin Transaction (defined below), and the other matters contained in this Affidavit. Where I do not have personal knowledge, I have stated the source of my information and, in all such cases, believe it to be true. Nothing in this Affidavit is or is intended to operate as a waiver of privilege. Unless otherwise indicated, all references to currency in this Affidavit are references to Canadian dollars.

My Background

2. I first joined ADS as Vice President, Legal Counsel in April 2006. In February 2011, I was promoted to Vice President, Assistant General Counsel. In December 2019, I was promoted to

Senior Vice President but retained my role as Assistant General Counsel. When Loyalty Ventures Inc. ("**LVI**") was incorporated as an indirect wholly-owned subsidiary of ADS in June 2021 as part of the Spin Transaction**,** I was appointed Executive Vice President, General Counsel and Secretary of LVI, while continuing my responsibilities with ADS until the Spin Transaction was completed on November 5, 2021. At that time my employment with ADS ceased and my employment with LVI commenced. I also held various officer or director roles for other ADS subsidiaries prior to November 5, 2021.

3. Until the Spin Transaction, the LoyaltyOne, Co. ("**LoyaltyOne**") legal team had a "dotted line" reporting relationship with ADS and its General Counsel, Joseph L. Motes III, to whom I reported. My responsibilities, as part of the ADS legal group, were largely as "corporate" counsel. As such, I had limited exposure to the day-to-day activities of LoyaltyOne. I was generally involved when international structuring or financing transactions arose. I also participated from time-to-time in 2019 and 2020 in connection with various initiatives related to the potential sale of LoyaltyOne and/or its affiliates. As set out in more detail below, I had direct involvement in the execution of the Spin Transaction.

4. My employment with LVI ended on July 14, 2023. On July 13, 2023, I entered into a consulting agreement with the LVI Liquidating Trust, effective for the period beginning July 15, 2023.

Tax Dispute and Provisions of the TMA

5. I have reviewed the affidavit of Jeffrey Fair, the Senior Vice President of Taxation for ADS from May 2011 until November 5, 2021, affirmed on November 9, 2023, and agree with its contents.

6. In December 2019, the Canada Revenue Agency (the "**CRA**") issued an assessment denying LoyaltyOne's deductions of approximately $349 million for a "reasonable reserve" in its 2013 corporate income tax return. As a result, the CRA claimed that LoyaltyOne owed it approximately $110 million in taxes (inclusive of interest and penalties).

7. LoyaltyOne disputed the assessment but complied with it, without prejudice to its rights of appeal. In July 2020, LoyaltyOne filed an appeal of the assessment with the Tax Court of Canada (the "**Tax Dispute**").

8. I have been involved in the management of the Tax Dispute for LoyaltyOne since November 2021, when I became responsible for litigation matters as General Counsel of LVI. A trial of the Tax Dispute is scheduled for the fall of 2024. If LoyaltyOne is successful in this appeal, it will be entitled to approximately $96 million from the CRA (the "**Disputed Amount**").

9. The TMA was one of a series of agreements entered into on November 3 and 5, 2021 between ADS and its then wholly-owned subsidiary, LVI (the "**Spin Transaction**") to:

(a) spin-off LVI and certain of its subsidiaries (the "**Spun-Out Subsidiaries**"), which would become subsidiaries of the recently incorporated LVI, which became an independent public company as a result of the Spin Transaction;

(b) cause LVI to enter into a loan agreement to borrow certain funds as term loans and transfer those funds to ADS at closing of the Spin Transaction to improve ADS's financial position; and

(c) distribute about 80% of LVI's outstanding shares to the shareholders of ADS (the "**Distribution**").

A copy of the TMA without schedules is attached as **Exhibit "A"**.

10. The majority of the TMA deals with the administration and allocation of taxes as between ADS and LVI in the periods prior to the Distribution, including any taxes resulting from the Distribution. However, section 8 of the TMA addresses the entitlement of ADS and LVI and their subsidiaries to the proceeds of certain disputed tax amounts (the "**Proceeds Payment Provisions**"**)** and provides, among other things, that:

> 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…

11. Schedule "C" of the TMA sets out that ADS will be entitled to certain matters that may result in reimbursements from taxation authorities, including LoyaltyOne's "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".

12. The parties to the TMA are ADS and LVI, with each purporting to sign "on behalf of itself and the members of the [ADS or LVI] Group".

13. However, LoyaltyOne did not itself sign the TMA, and there is no separate agreement between LVI and LoyaltyOne in which LoyaltyOne agreed to be bound by the TMA or the Proceeds Payment Provisions. There is also no resolution by LoyaltyOne's board of directors authorizing LVI or Mr. Fair, who signed the TMA on behalf of LVI, to bind LoyaltyOne to either the TMA or the Proceeds Payment Provisions.

14. I am advised by Timothy Pinos of Cassels Brock & Blackwell LLP, counsel to LoyaltyOne, and believe, that Bread has asserted in this proceeding an entitlement to receive the Disputed Amount if and when it is received by LoyaltyOne.

Need for Decision regarding the TMA

15. LoyaltyOne is currently paying for the pursuit of the Tax Dispute out of the proceeds of the sale of the AIR MILES® Reward Program ("**AIR MILES**") to a party related to the Bank of Montreal ("**BMO**") in this proceeding (the "**Sale Proceeds**"). The Sale Proceeds are subject to a security interest in favour of the administrative agent (the "**Credit Facility Agent**") for the secured lenders (the "**Lenders**") under the Credit Agreement (defined below). Whether or not LoyaltyOne will be permitted to continue to fund the Tax Dispute depends on whether or not LoyaltyOne itself is entitled to the potential proceeds of the Tax Dispute for the benefit of the Lenders. More specifically:

(a) if Bread rather than LoyaltyOne is entitled to the proceeds of the Tax Dispute, the Credit Facility Agent will not permit LoyaltyOne to use the Sale Proceeds to pursue the Tax Dispute since the Lenders will not benefit from any recovery of the Disputed Amount; but

(b) if LoyaltyOne is itself entitled to retain the proceeds of the Tax Dispute, then the Credit Facility Agent will permit LoyaltyOne to use a portion of the Sale Proceeds to prepare for and pursue the Tax Dispute since the Lenders would benefit from any potential recovery.

16. Despite Bread asserting that it is entitled to the proceeds of the Disputed Amount, it has ignored LoyaltyOne's requests for Bread to indemnify it for the costs of the Tax Dispute.

17. On December 20, 2022, I emailed the General Counsel at Bread to request that Bread indemnify LoyaltyOne for the costs of the Tax Dispute. My email was forwarded to Mr. Motes and, on January 2, 2023, he responded attaching a letter that, among other things, requested invoices regarding the costs incurred. I promptly replied on January 3, 2023 by sending Mr. Motes an email

attaching the requested invoices. However, neither LVI nor LoyaltyOne received a response to the indemnification request or my subsequent email providing the invoices. A copy of that email correspondence and Mr. Motes's letter dated January 2, 2023 are attached as **Exhibits "B"** (omitting the invoices) and **"C"**, respectively.

18. I am advised by Mr. Pinos that LoyaltyOne is required to take material (and expensive) steps in early 2024 to prepare for the trial of the Tax Dispute, set to be heard in the fall of 2024, for which the costs to the end of the hearing (but not any subsequent appeal) are estimated to be well in excess of $3 million, not including any cost awards that may be ordered by the Tax Court of Canada against the unsuccessful party.

Business of ADS Prior to the Spin Transaction

19. In the years preceding the Spin Transaction in 2021, ADS was a provider of data-driven marketing and loyalty solutions. It held a comprehensive portfolio of integrated outsourced marketing services, analytics and creative services, direct marketing services, and private label and co-brand retail credit card programs. ADS organized this broad portfolio of businesses into the following three divisions:

(a) a private label credit card and banking business (the "**Card Business**");

(b) marketing services (known as "**Epsilon**" and sold in 2019), which provided end-to-end, integrated marketing solutions that leveraged data, analytics, creativity, and technology to help clients more effectively acquire, retain, and grow relationships with their customers; and

(c) customer loyalty programs, including AIR MILES and the "BrandLoyalty" business.

20. LoyaltyOne is a Nova Scotia unlimited liability company. Prior to the completion of the SISP (defined below), LoyaltyOne operated AIR MILES for over three decades. In the time it operated AIR MILES, LoyaltyOne built strong relationships with Canadian consumers enrolled in the program, known as “Collectors” and LoyaltyOne’s customers, known as “Partners”. At the commencement of these CCAA proceedings there were over 10 million active Collector accounts and hundreds of brands that participated in the program. Collectors could redeem their AIR MILES Reward Miles for in-store purchase at participating partners or for travel, merchandise, donations, or other rewards.

21. Although there was some overlap between LoyaltyOne’s officers and ADS’s officers with reference to treasury and tax, LoyaltyOne operated independently, with its own management structure, and ADS did not exercise direct control over, or management of, the day-to-day business of AIR MILES. LoyaltyOne had its own head office in Toronto, entered into its own leasing arrangements with landlords, and directly employed approximately 750 people across Canada.

Background to the Spin Transaction

22. In late 2018, ADS’s board of directors (the “**ADS Board**”) made a strategic decision to focus on the Card Business, and to divest itself from its other businesses, including LoyaltyOne and BrandLoyalty.

23. On July 1, 2019, ADS sold its Epsilon marketing business to Publicis Groupe S.A. (“**PGSA**”) pursuant to a sale agreement dated April 12, 2019. Under that agreement, ADS granted PGSA an uncapped indemnity regarding an ongoing Department of Justice (“**DOJ**”) investigation into Epsilon’s data practice (the “**Epsilon Indemnity**”).

24. ADS's efforts to sell its remaining non-card and banking businesses were temporarily frustrated by, among other things, the COVID-19 pandemic. However, by the fall of 2020, ADS renewed certain of its divestiture efforts.

Decision to Seek Buyers for LoyaltyOne

25. In 2020, ADS marketed LoyaltyOne for sale and received expressions of interest to purchase LoyaltyOne from several prospective purchasers. However, the only offers ADS received were made contingent on certain conditions. The ADS Board assessed these offers but determined that their underlying contingencies were likely unachievable and, consequently, ADS was unable to accept any of them. Subsequently, BMO presented an offer to ADS to purchase LoyaltyOne, which was also not accepted by ADS.

Epsilon DOJ Settlement

26. In December 2020, PGSA's counsel alerted ADS that the DOJ had completed its long-running investigation into Epsilon's data practice and had determined that, if completed prior to January 20, 2021, it was prepared to settle Epsilon's liability for US$150 million (the "**Epsilon DOJ Settlement**"). As a result of the Epsilon Indemnity, ADS was liable to indemnify PGSA for the Epsilon DOJ Settlement.

27. ADS decided to fund the Epsilon DOJ Settlement payment from, among others, LoyaltyOne, preferring to maintain the finances of its ongoing Card Business which was not being divested. On January 8, 2021, Mr. Motes, who was one of ADS's senior executives and the sole director of LoyaltyOne at the time, caused LoyaltyOne to declare and pay a dividend of $107.5 million to ADS, which was applied towards the indemnification of the Epsilon DOJ Settlement. This had a negative impact on the financial position of LoyaltyOne.

The Spin Transaction

28. As an alternative to the sale of LoyaltyOne and BrandLoyalty, in early 2021, ADS began developing the particulars of the Spin Transaction pursuant to which it would:

(a) spin off the Spun-Out Subsidiaries, including LoyaltyOne, from the ADS corporate group to be held by newly incorporated LVI; and

(b) cause the Spun-Out Subsidiaries to enter into a loan agreement to borrow certain funds as term loans and transfer them to ADS at closing of the Spin Transaction to improve ADS's leverage ratio.

29. Of the Spun-Out Subsidiaries, only LoyaltyOne and BrandLoyalty had operating businesses.

30. As part of that exercise, ADS engaged Davis Polk & Wardwell LLP ("**Davis Polk**") to assist with structuring the Spin Transaction and drafting the required agreements. None of the Spun-Out Subsidiaries had independent legal counsel. On May 12, 2021, ADS filed a current report on Form 8-K announcing its intention to complete the Spin Transaction. A copy of the filing is attached as **Exhibit "D"**.

31. In devising the Spin Transaction, ADS initially relied on a small core team comprised of long-time legacy ADS employees who had historically been responsible for merger and acquisition transactions, including me, Charles Horn, Laura Santillan, Jeff Tusa, Jeff Chesnut, and Mr. Fair (collectively, the "**SpinCo Team**"), all of whom were subsequently positioned to be employed by the Spun-Out Subsidiaries after the Spin Transaction. The SpinCo Team was announced in a company-wide email on June 3, 2021 because these individuals had to be identified in the registration statement on Form 10 noted below. A copy of that email is attached as **Exhibit "E"**.

32. The SpinCo Team took a number of steps to organize the Spin Transaction, including arranging for the incorporation of LVI to act as the parent company for the other Spun-Out Subsidiaries (the "**SpinCo**"), and filing a registration statement on Form 10 for the SpinCo, which was required to gain US Securities and Exchange Commission ("**SEC**") approval for the Spin Transaction.

33. The first confidential filing on Form 10 was made with the SEC on July 14, 2021. In August 2021, Mr. Motes conveyed to me that Ralph Andretta, ADS's Chief Executive Officer, had expressed concern that SpinCo was incorporated without his knowledge, to which I noted that LVI was controlled by Mr. Motes as the sole director and thereby entirely within ADS's control. A copy of my email dated August 10, 2021 in that regard is attached as **Exhibit "F"**.

34. In 2020, ADS acquired a technology-driven digital payment company operating under the trademark Bread, which later became its namesake. Davis Polk was counsel to ADS for this transformative acquisition and I was the primary legal contact at ADS – thus forming a collegial working relationship with Davis Polk partner Louis Goldberg.

35. Throughout the summer of 2021, there was a notable shift in the dynamics of negotiating the Spin Transaction, to SpinCo's detriment. During this time, I had multiple opportunities to speak with Mr. Goldberg, and expressed that the SpinCo Team felt like David negotiating against Goliath. I noted that many of the agreements that had been drafted by Davis Polk were not balanced and the terms were significantly more favourable to ADS. Further, following completion of the Spin Transaction, Mr. Goldberg expressed to me his surprise at how few resources ADS had dedicated to completing the Spin Transaction and to the future corporate infrastructure of LVI.

36. Other members of the SpinCo Team also expressed concerns with the one-sidedness of the Spin Transaction. On August 2, 2021, at a meeting (the "**August 2 Meeting**") of the ADS audit

committee (the "**ADS Audit Committee**"), Mr. Andretta and John Gerspach (chair of the ADS Audit Committee) sought to increase the amount of debt that would be imposed on the Spun-Out Subsidiaries and to take a cash sweep of around US$100 million from their businesses. I recall that Mr. Horn advocated for SpinCo and recommended the previously understood structure. The meeting became animated and confrontational between Mr. Andretta and Mr. Horn. Ultimately, Mr. Gerspach intervened and asked Mr. Horn to leave the meeting.

37. After the August 2 Meeting, trust deteriorated between the SpinCo Team and the remainder of the ADS management team. ADS took steps to limit potential criticism of the Spin Transaction and assert additional control over it, including by excluding Mr. Horn from future meetings on the subject and by taking full control over the structuring of the transaction. Attached as **Exhibit "G"** is a copy of an email dated August 2, 2021, in which Mr. Andretta asks for a full review of any legal entities going with the SpinCo to understand why they were established and why it made sense for them to go with the SpinCo.

Evolving Terms of the Spin Transaction

38. On August 29, 2021, I attended a meeting with, among others, Mr. Andretta and Mr. Fair. During that meeting, Mr. Andretta stated that all the tax assets of the Spun-Out Subsidiaries should become assets of ADS.

39. That same day, Mr. Chesnut sent Mr. Beberman an email requesting that he consider a reduced cash sweep of the Spun-Out Subsidiaries: US$50 million instead of US$100 million. This recommendation was refused. Instead, in a meeting the next day, Mr Chesnut was advised to "line up" behind the higher number and that it would be beneficial for his compensation to support this outcome at the audit committee level. A copy of Mr Chesnut's email memorializing these events is attached as **Exhibit "H"**.

40. In the end, no steps were taken to change the transaction in these ways and, on August 30, 2021, the larger cash sweep was endorsed by the ADS Audit Committee.

41. On September 2, 2021, Mr. Beberman sent an email to, among others, Mr. Chesnut and Mr. Motes, stating that the ADS Audit Committee had endorsed ADS retaining 100% of the tax receivables of the Spun-Out Subsidiaries, including the reimbursement to which LoyaltyOne may be entitled as against the CRA. A copy of this email is attached as **Exhibit "I"**.

42. The September 2 email also announced that the ADS Board had additionally endorsed the capital structure of US$650 million in term loan debt, a US$100 million cash sweep, and a US$100 million revolver. Subsequently, the debt amount to be borne by LVI was raised from US$650 million to US$675 million to account for fees and original issue discount (the "**OID**") so that the net amount of US$650 million could be paid to ADS from the Spun-Out Subsidiaries.

43. On September 4, 2021, Mr. Beberman emailed, among others, Messrs. Chesnut and Motes claiming that if the debt raise were only US$600 million, "there is a high probability this transaction does not occur. Hopefully we are able to lean in on terms and effort from [Bank of America] to deliver ADS targets." A copy of this email chain is attached as **Exhibit "J"**.

44. On September 23, 2021, Mr. Chesnut sent an email to Mr. Beberman, stating that Bank of America ("**BofA**") would not achieve the initially anticipated US$675 million debt proceeds, but that BofA saw an alternative path. On September 24, 2021, Mr. Beberman emailed the ADS Audit Committee saying that "BofA sees a path to achieve the dividend despite a new approach for the debt capital." While BofA downsized the Term Loan B (as defined in the Credit Agreement) from US$675 million to US$500 million, Mr. Beberman noted that it would require "more aggressive terms (levers include coupon, required amortization, OID, excess cash sweep)" for LVI to deliver the results ADS needed from the Spin Transaction. A copy of Mr. Beberman's email is attached as **Exhibit "K"**. I note that these "more aggressive terms" would be imposed on LVI as borrower

and would negatively impact the operating LoyaltyOne and BrandLoyalty businesses. Since it was the main operating business, it was understood that LoyaltyOne would be guaranteeing the loan, pledging its otherwise unencumbered assets and after the Spin Transaction, would be responsible for making payments on the loan, despite the fact that LoyaltyOne was not a borrower and could essentially never directly benefit from the loans under the Credit Agreement.

45. On October 8, 2021, Mr. Beberman sent an email to members of the ADS Audit Committee stating that the debt deal was finalized and provided details of the relevant terms. Mr. Beberman also noted that the pricing of the debt terms was "a little wider than originally marketed along with required amortization". A copy of this email is attached as **Exhibit "L"**.

46. On October 13, 2021, the ADS Board met to discuss the plan for the Spin Transaction and considered a related slide deck. In the slide deck's executive summary at page 3, it describes the benefits of the Spin Transaction for ADS, noting that it would strengthen ADS's balance sheet by improving its debt and bank regulatory ratios. Applicable extracts of the draft slide deck are attached as **Exhibit "M"**.

47. On October 20, 2021, and as part of the Spin Transaction, Mr. Motes caused LoyaltyOne to declare and pay a dividend of $88.3 million (the "**Dividend**"), which was ultimately paid as a dividend to ADS (including the cost of the tax LoyaltyOne was required to pay to the CRA arising from the dividend on behalf of ADS). A copy of the director resolution approving the declaration of the Dividend is attached as **Exhibit "N"**.

48. On November 3, 2021, LVI entered into the Separation and Distribution Agreement and the Credit Agreement (the "**Credit Agreement**"), copies of which are attached as **Exhibits "O"** and **"P"**, respectively, pursuant to which it agreed to borrow US$675 million in term loans from the Lenders with a revolving facility for working capital and other corporate purposes of an additional US$150 million.

49. The same day, LoyaltyOne executed a guarantee of the indebtedness under the Credit Agreement, which is included as Article XI of the Credit Agreement.

50. On November 5, 2021, the remaining agreements giving rise to the Spin Transaction were executed. I have reviewed those agreements and, with the exception of the TMA (discussed below), Mr. Horn executed the agreements on behalf of LVI following the resolution and direction of Mr. Motes, the sole director of LVI and the "director by deputization" of LVI's shareholder, ADS. While Mr. Motes was also the sole director of LoyaltyOne, LoyaltyOne was not a signatory or party to any of these agreements.

51. Davis Polk distributed an execution copy of the TMA to Mr. Fair which included Mr. Fair as a signatory for both ADS and LVI. On November 5, 2021, Mr. Fair executed the TMA. I believe he ended up signing the TMA because, at that time, Mr. Fair ordinarily handled taxation matters, including the filing of returns, for all entities of the ADS corporate group.

52. On October 13, 2021, the Spin Transaction was approved by board resolutions of ADS. LVI's approval was obtained on November 3, 2021 – well after ADS's announcement of the transaction in its October 13 filing on Form 8-K. With the exception of LVI, none of the Spun-Out Subsidiaries, including LoyaltyOne, approved the Spin Transaction or executed resolutions in respect of same. I am not aware of any corporate action taken by LoyaltyOne to ratify the TMA or, indeed, any of the Spin Transaction agreements.

Effect of the Spin Transaction on ADS

53. As a result of the Spin Transaction specifically, ADS received US$650 million of the proceeds of the Credit Agreement and an additional US$100 million pursuant to the cash sweep, of which US$68 million was from LoyaltyOne. These funds were applied by ADS to reduce its debt and improve its leverage and bank regulatory ratios, resulting in an improved balance sheet,

as reflected in its annual report on Form 10-K for the fiscal year ended December 31, 2022, a copy of which is attached as **Exhibit "Q"**.

Effect of the Spin Transaction on LoyaltyOne

54. LVI's and LoyaltyOne's financial situations were severely and negatively affected by the Spin Transaction, as reflected in its quarterly report on Form 10-Q for the quarterly period ended September 30, 2022, a copy of which is attached as **Exhibit "R"**. LoyaltyOne provided all cash flow to support payments due under the Credit Agreement in 2022 as well as the expenses incurred by the US-based corporate infrastructure of LVI.

55. Approximately 13 months after the Spin Transaction, on January 20, 2023, LVI notified LoyaltyOne that it lacked sufficient funds to make a required payment on account of the Swing Line (as defined in the Credit Agreement) in the amount of US$3 million.

56. LVI sent similar notices to LoyaltyOne on January 25 and January 27, 2023 in respect of additional amounts owing under the Credit Agreement, including: (i) a total of approximately US$5 million of interest on the Revolver, Term Loan A, and Term Loan B (each as defined in the Credit Agreement); and (ii) an additional payment of US$2 million on account of the Swing Line Loans (as defined in the Credit Agreement). LoyaltyOne paid all such amounts pursuant to its guarantee of the Credit Agreement.

57. On March 10, 2023, LoyaltyOne brought an application before this court (the "**Court**") for the Initial Order commencing this proceeding. LVI commenced parallel proceedings in the United States under Chapter 11 of the *United States Bankruptcy Code*.

58. At the comeback hearing on March 20, 2023, the Court issued an Order, among other things, approving a sale and investment solicitation process (the "**SISP**") in respect of substantially

all of LoyaltyOne's assets. The SISP was supported by an asset purchase agreement (the "**BMO APA**") with BMO as buyer, which was designated as a stalking horse bid.

59. Following completion of the SISP, the BMO APA, as amended, was selected as the successful bid. On May 12, 2023, the Court issued an Approval and Vesting Order in respect of the BMO APA. On June 1, 2023, the transaction contemplated by the BMO APA (the "**Sale Transaction**") closed and, accordingly, the Applicant sold substantially all of its operating assets to two affiliates of BMO.

60. On July 5, 2023, the Court issued an Order allowing LoyaltyOne to make a distribution of the proceeds of the BMO APA to the Lenders.

The Lenders' Shortfall

61. As of March 9, 2023, the Spun-Out Subsidiaries owed approximately US$656 million to the Lenders under the Credit Agreement.

62. The Sale Transaction encompassed substantially all of LoyaltyOne's operating assets. Its remaining assets consist of, among other things, the following:

(a) the purchase price under the Sale Transaction, which was US$160,259,861.40, subject to certain downward adjustments of up to US$10 million, the bulk of which was distributed to the Lenders pursuant to an Order of this Court issued on July 5, 2023; and

(b) the contingent Tax Dispute which, if successful, would result in a return to LoyaltyOne of approximately $96 million.

Disclaimer of TMA

63. On October 27, 2023, LoyaltyOne delivered to Bread a notice to disclaim or resiliate the TMA pursuant to section 32 of the *Companies' Creditors Arrangement Act* without prejudice to the Applicant's position that the TMA does not bind LoyaltyOne. A copy of the notice is attached as **Exhibit "S"**.

AFFIRMED by videoconference by Cynthia Hageman at the City of Dallas, in the State of Texas, in the United States of America, before me at the City of Toronto, in the Province of Ontario, on November 9, 2023, in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Kiyan Jamal

Commissioner for Taking Affidavits
(or as may be)

Commissioner Name: Kiyan Jamal
Law Society of Ontario Number: 87594N

Cynthia L. Hageman

CYNTHIA HAGEMAN

This is Exhibit “A” referred to in the Affidavit of Cynthia Hageman affirmed November 9, 2023.

Commissioner for Taking Affidavits (or as may be)

KIYAN JAMAL

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

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(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)
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). 54

(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: /s/ Perry Beberman
Name: Perry Beberman
Title: Chief Financial Officer

By: /s/ Jeffrey Fair
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: /s/ Jeffrey Fair
Name: Jeffrey Fair
Title: Senior Vice President

[SIGNATURE PAGE TO TAX MATTERS AGREEMENT]

This is Exhibit “B” referred to in the Affidavit of Cynthia Hageman affirmed November 9, 2023.

Commissioner for Taking Affidavits (or as may be)

KIYAN JAMAL

From: General Counsel
Sent: Tuesday, January 03, 2023 5:00 PM
To: Motes, Joseph;General Counsel;Laura Santillan
Cc: Curran, William A.;Jeff Fair;Morgan, Ben
Subject: RE: [EXTERNAL] Re: Request for Indemnification under the Tax Matters Agreement
Attachments: CRA Litigation Defense with Expenses.pdf; Global Economics Group #7640.pdf; 1 Osler Hoskin Harcourt #12568075_Nov 21.pdf; 2 Osler Hoskin Harcourt #12582814_Dec 21.pdf; 3 Osler Hoskin Harcourt #12592986_Jan 22.pdf; 4 Osler Hoskin Harcourt # 12603355_Feb 22.pdf; 5 Osler Hoskin Harcourt #12613203_Mar 22.pdf; 6 Osler Hoskin Harcourt #12623163_Apr 22.pdf; 7 Osler Hoskin Harcourt #12636542_May 22.pdf; 7+ Osler Hoskin Harcourt #12638903_May 22.2.pdf; 8 Osler Hoskin Harcourt #12648671 _Jun 22.pdf; 9 Osler Hoskin Harcourt #12656571_Jul 22.pdf; 10 Osler Hoskin Harcourt # 12666507_Aug 22.pdf

Email 1 of 2

Joe – As requested, please find a summary of the expenses ("CRA Litigation Defense with Expenses") as well as 14 separate invoices, three of which are larger and will be on a second email.

Global Economics Group is the expert witness.
Osler is counsel.

On the invoices, you will see a GL account code to which these were recorded. If you require accounting entries beyond that, I have copied Laura Santillan for what might be available or useful to your verification process.

Best regards, Cindy

Cynthia Hageman
EVP, General Counsel and Secretary
[redacted]

Loyalty Ventures Inc.

From: Motes, Joseph [redacted]
Sent: Monday, January 2, 2023 5:25 PM
To: General Counsel [redacted]
Cc: Curran, William A. [redacted]; Jeff Fair [redacted]; Morgan, Ben [redacted]
Subject: [EXTERNAL] Re: Request for Indemnification under the Tax Matters Agreement

Cindy – Please see attached. Best, Joe

Joseph L. Motes III (He/Him/His)
EVP, Chief Administrative Officer, General Counsel & Secretary
Office: [redacted] | Mobile: [redacted]
breadfinancial.com
Alliance Data is now Bread Financial

From: GeneralCounsel [redacted]
Date: Tuesday, December 20, 2022 at 4:48 PM
To: Motes, Joseph [redacted]
Subject: FW: Request for Indemnification under the Tax Matters Agreement

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From: Cynthia Hageman [redacted]
Sent: Tuesday, December 20, 2022 10:47:49 PM (UTC+00:00) Monrovia, Reykjavik
To: GeneralCounsel [redacted]
Cc: Curran, William A. [redacted]; Jeff Fair [redacted]
Subject: Request for Indemnification under the Tax Matters Agreement

Joe –

Please see attached invoice/request for indemnification under the Tax Matters Agreement for expenses related to the matter referenced in the first bullet point on Schedule C of the Tax Matters Agreement.

Thanks, Cindy

Cynthia Hageman
EVP, General Counsel and Secretary
[redacted]

Loyalty Ventures Inc.

This is Exhibit “C” referred to in the Affidavit of Cynthia Hageman affirmed November 9, 2023.

Commissioner for Taking Affidavits (or as may be)

KIYAN JAMAL

January 2, 2023

Loyalty Ventures Inc.
7500 Dallas Parkway, Suite 700
Plano, Texas 75024
Attention: General Counsel
Email: [redacted]

Re: Response to Request for Indemnification Request

Ladies and Gentlemen:

Reference is made to (i) that certain Tax Matters Agreement, dated as of November 5, 2021 (the "**TMA**"), by and among Bread Financial Holdings, Inc. (f/k/a Alliance Data Systems Corporation) ("**Bread Financial**" or "**we**"), a Delaware corporation, on behalf of itself and the members of the ADS Group, and Loyalty Ventures Inc. ("**Loyalty Ventures**" or "**you**"), a Delaware corporation, on behalf of itself and the members of the Loyalty Ventures Group, and (ii) that certain request for indemnification and Invoice #00009_12202022, dated as of December 20, 2022 (the "**Indemnification Request**"), provided by you. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the TMA.

This response letter is being delivered to you in acknowledgement of receipt of the Indemnification Request. We are in the process of reviewing your request for indemnification and hereby request the following additional information in connection with the Indemnification Request:

1. Invoices from third-party service providers with respect to the attorneys' fees and expenses referenced in the Indemnification Request and any other third-party expenses that you seek reimbursement for under the Indemnification Request; and

2. Detailed accounting entries with respect to all expenses that you seek reimbursement for under the Indemnification Request.

Please acknowledge receipt of this response letter at your earliest convenience.

Bread Financial expressly reserves all rights and remedies under the TMA and at law with respect to the matters set forth in the Indemnification Request and this response letter and the right to amend or supplement this response letter based on additional information Bread Financial may obtain or as Bread Financial otherwise deems appropriate. Moreover, the Indemnification Request and this response letter shall in no way limit the right of Bread Financial to dispute any or all elements of the Indemnification Request, including the facts and amount of reimbursement set forth therein.
.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned has executed this response letter as of the date first set forth above.

Bread Financial Holdings, Inc.

By: DocuSigned by: Joseph Motes 2EA45401E7004A1...

Name: Joseph L. Motes III
Title: General Counsel

This is Exhibit “D” referred to in the Affidavit of Cynthia Hageman affirmed November 9, 2023.

Commissioner for Taking Affidavits (or as may be)

KIYAN JAMAL

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 8-K

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

Date of report (Date of earliest event reported):
May 11, 2021

ALLIANCE DATA SYSTEMS CORPORATION

(Exact Name of Registrant as Specified in Charter)

Delaware	**001-15749**	**31-1429215**
(State or Other Jurisdiction of Incorporation)	(Commission File Number)	(IRS Employer Identification No.)

3075 LOYALTY CIRCLE
COLUMBUS, OH 43219
(Address and Zip Code of Principal Executive Offices)

(614) 729-4000
(Registrant's Telephone Number, including Area Code)

NOT APPLICABLE
(Former name or former address, if changed since last report)

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

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☒ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

Title of each class	Trading symbol	Name of each exchange on which registered
Common stock, par value $0.01 per share	ADS	New York Stock Exchange

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

Emerging growth company ☐

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

Item 7.01 Regulation FD Disclosure.

On May 12, 2021, Alliance Data Systems Corporation (the "Company"), a leading provider of data-driven marketing, loyalty and payment solutions, announced its intention to spin off its LoyaltyOne segment, comprising its Canadian AIR MILES® Reward Program and Netherlands-based BrandLoyalty business. A copy of this press release is attached hereto as Exhibit 99.1.

Attached as Exhibit 99.2 is a presentation to be given to investors and others by senior officers of Alliance Data Systems Corporation.

Item 8.01 Other Events.

On May 11, 2021, the Company's Board of Directors approved a plan to spin off the Company's LoyaltyOne segment. A copy of the press release is attached hereto as Exhibit 99.1.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

Exhibit No.	**Document Description**
99.1	Press release dated May 12, 2021.
99.2	Investor Presentation Materials
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

The information contained in this report (including Exhibits 99.1 and 99.2) shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, or otherwise subject to the liabilities of that section, nor shall it be deemed incorporated by reference in any filing under the Securities Act of 1933, as amended, except as expressly set forth by specific reference in such a filing.

SIGNATURES

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

Alliance Data Systems Corporation

Date: May 12, 2021

By: /s/ Joseph L. Motes III
Joseph L. Motes III
Executive Vice President, Chief Administrative Officer, General Counsel and Secretary

This is Exhibit “E” referred to in the Affidavit of Cynthia Hageman affirmed November 9, 2023.

Commissioner for Taking Affidavits (or as may be)

KIYAN JAMAL

From: Andretta, Ralph [redacted]
Sent: Thursday, June 3, 2021 10:41 AM
To: Latier, Lisa [redacted]
Subject: Anticipated executive leadership team announced for Spinco

AllianceData. Internal Mem

To: Alliance Data Enterprise Associates

From: Ralph Andretta, President & CEO

Date: June 3, 2021

Anticipated executive leadership team announced for Spinco

On May 12 we announced our intention to spin off our LoyaltyOne segment, which includes the Canadian AIR MILES® business and Netherlands-based BrandLoyalty, as an independent, U.S.-based, publicly traded company, referred to as "Spinco" until its new name is finalized and announced.

As previously announced, upon completion of the spin **Charles Horn will become President & Chief Executive Officer of Spinco, and Blair Cameron and Claudia Mennen will continue to lead AIR MILES and BrandLoyalty, respectively.** I am pleased to announce additional Alliance Data leaders who are expected to join the executive team at Spinco upon completion of the transaction, expected in Q4 of this year. Please join me in congratulating the following current Alliance Data Corporate leaders on their anticipated new roles:

- **Jeff Chesnut** will be named **EVP and Chief Financial Officer**

- **Jeff Fair** will be named **SVP, Tax**
- **Cindy Hageman** will be named **EVP and General Counsel**
- **Laura Santillan** will be named **SVP and Chief Accounting Officer**
- **Jeff Tusa** will be named **SVP, Treasurer and Corporate Development**

Transition plans have begun and workstreams are being established to support the significant work that will be required for an efficient, successful spinoff. Those workstreams include assessing additional Spinco staffing needs and determining which Corporate Alliance Data associates will be asked to fill those roles, as well as leadership and staffing needs Alliance Data will have as a result of the transaction and the departure of those joining Spinco. We expect to communicate those details by the end of June, if not before, and will continue to keep you informed regarding ongoing updates over the next several months.

I want to reiterate the need for continued partnership, collaboration and patience, as it is in the best interests of **both** Spinco and Alliance Data that this complex transaction be prepared for and completed as efficiently and effectively as possible. Thank you for your attention and ongoing support.

This is Exhibit “F” referred to in the Affidavit of Cynthia Hageman affirmed November 9, 2023.

Commissioner for Taking Affidavits (or as may be)

KIYAN JAMAL

From: Hageman, Cynthia <IMCEAEX-_O=EXCHANGELABS_OU=EXCHANGE+20ADMINISTRATIVE+20GROUP+20+28FYDIBOHF23SPDLT+29_CN=RECIPIENTS_CN=0B391963577A477D83323A4ED7D51293-HAGEMAN+2C+20CY@namprd19.prod.outlook.com>
Sent: Tuesday, August 10, 2021 5:59 PM
To: Motes, Joseph
Subject: FW: formation of Loyalty Ventures
Attachments: #94690447v1 - (Loyalty Ventures - Statement of Incorporator).PDF; #94690437v1 - (Loyalty Ventures Inc.-DE-Incorporation).PDF; Loyalty Ventures - Initial Board Consent.pdf

Cynthia Hageman
SVP, Asst. General Counsel
[redacted]

From: Hageman, Cynthia
Sent: Tuesday, August 10, 2021 1:29 PM
To: Fair, Jeffrey [redacted]
Subject: formation of Loyalty Ventures

Formed by Davis Polk.

Accepted in to the ADS structure (subscription for shares and board consent) by Joe Motes, who remains the sole director with absolute control of the legal entity.

Officers reflect those previously identified in internal communications.

Please let me know if you have any questions.

Thanks

Cynthia Hageman
SVP, Asst. General Counsel
[redacted]

This is Exhibit “G” referred to in the Affidavit of Cynthia Hageman affirmed November 9, 2023.

Commissioner for Taking Affidavits (or as may be)

KIYAN JAMAL

From: Andretta, Ralph [redacted]
Sent: Monday, August 2, 2021 10:16 AM
To: Fair, Jeffrey [redacted]
Cc: Beberman, Perry [redacted] Chesnut, Jeff [redacted]; Santillan, Laura [redacted]; Buren, Sharon [redacted]
Subject: Legal entities

Jeff

It sporrans there are a number of legal entities spin co Wouk like to take. Before we make any decisions I would like a complete review of all legal entities. I would like to understand why they were established their current purpose and why it make sense for them to go with spinco.

Please book something for early next week

Thank you

Get Outlook for iOS

This is Exhibit “H” referred to in the Affidavit of Cynthia Hageman affirmed November 9, 2023.

Commissioner for Taking Affidavits (or as may be)

KIYAN JAMAL

Subject: Recap of 8/30/21 AC meeting

The Audit Committee this morning opened with a presentation by EY on the range of recommended outcomes for spinco's debt raise and cash sweep to parent. EY recommended a TLB debt raise of $650-$700mm at 5-5.5% coupon and 1% amortization, along with a cash sweep of $100-$125mm, to land at total proceeds to ADS of $750mm+.

Note: In early August, Perry reached out to his friend Johnny [Smith] (Jason Morris' boss) at BofA and requested a list of advisors who could present an independent view of the debt raise/cash sweep to the board. BofA provided a list which included EY, Evercore, Guggenheim, etc and Perry interviewed them before settling on EY, which I understood was paid $350K for their 10 days of work. The work consisted of two phone calls with me/Jeff Tusa, the first for an hour and the second for 30 minutes. They also reviewed some decks including the rating agency deck and the audit comm deck. EY was fundamentally unfamiliar with the L1 segment including asking "what is breakage". They worked to understand the business but at no point in either meeting did they ask about the cash levels needed to run the business, or the seasonality associated with the cash flows. They seemed (in the AC mtg) to have the impression that the Canadian inflows offset the BL outflows, so it was a working capital neutral business, which is not accurate.

After Perry shared the EY deck with me on Sunday evening, I worked with Jeff Tusa and Jack Taffe to run the numbers on their recommendation. I highlighted my observations in an email to Perry on Sunday night, and talked through them on Monday morning with him via a call before the AC meeting. In particular:

- Noted that EY and BofA and the rating agencies all agreed on 4x leverage to protect the B1 rating
    - BofA has repeatedly stated that the market will look to LTM 7/31/21 results, so EBITDA $160mm @ 4x = $640mm of debt capacity
    - EY is apparently using $180mm of EBITDA though it isn't cited in their deck. I backed into it using page 10's downside analysis: $145mm / 0.80 = $181mm, to gross it up to the normal steady-state case. That produces $180mm x 4 = $720mm of debt, which frames EY's debt recommendation of $650mm - $700mm.
    - The risk of raising more than $640mm is that the leverage ratio at-spin will be immediately higher than 4x, unless/until the business' EBITDA grows and the leverage ratio comes down. EY said the rating agencies would accept this outcome without changing the rating.

- For starting cash:
    - Recommendation:
        - EY and the AC Deck prepared by ADS both emphasized a starting cash number of $125mm - $150mm for spinco. (EY deck page 10, AC deck page 43 which is $116mm plus $11mm in restricted countries so $127mm).
        - The rating agencies saw an opening cash balance of $279mm and a minimum cash balance commitment of $100mm (rating agency deck pg 51)
    - Practical Impact:
        - I highlighted to Perry that the EY advisors likely arrived at their recommendation by taking the average global L1 cash balance of $225mm, and allocating $100mm to ADS, so $125mm remaining at spinco
        - But I noted that EY did not perform diligence with me (or anyone in treasury to my knowledge) on the cash flows and seasonality of the BL business in particular
        - At the date of spin 11/1, the ADS consolidated cash forecast projects $132mm cash at AMRP and $33mm at BL (excluding $11mm of inaccessible cash in Russia/China/Brazil). So $165mm.

- ADS sweeping $100mm of cash for Remainco will mean that **spinco begins public standalone trading with ~$65mm of cash, despite EY and the AC deck recommending at least $125mm of cash**
- This was noted to Perry before the AC meeting, and called out in the meeting with EY responding that spinco would "grow into the cash balance over time" and that the rating agencies would not penalize spinco in the rating outcome.
    - Perry added that Ralph and the board's view is that "the point of spinning L1 is to maximize the value for Remainco" and that he understood "it puts the spinco team in a tough spot"
- This also puts increased focus on spinco achieving a higher revolver outcome than $100mm on Day 1, since the Day 1 liquidity would be $100mm revolver + $65mm cash on hand, for only $165mm vs the $225mm liquidity committed to the rating agencies

o Operational Impact:

- Operationally, given that BL will have only $33mm in cash on hand at spin based on current projections, it means that the $100mm cash sweep must be sourced from the $132mm at AMRP (in Canada, subject to a 5% repatriation penalty)
- **This will leave AMRP with $32mm of cash on hand, vs the recommended minimum on page 43 of the AC deck of $66mm.**
- The thin cash balance could result in spinco needing to draw on the revolver quickly, which is inconsistent with the guidance spinco provided to the rating agencies
- The thinner cash balance at AMRP could also impact client-renewal discussions, if BMO/Sobey's do not believe that spinco can execute on the promised growth initiatives, given the lower cash/liquidity balances

- Spinco recommendation to Perry
    - During the pre-AC call on Monday morning, I recommended that Remainco leadership target a $50mm cash sweep given that the sweep was occurring at a thin-cash point during L1's year. This was the suggestion modeled on page 43 of the AC deck.
    - Perry responded that "if we wanted a smooth outcome in the AC meeting, the spinco team should line up behind delivering at least $750mm and at least $100mm of cash" based on the expert advisor rec from EY
    - He also noted that it would be beneficial for my compensation and Jeff T's compensation if we aligned and supported that outcome, given that Roger would also be the chairman of spinco and would have influence there
    - Perry also noted that Ralph, Perry, Motes, Roger and John G had met on Sunday afternoon to review the EY deck after EY provided it to him. Neither EY nor Perry shared it with me or JT ahead of the Sunday afternoon meeting so that we could provide our viewpoints on it. Once the report came in and the small group met on Sunday afternoon, the outcome was set (hence Perry's admonition to "line up behind $750mm").

- Other Allocations
    - During the AC meeting, the AC and Ralph/Perry established that per their discussions with Davis Polk, any L1 tax receivables should accrue to the benefit of Remainco since the taxes paid in years ago were part of "enterprise ADS resources"
    - Ralph also suggested reviewing the remaining DOJ expense of $75mm for allocation to spinco
    - Charles suggested to the AC that the list of asset allocations / liability assignments be no more than three major items, to avoid the appearance of a "dumping ground" which investors would see in the Form 10 and which the spinco team would need to "sell-through" during the debt raise and the equity roadshow.

Overall, the spinco team recommended a dividend to parent of $700mm: $640-650 of debt (4x $160) and $50 of cash to leave a starting cash balance of ~$125, supplemented by a revolver of $100-$125mm to create Day 1 spinco liquidity of

$225-$250 per the recommendation from EY and consistent with what was presented to the rating agencies. The guidance from the AC was to deliver at least $750mm of dividend with at least $100mm in cash. JC

Jeff Chesnut

Alliance Data Systems (NYSE: ADS)
SVP & Treasurer
Office:
Mobile: [redacted]

This is Exhibit “I” referred to in the Affidavit of Cynthia Hageman sworn affirmed November 9, 2023.

Commissioner for Taking Affidavits (or as may be)

KIYAN JAMAL

Subject: FW: Rating Agency / AC Update

From: "Beberman, Perry" [redacted]>
Date: Thursday, September 2, 2021 at 11:17 AM
To: Jeff Chesnut [redacted], "Tusa, Jeffrey" [redacted], Jeffrey Fair [redacted], Laura Santillan [redacted]
Cc: Joseph Motes [redacted], "McLaughlin, Julie" [redacted], Geoff Ellis [redacted], "K.C. Brechnitz" [redacted]
Subject: Rating Agency / AC Update

Good discussion with Audit Committee.

TMA

- Approved direction to proceed with Remainco retaining 100% current Tax Receivables / (Payables) net of Tax Reserves (~$75MM) and Spinco will retain 100% current Deferred Tax Assets (~$65MM).
- Davis Polk should draft TMA accordingly.
- Need to share actual accounting treatment of recording contra asset or liability to Spinco and how recorded on Remainco after Laura discusses with Deloitte. E-mail with transaction illustration can be sent when ready.
- Roger would like to see a summary and illustration of the Canadian tax issue (Fair).

Rating Agency Financials

- Informed AC they should expect to see revised Rating Agency financials by EOD tomorrow reflecting items they have previously seen and approved (revised forecast, debt $650MM, cash sweep $100MM, revolver $100MM, TMA per above, etc.)
- Providing financials reflect expectations, there should be no hold up in releasing next week.

Rating Agency Meetings

- AC requested that EYCA as advisors to the Board and I join the meetings.

EYCA

- See above for your requested engagement for Rating Agency meetings.
- Additionally, AC is interested in EYCA oversight to ensure debt and revolver targets are successful with BofA.

Remainco / Spinco Balance Sheet

- Once tax items are settled with how to record, need to provide updated balance sheets / financials for both.

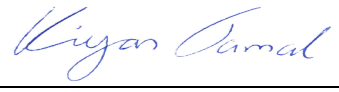
Joe – let me know if I missed anything.

Thanks all. Hopefully these decisions keep the process moving forward at full speed.

Perry

Perry Beberman
EVP, Chief Financial Officer
Alliance Data
5 Hillman Drive | Chadds Ford, PA 19317
[redacted]
www.AllianceData.com

This is Exhibit “J” referred to in the Affidavit of Cynthia Hageman affirmed November 9, 2023.



Commissioner for Taking Affidavits (or as may be)

KIYAN JAMAL

From: Beberman, Perry </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6A651F2B24054DF2AE1B84278E2507AB-BEBERMAN, P>
To: Chesnut, Jeff
CC: Motes, Joseph; McLaughlin, Julie
Sent: 9/4/2021 1:31:21 AM
Subject: Re: Debt raise fees - impact on opening cash

Thanks Jeff.

I will review carefully later. I appreciate your thoughts and comments below. If $600MM is the debt raise there is a high probability this transaction does not occur. Hopefully we are able to lean in on terms and effort from BofA to deliver ADS targets.

From: Chesnut, Jeff [redacted]
Sent: Friday, September 3, 2021 8:54 PM
To: Beberman, Perry
Cc: Motes, Joseph; McLaughlin, Julie
Subject: RE: Debt raise fees - impact on opening cash

Perry –Thanks for the time earlier to talk through the messaging. Here's the draft note to the AC for your consideration. It hits on the following topics:

- Explains the purpose of the RA update,
- Introduces the OID concept and the need to target $675mm,
- Defers the decision on the transaction costs,
- Highlights the $18mm open item, and
- Recaps the spinco liquidity from spin-date through YE22 assuming a $100mm revolver

As we discussed, BofA reiterated today its view of an achievable debt range which is $600-$650mm vs EY's range of $650-$700mm which was presented to the AC on 8/30. BofA also understands the AC's all-in dividend goal of $750mm, so they will open the deal at $675mm and work to spur market interest. BofA also highlighted that the TLB will land at ~4x leverage at-spin which will limit the bank group's interest in a revolver over $100mm. The BofA team believes $100mm is possible with $125mm as a stretch, so EY has a more expansive view that sizes of $150-$180mm are achievable.

The files will follow once they're finalized. Thx JC

Audit Committee members,

Attached please find the proposed deck that pending your review, we would submit to the rating agencies next Tuesday. The last interaction with the rating agencies was in April when they reviewed the projected financials and assigned an indicative rating of B1/B+. This submission, along with any additional dialogue they may request, will help them convert the indicative rating into a final, public rating. That public rating will facilitate the debt raise.

Certain assumptions are integrated into the financials, including the size of the debt raise, the revolver and the Day 1 cash balance.

- The debt raise will be targeted at $675mm.
  - The estimated banker/legal fees and the OID recommended by BofA will reduce the net proceeds from $675m to $650mm-$660mm. Targeting $675mm will enable spinco to deliver at least $650mm of debt proceeds as part of the dividend.
    - The OID is the original issue discount, which is a haircut on the par value of bonds being sold, to incent bond investor interest.
    - It is one of several tools BofA can use to drive more demand, including coupon, amortization, LIBOR floors and tighter covenants including excess cash sweep

requirements.
  - If the RA deck cited $650mm of debt, then the opening cash balance of spinco on Day 1 would need to be reduced in the deck to account for the costs so that spinco could deliver the full $650mm in the dividend.
  - The allocation of the fees is a modeling convention to facilitate this version of the RA deck. The actual decision on the size and responsibility of the transaction costs will be made by the AC when the final deal details are known.

- The revolver will be targeted at $100mm.

- The Day 1 cash balance will be $__mm. If the transaction costs were reflected in spinco's cash balance, the opening balance would be at/under $50mm.
  - Note that the $100mm of cash sweep will likely come from the Canadian operation. Repatriating cash from Canada to the US incurs a 5% tax so spinco's opening cash balance will decline by $105mm to deliver $100mm of cash towards the dividend.

Like the tax matters, certain balances are still being researched. For example, page 68 of Monday's AC deck highlighted an $18mm intercompany item. The team and I are developing a recommendation for your consideration, which will be presented shortly. That item is not included in this RA deck since its status is not yet resolved.

Finally, please also find a liquidity analysis for spinco from the anticipated spin date of 11/1 through YE22. It shows that the $100mm revolver plus the accumulating cash balances should provide sufficient liquidity for spinco over the coming quarters.

Please reach out at your convenience with questions. Best regards – Perry

---

From: Beberman, Perry [redacted]
Sent: Friday, September 3, 2021 2:57 PM
To: Chesnut, Jeff [redacted]
Cc: Motes, Joseph [redacted]; McLaughlin, Julie [redacted]
Subject: RE: Debt raise fees - impact on opening cash

Couple of questions / comments:
- The fees you noted below are not "new news", how did you / Tusa model the fees into prior version when you thought this was $700MM?
- What is OID?
- Please send me the monthly B/S for Spinco day 1 thru next year.
- What other material cash items are hanging out there that need to be discussed? I understand there may be another $18MM item for intercompany stock settlement between ADS parent Brand Loyalty. How is that contemplated?

To your point, this is not immaterial and I am getting concerned about raising these things at the last minute without advance transparency to me, Ralph and AC.

Happy to jump on the phone.
Perry

From: Chesnut, Jeff [redacted]
Sent: Friday, September 3, 2021 3:00 PM
To: Beberman, Perry [redacted]
Cc: Motes, Joseph [redacted]
Subject: Debt raise fees - impact on opening cash

Perry – The EY deck this morning included the following note:

---

(1) Post-spin ADS commitment amount assumes proceeds of $650mm Term Loan B plus $100mm of cash dividends used to pre

There are three broad buckets of fees/costs associated with the spinco debt raise: a) banker fees which EY estimates at $8m, b) legal fees, c) OID which BofA estimates at $7-$14mm.

The funds flow at closing would look like:

+ $650mm inbound from the TLB investors to spinco
*- $8mm withheld for banker fees, per EY est
*- $1mm withheld for legal fees (est)
*- $7 to $14mm withheld for OID, per BofA est
$627mm to $634mm net proceeds available to spinco

EY's guidance above indicates that spinco will receive the net amount, "top it up" for the fees, and send the headline number of $650mm to parent. Parent will then transfer the $650mm and the $100mm of cash to reduce the term loan.

As a result, spinco's cash balance at-spin will be reduced by $16mm-$23mm from the current estimate of $65mm after deducting the $100mm cash sweep (see image below). If we estimate the reduction at $20m, that means a ~30% decline in the Day 1 cash balance that rolls forward to the YE21 balance in the projected b/s.

Alternatively, the costs/fees could be shared in some proportion by both ADS and spinco.

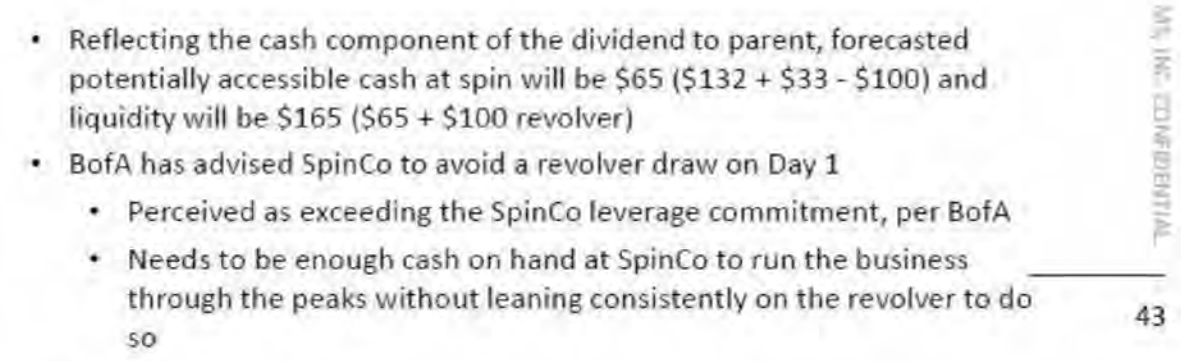
Whichever approach is chosen, we would need to update the RA deck immediately (today) to reflect it – pages 3, 5, 13, 23, 24. The $65mm Day 1 cash-at-spin estimate did not include the reduction for deal costs.

For clarity, ADS is only required to remit to the term loan lenders the amount of the dividend received. It specifically permits ADS to withhold the costs and fees meaning the net amount is due to the lender group. In practical terms, it means ADS can send the lender group either $650+$100 or $627+$100 and the lenders will accept it.

I could not find how EY handled this issue on their 8/30 recommendation to the AC, and it could be that their recommendation on the cash balances didn't incorporate this element. The recommendation may also not have incorporated non-recurring future spinco costs like a) settlement costs of existing AMRP litigation, b) signing bonuses for Sobeys-BMO in early 2022 prior to 2023 contract maturity, c) excess cash flow sweep as required by the TLB lenders. Please recall they confirmed that their FCF analysis on page 5 did not include the required TLB amortization or excess cash flow sweep.

Please advise on your preferred approach so we can reflect it in the RA deck an ultimately the pro-formas. Thx JC

Per the Audit Committee deck on 9/2:



- Reflecting the cash component of the dividend to parent, forecasted potentially accessible cash at spin will be $65 ($132 + $33 - $100) and liquidity will be $165 ($65 + $100 revolver)
- BofA has advised SpinCo to avoid a revolver draw on Day 1
  - Perceived as exceeding the SpinCo leverage commitment, per BofA
  - Needs to be enough cash on hand at SpinCo to run the business through the peaks without leaning consistently on the revolver to do so

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Jeff Chesnut
Alliance Data Systems (NYSE: ADS)
SVP & Treasurer
[redacted]

This is Exhibit “K” referred to in the Affidavit of Cynthia Hageman sworn affirmed November 9, 2023.

Commissioner for Taking Affidavits (or as may be)

KIYAN JAMAL

From: Beberman, Perry [redacted]
Sent: Friday, September 24, 2021 6:32:30 PM
To: Roger Ballou [redacted]; John Gerspach [redacted]; Tim Theriault [redacted]; Andretta, Ralph [redacted]
Cc: Motes, Joseph [redacted]; Vereb, Brian [redacted]; McLaughlin, Julie [redacted] Chesnut, Jeff [redacted]; Tusa, Jeffrey [redacted] Horn, Charles [redacted]; Geoff Ellis [redacted]; K.C. Brechnitz [redacted]; Hughes, Allison G. [redacted]; Morgan, Ben [redacted]
Subject: AC Spin Update

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.

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
[redacted]

This is Exhibit “L” referred to in the Affidavit of Cynthia Hageman affirmed November 9, 2023.

Commissioner for Taking Affidavits (or as may be)

KIYAN JAMAL

From: Beberman, Perry
Sent: Fri, 8 Oct 2021 21:27:59 +0000
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: RE: AC Spin Update (10/8)
Attachments: SpinCo PMO Transaction Update_100821_AC.pdf

Good afternoon,

Great news! We have moved the status of the Spin transaction to **GREEN** based on progress achieved and milestones met over the past week. Below contains a summary of progress of the spin transaction and attached is a detailed status report for your review.

Debt Update – successful week on debt raise. Huge credit to Chesnut and Tusa in tandem with BofA, for **accomplishing the targeted $750MM dividend** (net debt ~$650 after OID and lender fees, plus $100MM in cash).

Terms of debt for LVI:

- TLB: $500MM L+450, 50 bps LIBOR floor / priced at 98 [2 points OID] / NC1, 102, 101, par thereafter / 7.5% annual amortization (at par). Pricing was a little wider than originally marketed along with required amortization, but the team managed to accomplish to stated objective.
- TLA: $175MM L+350 (grid), 0% LIBOR floor / pre-payable at par
- RCF: $150MM L+350 drawn spread (grid), 0% LIBOR floor / undrawn spread 50 bps / pre-payable at par – the additional revolver above the $100MM original target provides LVI additional contingency liquidity.
- Total fees / cost: ~$21MM (lender fees ~$11MM + OID $10MM)

General Updates:

- ERM and IT teams continue to execute on project activities related to the Spin and are in process of responding to and remediating identified vulnerabilities and risks
- SpinCo leaders have reviewed and responded to TSA Service Schedules – expect final approval within a few business days
- Investor Communications are planned and expected to be launched in line with the declaration of the dividend
- Internal/External Communications are planned and delivery schedule will be adapted based on progress on Spin transaction, debt raise, and approval of dividend
- Team is preparing for the upcoming Board Go/No Go meeting and collecting input from key team members, internal counsel and external counsel and advisors on agenda and content for the meeting

Key upcoming milestones: *These dates were shared last week and are final assuming on time completion of BOD approval and successful filing of final Form 10.*

- **10/8: Term Loan B Commitments Due** – expect this process to be complete by EOD today
- 10/8 – 10/12: Finalize updated Form 10; Deloitte to perform review

- **10/13 (early afternoon): RemainCo Board approves dividend** (contingency date of mid- morning 10/14)
- 10/13 (after close; before 5:30ET): RemainCo press release and 8-K announcing board approval of dividend, record date, distribution date (may shift to 10/14 based on BOD meeting date)
- 10/13 (after close; before 5:30ET): File updated Form 10 with SEC (may shift to 10/14 based on BOD meeting date)
- 10/20-21: Confirm cleared SEC comments and file request for effectiveness
- 10/22-25: SEC declares Form 10 effective (typically 1-2 days after requesting effectiveness)
- 10/22-25: Press release announcing effectiveness
- 10/22-25: Nasdaq listing effective (concurrent with Form 10 effectiveness)
- 10/22-25: At Form 10 effectiveness, SpinCo becomes subject to 8-K reporting obligations (e.g. signing of Credit Agreement)
- 10/27: Record Date
- 10/29-11/2: Transfer Agent to print/mail notice of internet availability
- **11/5: Distribution Date / Spin Date**
- 11/5: RemainCo and SpinCo issue press releases and file 8-Ks re: distribution date, entry into final Separation Agreement, TSA, etc.

Again, I would like to applaud the work done by Spinco / Remainco teams and the support we have had from EY Capital Advisors (validating the targets for us), Grant Thornton for PMO support, and of course partners not on this e-mail Davis Polk, Morgan Stanley, Bank of America, and PwC. They have all played critical roles in getting us to this point for the board to make the decision.

I am available at your convenience to discuss.

Perry

From: Beberman, Perry
Sent: Saturday, October 2, 2021 11:19 AM
To: Roger Ballou [redacted] John Gerspach [redacted] Tim Theriault [redacted] Andretta, Ralph [redacted]
Cc: Motes, Joseph [redacted] Vereb, Brian [redacted] McLaughlin, Julie [redacted] Jeff Chestnut [redacted] Tusa, Jeffrey [redacted] Horn, Charles [redacted] Geoff Ellis [redacted] K.C. Brechnitz [redacted] Hughes, Allison G. [redacted] Morgan, Ber [redacted]
Subject: RE: AC Spin Update (10/1)

For avoidance of confusion, the attached REVISED Spinco status report has the corrected **11/5 Spin target date** per Key Milestones in email below (11/3 was a consideration discussed, based on legal guidance we are landing on 11/5).

Have a good rest of your weekend.
Perry

From: Beberman, Perry
Sent: Friday, October 1, 2021 7:41 PM
To: Roger Ballou [redacted] John Gerspach [redacted] Tim Theriault [redacted] Andretta, Ralph [redacted]
Cc: Motes, Joseph [redacted] Vereb, Brian [redacted] McLaughlin, Julie [redacted] 'Jeff Chestnut [redacted] Tusa, Jeffrey [redacted] Horn, Charles [redacted] Geoff Ellis [redacted] K.C. Brechnitz [redacted] Hughes, Allison G. [redacted] Morgan, Ben [redacted]
Subject: RE: AC Spin Update (10/1)

Good evening,
Below contains a summary of progress of the spin transaction. Attached is a detailed status report for your review is our weekly PMO meeting. You may notice that some dates have shifted such as the planned BOD Go/No Go meeting and subsequently our planned Spin Transaction date/Legal Day 1. These dates have been adjusted due to the delay in the debt raise process.

Private Letter Ruling

- Good news, IRS responded with limited comments earlier this week; no changes to what was requested (overlapping Chairman, three-year term for Chairman, and debt-for-equity swap within twelve months)
- We expect delivery of the PLR and therefore the conclusion of the IRS process on Monday

Debt Update – Progress continues, yet at this date, we are not able to determine the exact amount raised for RCF and TLA. If funding commitments for TLB are short, we will need to lean on the Revolver and TLA to supplement to achieve full debt requirements of $675MM.

- Tuesday marked the formal launch of the TLB syndication with a target of $500MM
- SpinCo team spent the following days fielding investor calls and follow-up diligence questions
- Finished the week with ~$250MM of TLB commitments
- Please note it is early in the syndication and the leveraged finance market is very active right now. Consequently, we don't expect our deal to come into focus much before the second half of next week.
    - Note from BofA banker (Tolchin) for additional context and detail: *No furthered order since we picked up $50 mm from [redacted] ($240.5 total in book) though that is not unexpected as have a week before the commitment deadline and accounts need to do their work. Engagement has been satisfactory though skews hedge fund. Have had a fair number of calls including with [redacted] Other accounts who appear to be digging in include [redacted] among others. Hopeful advertised structure and pricing will result in sufficient additional conversions but don't expect velocity to pick until mid-next week.*
- Bank group has committed $175mm of TLA, which will be finalized once the TLB takes shape.

Key upcoming milestones: *note these are anticipated dates based on current expectations regarding Spin transaction next steps and need to be validated by internal counsel*

- **10/8: Term Loan B Commitments Due** (and allocations finalized in days after)

- 10/8 – 10/12: Finalize updated Form 10; Deloitte to perform review
- **10/13 (early afternoon): RemainCo Board approves dividend**
- 10/13 (after close; before 5:30ET): RemainCo press release and 8-K announcing board approval of dividend, record date, distribution date
- 10/13 (after close; before 5:30ET): File updated Form 10 with SEC
- 10/20-21: Confirm cleared SEC comments and file request for effectiveness
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- **11/5: Distribution Date / Spin Date**
- 11/5: RemainCo and SpinCo issue press releases and file 8-Ks re: distribution date, entry into final Separation Agreement, TSA, etc.

Other Updates:

- Opsease selected as SpinCo GRC tool; team underway with identifying future leadership and ERM operating model for SpinCo
- TSA Service Schedules are complete and reviewed by RemainCo, next step is approval from SpinCo leaders
- Investor Communications are planned and expected to be launched in line with the declaration of the dividend – adjustments will be made as needed based on schedule changes
- Internal/External Communications are planned and delivery schedule will be adapted based on progress on Spin transaction, debt raise, and approval of dividend

The collective Spinco / Remainco team continue to put in a ton of effort and are diligently work through all details to ensure a successful spin.

I am available at your convenience to discuss.

Perry

From: Beberman, Perry
Sent: Friday, September 24, 2021 6:33 PM
To: Roger Ballou [redacted] John Gerspach [redacted] Tim Theriault [redacted] Andretta, Ralph [redacted]
Cc: Motes, Joseph [redacted]; Vereb, Brian [redacted] McLaughlin, Julie [redacted] Jeff Chestnut [redacted] Tusa, Jeffrey [redacted] Horn, Charles [redacted] Geoff Ellis [redacted] K.C. Brechnitz [redacted] Hughes, Allison G. [redacted] Morgan, Ben

[redacted]

Subject: AC Spin Update

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).
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- 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.

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
[redacted]

This is Exhibit “M” referred to in the Affidavit of Cynthia Hageman affirmed November 9, 2023.

Commissioner for Taking Affidavits (or as may be)

KIYAN JAMAL

DRAFT

ADS

Board of Directors Meeting

October [_], 2021

CONFIDENTIAL

AllianceData.

Executive Summary

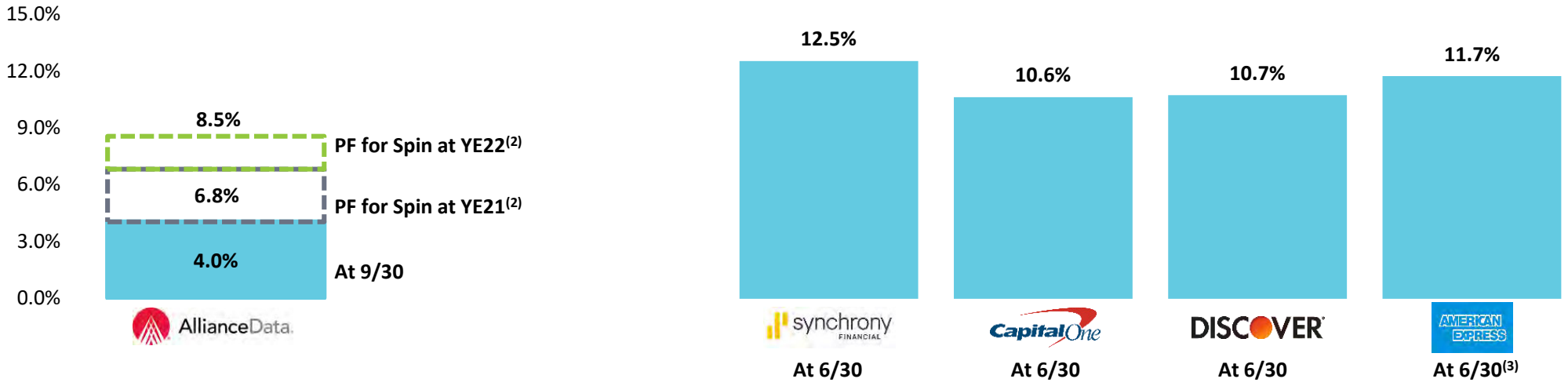
- **Original transaction thesis for the spin of LoyaltyOne remains intact:**
  - Strengthens Balance Sheet and Improves Key Ratio: Significant debt reduction and TCE/TA ratio closer to peers, which should unlock shareholder distributions
  - Favorable Timing: Sponsor contract renewal dates are upcoming
  - Debt capital markets highly receptive: Wide open institutional market
  - Potential to unlock package value: Potential control premium as pure-play card/ fintech company; deliver on "show me" story; analysts' sum-of-the-parts analyses are using higher multiples than internal estimates
- **Key Elements' Status:**
  - Private Letter Ruling received; met all ADS requirements
  - Debt raise finalized: allocations made for LVI's revolver, Term Loan A, and Term Loan B
    - Final ratings published on September 28th; Moodys and S&P confirmed indicative TLB ratings of B1 and BB-, respectively
  - Third draft of Form 10 filed on September 21st
  - Filed various agreements on September 24th – Separation & Distribution Agreement, Tax Matters Agreement, Employment Matters Agreement and the body of the Transition Services Agreement
- **Seeking Board approval for Declaration of Conditional Spinoff Dividend**

02 Ratio Improvement & Spin Expectations

Balance Sheet Improvement

- A spin would deliver a stronger ADS corporate balance sheet, which will create more options for stockholder distributions, including share buybacks
  - A weak balance sheet has resulted in increased scrutiny from the FDIC and hampered Card's regulatory initiatives
- Spinning L1 creates a step-change in TCE/TA, pulling improvement forward by approximately two years(1)
  - ADS management wants to increase shareholder returns; however, TCE/TA must be improved first as shareholder returns are a drag on TCE
  - See next page and section seven for more detail
- Stronger TCE could lead to lower capital requirements than the 15.5% (for Card deals), making deals easier to win due to lower hurdle rates; important element to achieving an investment grade rating
  - An investment grade rating would put ADS at parity with peers, while enabling parent to issue debt more efficiently

TCE/TA



Note:
(1) Spin leads to step-change of 2.8 percentage points (see next page). The delta between YE21 and YE23 in the August LRP is 2.8 percentage points. Adjusting YE23 figures in the August LRP for the projected YE21 L1 Balance Sheet compared YE21 without a spin shows an increase of 3.4 percentage points.
(2) Based on August LRP projections; PF for Spin at YE21 includes value from mark-to-market
(3) Goodwill and intangibles taken from YE20 (not disclosed in quarterly financials)

This is Exhibit “N” referred to in the Affidavit of Cynthia Hageman affirmed November 9, 2023.

Commissioner for Taking Affidavits (or as may be)

KIYAN JAMAL

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 “O” referred to in the Affidavit of Cynthia Hageman affirmed November 9, 2023.

Commissioner for Taking Affidavits (or as may be)

KIYAN JAMAL

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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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:

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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)
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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.

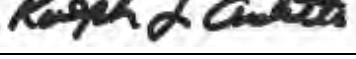
Section 6.19. *Confidential Supervisory Information.* Notwithstanding any other provision of this Agreement, no disclosure, representation or warranty shall be made (or other action taken) pursuant to this Agreement that results in the disclosure of confidential supervisory information (including confidential 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

Schedule 1.01(a)

ADS Assets

1) 50% of any Second Earn-Out Amount or other amounts payable under that certain Securities Purchase Agreement, dated as of January 3, 2020, by and among Alliance Data Systems Corporation, ADS Apollo Holdings B.V., and ADS Foreign Holdings, Inc., on the one hand, and The Nielsen Company (US), LLC and ACNielsen Nederland B.V., on the other hand. ADS and Loyalty Ventures shall each cooperate and use reasonable efforts in seeking to obtain any such amounts.

Schedule 1.01(b)

Former Businesses

	ADS Former Business		Loyalty Ventures Former Business
1)	3275977 Nova Scotia Company		1302598 Ontario Inc.
2)	Abacus Direct Europe BV		3275976 Nova Scotia Company
3)	Abacus Direct Ireland Limited		3305232 Nova Scotia Company (WisePlum Corp.)
4)	Abacus Direct LLC		Alliance Travel Services, Inc.
5)	Acorn Direct Marketing Limited		Bright Commerce Ltd
6)	AD Diamond LLC		Calwood B.V.
7)	ADI, LLC		CBSM – Companhia Brasileira de Soluções de Marketing
8)	ADS Commercial Services, Inc.		ClickGreener, Inc.
9)	ADS MB Corporation		Direxions Global Solutions Private Limited
10)	AFSA Holding Corp.		Green Rewards Inc.
11)	Alliance Data FHC, Inc.		IM Digital Group B.V.
12)	Alliance Data L.P.		LMGC Holdings, ULC
13)	Alliance Data Luxembourg S.ar.L		LMGC Holdings 1, ULC
14)	Alliance Data Network Services, LLC		LMGC Holdings 2, ULC
15)	Alliance Data Pte. Ltd.		LMGC Luxembourg S.àr.L.
16)	Alliance Data Systems (New Zealand) Limited		Loyalty Management Group Canada, Inc.
17)	Alliance Data Systems, LLC		LoyaltyOne B.V.
18)	Alliance Data Utility Services, LLC		LoyaltyOne, Inc. (Ontario corporation, predecessor to LoyaltyOne, Co.)
19)	Alliance Recovery Management, Inc.		LoyaltyOne Participacoes Ltda.
20)	Amber Sub LLC		LoyaltyOne Rewards Private Limited
21)	AMGI Holdings, LLC		LoyaltyOne (Shanghai) Marketing Limited
22)	Aspen ListCo Acquisitions LLC		LoyaltyOne SPB, Inc.
23)	Aspen Marketing Holdings, LLC		LoyaltyOne SPB, ULC
24)	Aspen Marketing Services, LLC		LoyaltyOne US, Inc.
25)	Atrana Solutions, Inc.		Merison (Australia) PTY Ltd.
26)	Bach Acquisitions Corp.		Merison Retail (HK) Ltd.
27)	BeFree France SAS		Muse Agency BV
28)	BeFree Germany GmbH		Sports Loyalty International, Inc.
29)	BeFree, Inc.		Thunderball Acquisition I, Inc.
30)	BeFree International, Inc.		Thunderball Acquisition II, Inc.
31)	BeFree UK Ltd.		
32)	Bulls Merger Corp.		
33)	Capstone Consulting Partners, Inc.		
34)	Catapult Integrated Services, Inc.		
35)	Catapult Integrated Services, LLC		
36)	ClickAgents.com, Inc.		
37)	CJ Sweden Affiliate AB		
38)	Commission Junction Holding BV		
39)	Commission Junction LLC		
40)	Commission Junction France SarL		
41)	Commission Junction Shanghai Advertising Co. Ltd		
42)	Conservation Billing Services, Inc.		
43)	Contract HoldCo, LLC		
44)	Conversant Asia Pacific Limited		

	ADS Former Business		Loyalty Ventures Former Business
45)	Conversant Deutschland GmbH		
46)	Conversant ESPAÑA, S.L.U.		
47)	Conversant Europe Ltd		
48)	Conversant, Inc.		
49)	Conversant International Limited		
50)	Conversant LLC		
51)	Conversant Media, Inc.		
52)	Conversant Media Systems LLC		
53)	Conversant S.à r.L.		
54)	Conversant Software Development and Campaign Management Services LLP		
55)	Conversant South Africa (Pty) Ltd.		
56)	Coupons, LLC		
57)	CPC Associates, LLC		
58)	D.L. Ryan Companies, LLC		
59)	DMDA General Partner LLC		
60)	DMDA Holdings, Inc.		
61)	DMDA Massachusetts Business Trust		
62)	DMDA, Inc. (separate corporations in Texas and Delaware)		
63)	DNCE LLC		
64)	Dolphin Assets Receivables Trust I		
65)	Dolphin Assets Receivables Trust II		
66)	Dolphin Assets Receivables Trust III		
67)	Dotomi, Inc.		
68)	Dotomi, LLC		
69)	Dotomi, Ltd.		
70)	DoubleClick Canada Network Inc.		
71)	DoubleClick Email Canada Inc.		
72)	Dragon Subsidiary Corp.		
73)	Duck Acquisition, Inc.		
74)	EIndia, LLC		
75)	Enlogix CIS Inc.		
76)	Enlogix Inc.		
77)	Enlogix USA Inc.		
78)	Epsilon Acquisition, Inc.		
79)	Epsilon Communication Solutions, S.L.		
80)	Epsilon Data Management, LLC		
81)	Epsilon Email Marketing India Private Limited		
82)	Epsilon FMI, Inc. (f/k/a LoyaltyOne, Inc., Ohio corporation)		
83)	Epsilon Interactive CA, Inc.		
84)	Epsilon Interactive CA, ULC		
85)	Epsilon Interactive, LLC		
86)	Epsilon International Consulting Services Private Limited		
87)	Epsilon International UK Ltd.		
88)	Epsilon International LLC		
89)	Epsilon Marketing and Creative Services, Inc.		
90)	Epsilon Marketing Services, LLC		
91)	Epsilon Software Technology Consulting (Shanghai) Co., Ltd.		
92)	Epsilon SS Holding LLC		

	ADS Former Business		Loyalty Ventures Former Business
93)	Epsilon SS LLC		
94)	Epsilon Texas Ltd. LP		
95)	Epsilon Texas, LLC		
96)	Everest Nivole, Inc.		
97)	Expression Engines Acquisition Corporation		
98)	Financial Automation Limited		
99)	Financial Automation Marketing Limited		
100)	Fred CL Holdings, Inc.		
101)	Frequency Marketing International, Inc.		
102)	Frequency Marketing, Inc.		
103)	Haggin Marketing, Inc.		
104)	Haggin Marketing LLC		
105)	Harmonic Systems Incorporated		
106)	Harmonic Technology Licensing, Inc.		
107)	HMI Holding Corp		
108)	HMI Holding LLC		
109)	Hyper Marketing Inc International Holdings Limited		
110)	I-Centrix Services, LLC		
111)	ICOM Information & Communications, Inc.		
112)	ICOM Information & Communications, L.P.		
113)	ICOM, Ltd.		
114)	Interact Connect LLC		
115)	Internet Extra Corporation		
116)	Intralynx Inc.		
117)	Intralynx L.P.		
118)	Loyalty Realtime, Inc.		
119)	Loyalty Realtime, LLC		
120)	Loyalty Solutions, Inc.		
121)	Lux Epsilon S.àr.L.		
122)	Lux Fourstar S.àr.L.		
123)	Mediaplex Deutschland GmbH		
124)	Mediaplex, Inc.		
125)	Mediaplex Shanghai Advertising Co. Ltd. (WFOE)		
126)	Mediaplex Systems, Inc.		
127)	Northstar U.S., LLC		
128)	Orcom Solutions, LLC		
129)	Panavista, Inc.		
130)	Panavista, LLC		
131)	Project V Acquisition Corp.		
132)	RevView, LLC		
133)	Rise Merger Sub, Inc.		
134)	RPM Connect, Inc.		
135)	RPM Connect, LLC		
136)	Ryan Next, Inc.		
137)	Ryan Next, LLC		
138)	Ryan Partnership, Inc.		
139)	Ryan Partnership, LLC		
140)	Sage Subsidiary Corp.		
141)	S.R.I. Analytics, Inc.		
142)	Set Media, Inc.		
143)	Shopping.net, Ltd.		
144)	SolutionSet Holding Corp.		

	ADS Former Business		Loyalty Ventures Former Business
145)	SolutionSet, Inc.		
146)	SolutionSet, LLC		
147)	Spyglass Publishing Group, Inc.		
148)	The Retail Zone, Inc.		
149)	The Retail Zone, LLC		
150)	Triangle Investments L.P.		
151)	TriVida Corporation		
152)	U.S. Loyalty Corp.		
153)	ValueClick Brands, Inc.		
154)	ValueClick Brazil Ltda.		
155)	ValueClick Mobile, Inc.		
156)	VC Merger Sub, Inc.		
157)	WFN Funding Company, LLC		
158)	WFN Funding Company II, LLC		
159)	Wild Hogs LLC		
160)	World Financial Network Credit Card Master Note Trust II		
161)	Z Media Inc.		

Schedule 1.01(c)

Liabilities

	ADS Liabilities		**Loyalty Ventures Liabilities**
1)	Securities Purchase Agreement, by and among Alliance Data Systems Corporation, The Other Sellers Party Thereto, Publicis Groupe S.A., MMS USA Investments, Inc. and Publicis Groupe Holdings BV, dated as of April 12, 2019.		All Liabilities associated with the planned expiry policy and/or its intended implementation under the AIR Miles® Reward Program, including any past, present or future litigation or other Actions with any private party or Governmental Authority relating thereto.

Schedule 1.01(d)

Loyalty Ventures Facilities

1. Multi-Tenant Office, Lease, net Agreement between First Gulf KEC Development Limited and LoyaltyOne, Co. and Alliance Data Systems Corporation (Indemnifier), dated the 14th day of November, 2014, as amended (351 King Street East, Toronto, Ontario, Canada)
2. Office Space Agreement between Inoffice Group SP. ZO.O. and Brand Loyalty BV, dated the 1st day of June, 2016, as amended (Lumen Building 922 & 923 59 Zlota Str, Warsaw, Poland)
3. Commercial Lease Agreement between EP1-Axeo and Brand Loyalty France SarL, dated the 1st day of September, 2015 (29 Avenue Aristide Briand 94110 Arcueil, Paris, France)
4. Rental Contract (Mietvertrag) between Neue Waldschwimmbad GmbH and Brand Loyalty Germany GmbH, dated the 1st day of March, 2016 (Carl-Ullrich-Strasse 175, 63263, Neu-Isenburg, Germany)
5. Lease Contract between Diaco 63 SRL and Brand Loyalty Italia S.p.A, dated the 31st day of March, 2017 (Via G.B. Pergolesi, 2a – 20124, Milan, Italy)
6. Leasing Contract between Torre Optima 3, S. de R.L. de C.V. and Brand Loyalty Worldwide GmbH, dated the 14th day of January, 2015, as amended (Av. Paseo de las Palmas 425 officeina 1101, Mexico City, Mexico)
7. Lease Agreement "Warehouse Maasbree" between Stichting Matilda and Brand Loyalty Sourcing BV, dated the 20th day of December, 2012, as amended (5993 Maasbree Zonneveld 3, Venlo, Netherlands)
8. Warehouse Lease Agreement between Seacon Logistics B.V. and Brand Loyalty Sourcing BV, dated the 1st day of February, 2018 (5993 Maasbree Zonneveld 1, Venlo, Netherlands)
9. Lease Agreement between CBL Properties Limited Landlord and Brand Loyalty International BV, dated the 9th day of October, 2012, as amended (Kingsroad 101, Den Bosch, Netherlands)
10. Lease Agreement between Total Talent Investments Limited and Wide Emperor Limited and Brand Loyalty Limited (HK), dated the 1st day of November, 2017 (Rooms 2104 & 2204, Tower 1 Admiralty Centre, 18 Harcourt Road, Hong Kong)
11. Cathay Landmark Lease Agreement between Cathay Life Insurance Co., Ltd. and Brand Loyalty Limited (HK), dated the 16th day of March, 2017, as amended (Zhongxiao East Road, Xinyi District, Taipei City, Room B2, 12F Cathay Landmark, Sec 5, 68, Taiwan)
12. Rental Space Agreement(Huurovereenkomst Kantoorruimte) between Gemeente Gooisemern and Edison International Concept & Agencies BV, dated the 1st day of October, 2014 (Cattenhagestraat 8a, 1411 CT Naarden, Netherlands)
13. Office Lease Agreement between Hotel-Café-Restaurant 'Chalet Royal' B.V. and Brand Loyalty International B.V., dated the 1st day of September, 2013 (Grand le Duc, Wilhelminaplein 1a, 5211CG, Hertogenbosch, Netherlands)

14. Lease Agreement between CCP 5 Amstel 1 Sarl LandLoard. and IM Digital Group BV, dated the 1st day of April, 2015 (Mensinge 2, 1083 HA Amsterdam, Netherlands)
15. Commercial Lease Agreement between Paco Imperial Participacoes LTDA. and Brand Loyalty Brasil Marketing de Promocoes LTDA., dated the 21st day of March, 2018, as amended (Rua laia, 77, conjuntos 11 e 12, CEP 04542-060, São Paulo, Brazil)
16. Multi Tenant Industrial Lease, net between 2725312 Canada Inc. and LoyaltyOne, Co., dated the 10th day of October, 2019 (6950 Creditview Road, Mississauga, Ontario)
17. Office lease agreement between Aspen Properties Ltd. and LoyaltyOne, Co., dated the 2nd day of January, 2019, as amended (150 9th Avenue SW, Calgary, Alberta)
18. Agreement between Award Business Centre (Downtown) Inc and LoyaltyOne, Co., dated the 9th day of September, 2019, as amended (938 Howe St Suite 908, Vancouver, British Columbia)
19. Office Lease Agreement between Centumon Properties Inc., Immeubles Regime XII Inc., 8104425 Canada Inc., and 1800 McGill College Associates Inc. and LoyaltyOne, Co., dated the 31st day of May, 2016 (1800 McGill College Ave, Montreal, Quebec)
20. Office Lease Agreement between 70 Richmond Street East Inc. and LoyaltyOne, Co., dated the 20th day of December, 2016, as amended (70 Richmond Street East, Toronto, Ontario)
21. Office Lease Agreement between Meiji Yasuda Insurance Company and Brand Loyalty Japan KK, dated the 1st day of July, 2019 (Meiji Yasuda Insurance Building 19F, 2-1-1, Marunouchi, Chiyoda-ku, Toyko, 100-0005, Japan)
22. Long-Term Lease Agreement between Tengri Limited Liability Company and Brand Loyalty OOO, dated the 12th day of December, 2016, as amended (Pravdy Ulitsa Bld. 26, 2nd Floor, Moscow, Russia)
23. Agreement of Lease between Workshop 17 and Brand Loyalty BV, dated the 11th day of January, 2020 (32 Kloof Street, Gardens 8001, Woodstock, Cmilanape Town, South Africa)
24. Office Lease Agreement between Shanghai Shi Ji Chen Qian Property Management Co. LTD. and Brand Loyalty Trading (Shanghai) Co., Ltd, dated the 15th day of August, 2020 (Unit 1608, No. 1788 West Nanjing Rd, 200040, Shanghai, China)
25. Office Lease Agreement between Shenzen Wenfeng Property Ltd and Brand Loyalty Trading (Shanghai) Co., Ltd, dated the 19th day of September, 2017, as amended (Unit C & D, 18/F., Tower C, Neo Building, 6009 Shennan Avenue, Futian, Shenzhen, China)
26. Membership Agreement between Wework Community Workspace, S. L. and Brand Loyalty BV, dated the 1st day of April, 2018, as amended (Paseo de La Castellana 77, Madrid, Spain)
27. Service Agreement between Aptum Technologies (Canada) Inc. and LoyaltyOne, Co., dated the 15th day of January, 2021, as amended (145 King Street West and 612 Welham Drive, Toronto)

28. Lease Agreement between Amicorp Luxembourg SA and Alliance Data Lux Financing S.a.r.l. dated March 30, 2017 (11-13, Boulevard de la Foire, Luxembourg City)

Schedule 1.01(e)

Loyalty Ventures Intellectual Property

None

Schedule 1.01(f)

IT Assets

None

Schedule 1.01(g)

Loyalty Ventures Contracts

None

Schedule 1.01(h)

Other Loyalty Ventures Assets

1) 50% of any Second Earn-Out Amount or other amounts payable under that certain Securities Purchase Agreement, dated as of January 3, 2020, by and among Alliance Data Systems Corporation, ADS Apollo Holdings B.V., and ADS Foreign Holdings, Inc., on the one hand, and The Nielsen Company (US), LLC and ACNielsen Nederland B.V., on the other hand. ADS and Loyalty Ventures shall each cooperate and use reasonable efforts in seeking to obtain any such amounts.

2) All rights under that certain Purchase and Sale Agreement dated as of June 29, 2018, entered into by and among Dotz S.A. (current name of HDZ Participações S.A.) ("Purchaser"), Alliance Data Lux Financing S.àr.l. ("ADLF"), ClickGreener Inc. ("CG", succeeded by amalgamation by LoyaltyOne Co., and, together with ADLF, the "Sellers"), LoyaltyOne, Co. (together with the Sellers, "Seller Parties"), Roberto Saddy Chade ("R. Chade"), Alexandre Saddy Chade ("A. Chade"), and CBSM – Companhia Brasileira de Soluções de Marketing ("Company" and, together with the Purchaser, R. Chade and A. Chade, "Purchaser Parties") (the "Original Agreement"); the Guaranty Agreement and Other Covenants, executed by and among A. Chade, R. Chade, the Sellers and the Purchaser ("Guaranty Agreement") dated June 29, 2018; the Amendment Letter executed among the Seller Parties and the Purchaser Parties on July 5, 2018 (the "First Amendment Letter"); the Surety Bond Amendment Letter executed by and among the Seller Parties and the Purchaser Parties on September 28, 2018 ("Second Amendment Letter"); the Amendment Letter executed among the Seller Parties and the Purchaser Parties on December 6, 2018 ("Third Amendment Letter"); and the Amendment Letter executed among the Seller Parties and the Purchaser Parties on November 28, 2019 ("Fourth Amendment Letter"); the Amendment Letter executed among the Seller Parties and the Purchaser Parties on March 30, 2020 ("Fifth Amendment Letter") and that certain Standstill Letter date as of March 31, 2021 executed among the Seller Parties and the Purchaser Parties.

Schedule 1.01(i)

Loyalty Ventures Group

1. Loyalty Ventures Inc., a Delaware corporation
2. ADI Crown Helix Limited, a Jersey Limited Liability Company
3. Apollo Holdings B.V., a Netherlands Private Limited Liability Company
4. LVI Sky Oak LLC, a Delaware Limited Liability Company
5. LVI Lux Financing S.àr.l., a Luxembourg Company
6. LVI Lux Holdings S.àr.l., a Luxembourg Company
7. Brand Loyalty Americas BV, a Netherlands Private Limited Liability Company
8. Brand Loyalty Asia BV, a Netherlands Private Limited Liability Company
9. Brand Loyalty Australia Pty. Ltd., an Australian Propriety Limited Company
10. Brand Loyalty Brasil Marketing de Promocoes LTDA, a Brazilian Limited Liability Company
11. Brand Loyalty BV, a Netherlands Private Limited Liability Company
12. Brand Loyalty Canada Corp., a Nova Scotia, Canada Unlimited Liability Company
13. Brand Loyalty Canada Holding B.V., a Netherlands Private Limited Liability Company
14. Brand Loyalty Development B.V., a Netherlands Private Limited Liability Company
15. Brand Loyalty Europe BV, a Netherlands Private Limited Liability Company
16. Brand Loyalty France Sarl, a French Limited Liability Company
17. Brand Loyalty Germany GmbH, a German Limited Liability Company
18. Brand Loyalty Group B.V., a Netherlands Private Limited Liability Company
19. Brand Loyalty Holding BV, a Netherlands Private Limited Liability Company
20. Brand Loyalty International BV, a Netherlands Private Limited Liability Company
21. Brand Loyalty Italia S.p.A, an Italian Private Limited Company
22. Brand Loyalty Japan KK, a Japanese Joint Stock Company
23. Brand Loyalty Korea Co. Ltd., a South Korean Limited Liability Company
24. Brand Loyalty Limited (HK), a Hong Kong Private Limited Company
25. Brand Loyalty OOO, a Russian Federation Limited Liability Company
26. Brand Loyalty Russia BV, a Netherlands Limited Liability Company
27. Brand Loyalty Sourcing Americas Holding B.V., a Netherlands Private Limited Liability Company
28. Brand Loyalty Sourcing Asia Ltd, a Hong Kong Private Limited Company
29. Brand Loyalty Sourcing BV, a Netherlands Private Limited Liability Company
30. Brand Loyalty Sourcing USA Inc., a Delaware Corporation
31. Brand Loyalty Special Promotions BV, a Netherlands Private Limited Liability Company (in liquidation)
32. Brand Loyalty Switzerland GmbH, a Swiss Limited Liability Company
33. Brand Loyalty Trading (Shanghai) Co. Ltd, a Chinese Limited Liability Company
34. Brand Loyalty UK Ltd, an England Private Limited Company
35. Brand Loyalty USA Holding BV, a Netherlands Limited Liability Company
36. Brand Loyalty USA Inc., a Delaware Corporation
37. Brand Loyalty Worldwide GmbH, a Swiss Limited Liability Company
38. Club Leaf BV, a Netherlands Private Limited Liability Company (75% ownership)
39. Edison International Concept & Agencies BV, a Netherlands Private Limited Liability Company
40. IceMobile Agency BV, a Netherlands Private Limited Liability Company
41. LoyaltyOne Travel Services Co, a Nova Scotia, Canada Unlimited Liability Company
42. LoyaltyOne, Co., a Nova Scotia, Canada Unlimited Liability Company
43. Max Holding B.V., a Netherlands Private Limited Liability Company
44. Merison Groep B.V., a Netherlands Private Limited Liability Company
45. Merison Retail B.V., a Netherlands Private Limited Liability Company
46. Merison UK Ltd, a United Kingdom Private Limited Company (in liquidation)
47. Rhombus Investments L.P., a Bermuda Limited Partnership
48. World Licenses BV, a Netherlands Private Limited Liability Company

Schedule 2.07(b)

Intercompany Agreements

None

Schedule 4.01(d)

Employee Emails and Files

The treatment of historical employee emails and files is addressed in Item “IT007” of Exhibit A to the Transition Services Agreement between ADS and Loyalty Ventures.

Schedule 4.02(a)

Loyalty Ventures Assumed Actions

1. [redacted]

Court: Quebec Supreme Court (Montreal)

Cause of Action: Class Action

Inception Date: 12/14/2016

2. [redacted]

Court: Quebec Supreme Court (Montreal)

Cause of Action: Class Action

Inception Date: 09/18/2016

3. [redacted]

Court: Saskatchewan Court of Queen's Bench

Cause of Action: Class Action

Inception Date: 07/09/2010

4. [redacted]

Court: Alberta Court of Queen's Bench

Cause of Action: Class Action

Inception Date: 12/22/2010

5. [redacted]

Court: N/A

Cause of Action: Contract (COVID-19 flight cancellation/demand for refund)

Inception Date: 03/19/2021

6. [redacted]

Court: British Columbia Supreme Court

Cause of Action: Class action

Inception Date: 12/12/2013

7. [redacted]

Cause of Action: Requerimento de Arbitragem filed on 29 September 2021 with Centro de Arbitragem e Mediação da Câmara de Comércio Brasil-Canadá by Dotz S.A. (*claimant*) v. Alliance Data Lux Financing S.à r.l. (now known as LVI Lux Financing S.à r.l.) and LoyaltyOne, Co. (*collectively, respondents*) Court relating to those agreements with Dotz S.A. set forth on Schedule 1.01(h).

Inception Date: 09/2021

8. [redacted]

Court: Shanghai International Arbitration Center

Cause of Action: Commercial dispute over payments owed to BrandLoyalty by client Carrefour China

Inception Date: 09/2020

9. [redacted]

Court: Russian Court of Cassation

Cause of Action: Commercial dispute with Russian Customs Authority over the declared value of Villeroy & Bosch products

Inception Date: 2019

10. [redacted]

Court: European Patent Office

Cause of Action: Commercial dispute over intellectual property rights

Inception Date: 03/2020

11. [redacted]

Court: N/A

Cause of Action: VAT dispute with Swiss Federal Customs Administration related to Kuoni Transport & Logistik AG (BrandLoyalty's logistical services provider)

Inception Date: 05/2021

Schedule 4.02(b)

ADS Assumed Actions

1. [redacted]

Court/Agency: Idaho Human Rights Commission

Cause of Action: Disability Discrimination, Failure to Accommodate and Retaliation

Inception Date: 03/30/2021

2. [redacted]

Court/Agency: Superior Court of California – County of San Diego

Cause of Action: Sex/Gender Discrimination and Harassment; Age Discrimination and Harassment; Disability Discrimination and Harassment; Failure to Accommodate; Failure to Engage in the Interactive Process; and Retaliation

Inception Date: 12/23/19

3. [redacted]

Court/Agency: Attorney Demand Letter/California Department of Fair Employment & Housing (DFEH)/Lawsuit

Cause of Action: Disability discrimination, FMLA Interference, Failure to Accommodate and Retaliation

Inception Date: 04/23/2020 (Attorney Letter); 03/18/2021 (DFEH); 03/18/2021 filed but not served until April 2021 (Lawsuit)

4. [redacted]

Court/Agency: Equal Employment Opportunity Commission (EEOC)/Kansas Human Rights Commission (KHRC)

Cause of Action: National Origin Discrimination and Retaliation

Inception Date: 04/27/2019

5. [redacted]

Court/Agency: Attorney Demand Letter

Cause of Action: Breach of contract

Inception Date: 09/04/2019

6. [redacted]

Court/Agency: EEOC/Kansas Human Rights Commission (KHRC)

Cause of Action: Disability and Gender/Pregnancy Discrimination

Inception Date: 06/04/2021

7. [redacted]

Court/Agency: New Mexico Labor Relations Division

Cause of Action: Wage Claim – final pay and unlawful deductions

Inception Date: 12/17/2020

8. [redacted]

Court/Agency: Equal Employment Opportunity Commission (EEOC)/Attorney Demand Letter

Cause of Action: Age Discrimination and Retaliation

Inception Date: 10/23/2017 (EEOC); 07/13/2018 (Attorney Demand Letter); 01/25/2021 (EEOC Charge #2)

9. [redacted]

Court/Agency: Attorney Demand Letter

Cause of Action: National Origin & Religion Discrimination, Wrongful Termination, and Retaliation

Inception Date: May 13, 2019

10. [redacted]

Court/Agency: Attorney Demand Letter/Department of Workforce Solutions Human Rights Bureau Charge

Cause of Action: Pregnancy/Gender Discrimination

Inception Date: 03/08/2021 (Attorney Letter); 03/31/2021 (Charge)

11. [redacted]

Court/Agency: Equal Employment Opportunity Commission (Connecticut); Connecticut Human Rights Office (CHRO)

Cause of Action: Breach of Incentive Agreement/Failure to Pay Wages/Incentive, Failure to pay unvested equity, Wrongful Termination, Gender and Age Discrimination and Retaliation

Inception date: 12/09/2020 (EEOC); 01/05/2021 (CHRO)

12. [redacted]

Court/Agency: Attorney Demand Letter/Equal Employment Opportunity Commission (EEOC)

Cause of Action: Violation of Colorado Nursing Mother's Act, Gender Discrimination, Sexual Harassment, Retaliation

Inception Date: 05/22/2019 (Attorney Letter); 06/12/2019 (EEOC)

13. [redacted]

Court/Agency: Attorney Demand Letter/Kansas Human Rights Commission (KHRC) and Equal Employment Opportunity (EEOC)

Cause of Action: Gender and Disability Discrimination and Retaliation

Inception Date: 11/20/2019 (Letter); 01/31/2020 (KHRC/EEOC Charge)

14. [redacted]

Court/Agency: Attorney Demand Letter/Kansas Human Rights Commission (KHRC) and Equal Employment Opportunity (EEOC)

Cause of Action: Gender and Disability Discrimination and Retaliation

Inception Date: 11/20/2019 (Letter); 01/31/2020 (KHRC/EEOC Charge)

15. [redacted]

Court/Agency: United States District Court for the Southern District of Ohio

Cause of Action: Wage and Hour Class/Collective Action under Federal (FLSA) and Ohio Law to recover alleged unpaid wages, overtime wages and other penalties.

Inception Date: 04/29/2020

[1]Nicole Little and Cathy Howard replaced Stephens as the named Claimants as reflected in the First Amended Complaint filed on September 19, 2020.

16. [redacted]

Court/Agency: Ohio Civil Rights Commission (OCRC)/Equal Employment Opportunity Commission (EEOC)/United States District Court for the Southern District of Ohio (Eastern Division)

Cause of Action: Disability Discrimination, FMLA Interference and FMLA Retaliation

Inception Date: 10/01/2018 (OCRC Charge); 03/30/2020 (Lawsuit)

17. [redacted]

Court/Agency: US District Court for Southern District of Indiana Indianapolis Division
Cause of Action: TCPA
Inception Date: 02/08/2021

18. [redacted]

Court/Agency: U.S. District Court Middle District of Florida- Fort Myers Division
Cause of Action: FCRA
Inception Date: 05/07/2021

19. [redacted]

Court/Agency: JAMS

Cause of Action: TCPA

Inception Date: 09/13/2019

20. [redacted]

Court/Agency: JAMS

Cause of Action: TCPA

Inception Date: 12/14/2019

21. [redacted]

Court/Agency: State of South Carolina, County of Horry, Court of Common Pleas

Cause of Action: State Statute (Collections)

Inception Date: 06/29/2021

22. [redacted]

Court/Agency: U.S. District Court for the Middle District of Florida Tampa Division

Cause of Action: TCPA

Inception Date: 05/14/2020

23. [redacted]

Court/Agency: U.S. District Court Northern District of Georgia, Atlanta Division

Cause of Action: FCRA

Inception Date: 05/18/2021

24. [redacted]

Court/Agency: U.S. District Court Eastern District of Missouri

Cause of Action: FCRA

Inception Date: 06/09/2021

25. [redacted]

Court/Agency: In the Circuit Court for Anne Arundel County, Maryland

Cause of Action: FCRA

Inception Date: 06/02/2021

26. [redacted]

Court/Agency: American Arbitration Association

Cause of Action: State Statute (Credit Reporting)

Inception Date: 11/26/2020

27. [redacted]

Court/Agency: U.S. District Court for the Southern District of Florida

Cause of Action: FCRA

Inception Date: 10/30/2020

28. [redacted]

Court/Agency: U.S. Bankruptcy Court Middle District of Florida Tampa Division

Cause of Action: State Statute (Collections)

Inception Date: 11/13/2020

29. [redacted]

Court/Agency: U.S. Bankruptcy Court Middle District of Florida Tampa Division

Cause of Action: State Statute (Collections)

Inception Date: 11/12/2020

30. [redacted]

Court/Agency: U.S. District Court for the Eastern District of Wisconsin

Cause of Action: Other

Inception Date: 05/05/2021

31. [redacted]

Court/Agency: State of Wisconsin, Circuit Court, Milwaukee County, small claims

Cause of Action: Other

Inception Date: 01/27/2021

32. [redacted]

Court/Agency: United States District Court for the Northern District of Illinois Eastern Division

Cause of Action: FCRA

Inception Date: 04/08/2021

33. [redacted]

Court/Agency: U.S. District Court for the Northern District of Georgia, Newman Division

Cause of Action: FCRA

Inception Date: 10/29/2020

34. [redacted]

Court/Agency: District Court of Maryland for Baltimore County

Cause of Action: Other

Inception Date: 01/11/2021

35. [redacted]

Court/Agency: American Arbitration Association

Cause of Action: FCRA

Inception Date: 06/23/2021

36. [redacted]

Court/Agency: In the Justice Court Precinct No. 5 Travis County, Texas

Cause of Action: State Statute (Collections)

Inception Date: 06/08/2021

37. [redacted]
Court/Agency: Nassau County Supreme Court, New York
Cause of Action: Contract Dispute
Inception Date: 04/01/2021

38. [redacted]
Court/Agency: Superior Court for the State of California County of Contra Costa
Cause of Action: State Statute (Collections
Inception Date: 05/27/2021

39. [redacted]
Court/Agency: JAMS
Cause of Action: Contract Dispute
Inception Date: 02/08/2021

40. [redacted]
Court/Agency: Marion Superior Court
Cause of Action: FCRA
Inception Date: 02/11/2021

41. [redacted]
Court/Agency: United States District Court for the Southern District of California
Cause of Action: FCRA
Inception Date: 04/21/202

42. [redacted]
Court/Agency: U.S. District Court for the Middle District of Louisiana
Cause of Action: FCRA
Inception Date: 04/17/2020

43. [redacted]
Court/Agency: US District Court Middle District of Florida
Cause of Action: FCRA
Inception Date: 10/09/2020

44. [redacted]
Court/Agency: U.S. District Court for the Southern District of Florida, Fort Lauderdale Division
Cause of Action: FCRA
Inception Date: 04/28/2021

45. [redacted]
Court/Agency: In the County Court of the Seventh Judicial Circuit in and for the Flagler County, Florida Civil Division
Cause of Action: State Statute (Collections)
Inception Date: 01/22/2021

46. [redacted]
Court/Agency: U.S. District Court, Middle District of Florida
Cause of Action: Other
Inception Date: 05/26/2021

47. [redacted]
Court/Agency: JAMS
Cause of Action: TCPA
Inception Date: 02/05/2020

48. [redacted]
Court/Agency: U.S. District Court Eastern District of Wisconsin
Cause of Action: FCRA
Inception Date: 04/15/2021

49. [redacted]
Court/Agency: United States District Court Western District of Tennessee
Cause of Action: Contract Dispute
Inception Date: 11/20/2019

50. [redacted]
Court/Agency: United States District Court Eastern District of Pennsylvania
Cause of Action: FCRA
Inception Date: 04/16/2021

51. [redacted]
Court/Agency: US District Court District of Minnesota
Cause of Action: FCRA
Inception Date: 06/22/2021

52. [redacted]
Court/Agency: United States District Court for the Southern District of Florida
Cause of Action: FCRA
Inception Date: 02/26/2021

53. [redacted]

Court/Agency: Circuit Court of the 17th Judicial Circuit in and for Broward County, Florida
Cause of Action: Other
Inception Date: 02/04/2021

54. [redacted]

Court/Agency: United States District Court Southern District of Florida
Cause of Action: FCRA
Inception Date: 03/31/2021

55. [redacted]

Court/Agency: Circuit Court of Cook County, Illinois County Department, Law Division

Cause of Action: Other
Inception Date: 04/29/2021

56. [redacted]

Court/Agency: In the U.S. District Court for the Eastern District of Pennsylvania
Cause of Action: FCRA
Inception Date: 12/10/2020

57. [redacted]

Court/Agency: JAMS
Cause of Action: ECOA
Inception Date: 02/16/2021

58. [redacted]

Court/Agency: JAMS
Cause of Action: TCPA
Inception Date: 02/07/2020

59. [redacted]

Court/Agency: U.S. District Court Eastern District of California
Cause of Action: FCRA
Inception Date: 01/27/2021

60. [redacted]

Court/Agency: US District Court Southern District of Florida

Cause of Action: FCRA
Inception Date: 06/22/2021

61. [redacted]

Court/Agency: Superior Court of California, County of San Diego

Cause of Action: State Statute (Non-Collections)
Inception Date: 11/03/2020

62. [redacted]
Court/Agency: Superior Court of New Jersey Law Division, Special Civil Part

Cause of Action: Other
Inception Date: 12/06/2019

63. [redacted]
Court/Agency: U.S. District Court for the Middle District of Pennsylvania

Cause of Action: FCRA
Inception Date: 06/28/2021

64. [redacted]
Court/Agency: United States District Court Southern District of Florida

Cause of Action: FCRA
Inception Date: 03/02/2021

65. [redacted]
Court/Agency: Circuit Court of the Sixth Judicial Circuit in and for Pinellas County, Florida, Civil Division

Cause of Action: State Statute (Collections)
Inception Date: 10/17/2019

66. [redacted]
Court/Agency: U.S. District Court Southern District of Florida Miami Division

Cause of Action: FCRA
Inception Date: 01/20/2021

67. [redacted]
Court/Agency: US District Court for the District of Nevada

Cause of Action: FCRA
Inception Date: 05/28/2021

68. [redacted]
Court/Agency: US District Court Northern District of California

Cause of Action: Contract Dispute
Inception Date: 08/11/2021

69. [redacted]
Court/Agency: American Arbitration Association

Cause of Action: FCRA
Inception Date: 03/13/2021

70. [redacted]
Court/Agency: United States District Court Southern District of New York

Cause of Action: FCRA
Inception Date: 02/09/2021

***** Indicates one or more of the following: the incorrect bank is named in the caption; one bank is named in the caption but the banks share responsibility (*i.e.*, multiple accounts at issue); or the incorrect entity is named in the caption.

Schedule 5.03(b)

Indemnification

1. Alliance Data's name, state of incorporation and address, as set forth on the cover page of Exhibit 99.1 and in the sections entitled "Summary— Questions and Answers about the Separation" on page 7 of Exhibit 99.1 and "Summary— Summary of the Separation" on page 12 of Exhibit 99.1 to Amendment No. 3 to the registration statement on Form 10 filed on October 14, 2021.
2. The descriptions of the Distribution as described in the sections entitled "Summary—The Separation" on page 5 of Exhibit 99.1, "Summary—Summary of the Separation" on page 12 of Exhibit 99.1 and "The Separation—The Distribution" on page 43 of Exhibit 99.1 to Amendment No. 3 to the registration statement on Form 10 filed on October 14, 2021.

Schedule 6.03

Expenses

Estimated Separation Costs	ADS Expenses Low	ADS Expenses High	Loyalty Ventures Expenses Low	Loyalty Ventures Expenses High
Professional Fees				
PricewaterhouseCoopers LLP (project management)	$ 600,000	$ 750,000	$ -	$ -
PricewaterhouseCoopers LLP - (tax advisory services)	600,000	1,000,000	-	-
Grant Thornton LLP (project management)	250,000	325,000	-	-
Ernst & Young Capital Advisors, LLC (financial advisor)	350,000	500,000	-	-
Deloitte (auditor)	1,500,000	2,045,000	-	-
Morgan Stanley & Co. LLC (financial advisor)	9,000,000	11,000,000	-	-
Davis Polk (legal)	8,000,000	8,000,000	-	-
S&P Global Ratings (indicative rating)	175,000	175,000	-	-
Moody's Investor Services (indicative rating)	175,000	175,000	-	-
S&P Global Ratings (public rating)	650,000	800,000	-	-
Moody's Investor Services (public rating)	650,000	800,000	-	-
Chatham Financial (hedging strategy)	125,000	125,000	-	-
Toppan Merrill (financial printer)	120,000	170,000	-	-
Advisiry Partners (investor relations)	61,200	61,200	-	-
Tungsten (professional services)	15,000	24,000		
Transition Services Agreement - Third Party Consent Fees	147,000	212,000	-	-
Customer Contract Consent Fees	-	-	7,000,000	10,000,000
Miscellaneous expenses	250,000	250,000	-	-
	$ 22,668,200	$ 26,412,200	$ 7,000,000	$ 10,000,000

EXHIBIT A

FORM OF EMPLOYEE MATTERS AGREEMENT

[Attached]

EXHIBIT A

FORM OF EMPLOYEE MATTERS AGREEMENT

by and between

ALLIANCE DATA SYSTEMS CORPORATION

and

LOYALTY VENTURES INC.

Dated as of [—]

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EMPLOYEE MATTERS AGREEMENT

EMPLOYEE MATTERS AGREEMENT dated as of [●], 2021 (as the same may be amended from time to time in accordance with its terms, this "**Agreement**"), between Alliance Data Systems Corporation, a Delaware corporation ("**ADS**"), and Loyalty Ventures Inc., a Delaware corporation ("**Loyalty Ventures**") (each, a "**Party**" and together, the "**Parties**"). Capitalized terms used in this Agreement but not otherwise defined in this Agreement shall have the respective meanings ascribed to such terms in the Separation and Distribution Agreement dated as of [•], 2021 by and between the Parties, to which this Agreement is Exhibit A (the "**Separation Agreement**").

W I T N E S E T H:

WHEREAS, the board of directors of ADS (the "**ADS Board**") has determined that it is in the best interests of ADS and its stockholders to separate the Loyalty Ventures Business 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, the Separation Agreement and the other Ancillary Agreements;

WHEREAS, pursuant to the Separation Agreement, ADS and Loyalty Ventures have agreed to enter into this Agreement for the purpose of allocating between them assets, liabilities and responsibilities with respect to certain employee matters, including employee compensation and benefit plans and programs; and

WHEREAS, ADS and Loyalty Ventures have agreed that, except as otherwise expressly provided herein, the general approach and philosophy underlying this Agreement is to (a) allocate assets, Liabilities and responsibilities to the Loyalty Ventures Group (as opposed to the ADS Group) to the extent they relate to current or former employees and other service providers primarily related to the Loyalty Ventures Business and (b) allocate assets, Liabilities and responsibilities (other than those described in clause (a) above) to the ADS Group (as opposed to the Loyalty Ventures Group).

NOW, THEREFORE, in consideration of the mutual promises contained herein and in the Separation Agreement, the Parties hereby agree as follows:

ARTICLE 1
DEFINITIONS

Section 1.01. *Definitions*. (a) For purposes of this Agreement, the following terms shall have the following meanings:

"**Adjusted ADS Awards**" means, collectively, the Adjusted ADS PSUs and the Adjusted ADS RSUs.

"**Adjusted ADS PSU**" means any ADS PSU adjusted pursuant to Section 8.02(b) hereto.

"**Adjusted ADS RSU**" means any ADS RSU adjusted pursuant to Section 8.01(b) hereto.

"**ADS 401(k) Plan**" means any ADS Plan that is a defined contribution plan intended to qualify under Section 401(a) of the Code.

"**ADS Common Stock**" has the meaning set forth in the Separation Agreement.

"**ADS Compensation Committee**" means the compensation committee of the ADS Board.

"**ADS Contractor**" means each individual independent contractor or consultant (other than a Loyalty Ventures Contractor) of any member of the ADS Group.

"**ADS Director**" means a member of the ADS Board.

"**ADS EDCP**" means the Alliance Data Systems Corporation Executive Deferred Compensation Plan, amended and restated effective January 1, 2018.

"**ADS Employee**" means each individual who, following the Distribution Date, is (a) not a Loyalty Ventures Employee and (b) either (i) actively employed by any member of the ADS Group or (ii) an inactive employee located in the U.S. (including any employee on short- or long-term disability leave or other authorized leave of absence).

"**ADS Equity Plans**" means, collectively, (a) the Alliance Data Systems Corporation 2020 Omnibus Incentive Plan, and (b) the Alliance Data Systems Corporation 2015 Omnibus Incentive Plan (in each case, together with any successor plans thereto).

"**ADS ESPP**" means the Alliance Data Systems Corporation 2015 Employee Stock Purchase Plan.

"**ADS FSA**" means any ADS Plan that is a flexible spending account for health and dependent care expenses.

"**ADS Group**" has the meaning set forth in the Separation Agreement.

"**ADS H&W Plan**" means any ADS Plan that is an "employee welfare benefit plan" or "welfare plan" (as defined under Section 3(1) of ERISA). For the

avoidance of doubt, ADS FSAs are ADS H&W Plans and the ADS 401(k) Plan is not an ADS H&W Plan.

"**ADS Participant**" means any individual who is an ADS Employee, ADS Contractor or ADS Director and any beneficiary, dependent, or alternate payee of such individual, as the context requires.

"**ADS Plan**" means any Employee Plan (other than a Loyalty Ventures Plan) sponsored, maintained, administered, contributed to or entered into by any member of the ADS Group. For the avoidance of doubt, no Loyalty Ventures Plan is an ADS Plan.

"**ADS Post-Distribution Stock Value**" means 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.

"**ADS Pre-Distribution Stock Value**" means 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.

"**ADS PSU**" means each award of restricted stock units with respect to ADS Common Stock granted under the ADS Equity Plan subject to performance-based vesting conditions.

"**ADS RSU**" means each award of restricted share units with respect to ADS Common Stock granted under the ADS Equity Plan (other than ADS PSUs).

"**ADS Specified Rights**" means any and all rights to enjoy, benefit from or enforce any and all restrictive covenants, including covenants relating to non-disclosure, non-solicitation, non-competition, confidentiality or Intellectual Property, pursuant to any Employee Plan including any Associate Confidentiality Agreements, covering or with any Loyalty Ventures Employee, Loyalty Ventures Contractor, ADS Employee or ADS Contractor and to which any member of the Loyalty Ventures Group or ADS Group is a party (other than Loyalty Ventures Specified Rights).

"**COBRA**" means the continuation coverage requirements for "group health plans" under Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985, as codified in Section 4980B of the Code and Sections 601 through 608 of ERISA.

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Distribution**" has the meaning set forth in the Separation Agreement.

"**Distribution Date**" has the meaning set forth in the Separation Agreement.

"**Employee Plan**" means any (a) "employee benefit plan" as defined in Section 3(3) of ERISA, (b) compensation, employment, consulting, severance, termination protection, change in control, transaction bonus, retention or similar plan, agreement, arrangement, program or policy or (c) other plan, agreement, arrangement, program or policy providing for compensation, bonuses, profit-sharing, equity or equity-based compensation or other forms of incentive or deferred compensation, vacation benefits, insurance (including any self-insured arrangement), medical, dental, vision, prescription or fringe benefits, life insurance, relocation or expatriate benefits, perquisites, disability or sick leave benefits, employee assistance program, supplemental unemployment benefits or post-employment or retirement benefits (including compensation, pension, health, medical or insurance benefits), in each case whether or not written.

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended, together with the rules and regulations promulgated thereunder.

"**Former ADS Employee**" means each individual who, as of immediately prior to the Distribution Date, is a former employee of any member of the ADS Group.

"**H&W Plan**" means any ADS H&W Plan or Loyalty Ventures H&W Plan.

"**HIPAA**" means the health insurance portability and accountability requirements for "group health plans" under the Health Insurance Portability and Accountability Act of 1996, as amended, together with the rules and regulations promulgated thereunder.

"**Liabilities**" has the meaning set forth in the Separation Agreement.

"**Loyalty Ventures 401(k) Plan**" means any Loyalty Ventures Plan that is a defined contribution plan intended to qualify under Section 401(a) of the Code.

"**Loyalty Ventures Active Employee**" means any individual actively employed primarily with respect to the Loyalty Ventures Business or employed by any member of the Loyalty Ventures Group.

"**Loyalty Ventures Assets**" has the meaning set forth in the Separation Agreement.

"**Loyalty Ventures Awards**" means, collectively, the Loyalty Ventures PSUs and the Loyalty Ventures RSUs.

"**Loyalty Ventures Board**" means the board of directors for Loyalty Ventures.

"**Loyalty Ventures Common Stock**" has the meaning set forth in the Separation Agreement.

"**Loyalty Ventures Compensation Committee**" means the compensation committee of the Loyalty Ventures Board.

"**Loyalty Ventures Contractor**" means each individual independent contractor or consultant who, as of the Distribution Date, primarily provides or provided services with respect to the Loyalty Ventures Business.

"**Loyalty Ventures Director**" means a member of the Loyalty Ventures Board.

"**Loyalty Ventures Employee**" means each (a) individual who, as of immediately following the Distribution Date, is (i) a Loyalty Ventures Active Employee or (ii) an inactive employee (including any Loyalty Ventures Inactive Employee) primarily employed with respect to the Loyalty Ventures Business by any member of the Loyalty Ventures Group, but not including any Transferred Loyalty Ventures Employees, or (b) a Transferred Loyalty Ventures Employee.

"**Loyalty Ventures Group**" has the meaning set forth in the Separation Agreement.

"**Loyalty Ventures H&W Plan**" means any Loyalty Ventures Plan that is (a) an "employee welfare benefit plan" or "welfare plan" (as defined under Section 3(1) of ERISA) or (b) a similar plan that is sponsored, maintained, administered, contributed to or entered into outside of the United States. For the avoidance of doubt, Loyalty Ventures FSAs are Loyalty Ventures H&W Plans and the Loyalty Ventures 401(k) Plan (once adopted) is not a Loyalty Ventures H&W Plan.

"**Loyalty Ventures Inactive Employee**" means any individual who is (i) on an approved leave of absence and (ii) receiving long-term or short-term disability benefits under an ADS H&W Plan who is employed primarily with respect to the Loyalty Ventures Business or employed by any member of the Loyalty Ventures Group.

"**Loyalty Ventures Participant**" means any individual who is a Loyalty Ventures Employee or Loyalty Ventures Contractor, and any beneficiary, dependent, or alternate payee of such individual, as the context requires.

"**Loyalty Ventures Plan**" means any Employee Plan that (a) is or was sponsored, maintained, administered, contributed to or entered into by any member of the Loyalty Ventures Group, whether before, as of or after the Distribution Date or (b) for which Liabilities transfer to any member of the Loyalty Ventures Group under this Agreement or pursuant to applicable Law as a result of the Distribution.

"**Loyalty Ventures Specified Rights**" means any and all rights to enjoy, benefit from or enforce any and all restrictive covenants, including covenants relating to non-disclosure, non-solicitation, non-competition, confidentiality or

Intellectual Property, applicable or related, in whole or in part, to the Loyalty Ventures pursuant to any Employee Plan, including any Associate Confidentiality Agreements, covering or with any Loyalty Ventures Employee or Loyalty Ventures Contractor and to which any member of the Loyalty Ventures Group or ADS Group is a party; *provided* that, with respect to any Intellectual Property existing, conceived, created, developed or reduced to practice prior to the Distribution Date, the foregoing rights to enjoy, benefit from or enforce any restrictive covenants related to Intellectual Property is limited to those restrictive covenants related to Intellectual Property included in the Loyalty Ventures Assets.

"**Loyalty Ventures Stock Value**" means the volume weighted average trading price per share of Loyalty Ventures Common Stock, trading "regular way", during the five trading days immediately following the Distribution Date.

"**Non-U.S. Loyalty Ventures Active Employee**" means any Loyalty Ventures Active Employee who is not a U.S. Loyalty Ventures Active Employee.

"**Non-U.S. Loyalty Ventures Participant**" means any Loyalty Ventures Participant who is not a U.S. Loyalty Ventures Participant.

"**Record Date**" has the meaning set forth in the Separation Agreement.

"**Restricted Period**" means the period beginning on the Distribution Date and ending on the date that the Transition Services Agreement is terminated.

"**Special Achievement RSUs**" means the awards relating to cash and units listed on Schedule 8.04.

"**Sponsored Employee**" means any Loyalty Ventures Employee set forth on Schedule 1.01(a)(ii) who is working on a visa or work permit sponsored by ADS or an ADS Group member as of immediately prior to the Distribution Date.

"**Transferred Loyalty Ventures Employee**" means any individual who, upon mutual agreement of the Parties, transfers employment from the ADS Group to the Loyalty Ventures Group following the Distribution Date (whether in connection with any Ancillary Agreement or otherwise).

"**U.S. Loyalty Ventures Active Employee**" means any Loyalty Ventures Active Employee employed or engaged in the United States.

"**U.S. Loyalty Ventures Inactive Employee**" means any Loyalty Ventures Inactive Employee employed or engaged in the United States.

"**U.S. Loyalty Ventures Participant**" means any Loyalty Ventures Participant employed or engaged in the United States.

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

Term	Section
ADS	Preamble
ADS Board	Preamble
ADS Bonus Plan	Section 7.01
ADS Retained Employee Liabilities	Section 2.01(a)
2021 ADS Cash Bonuses	Section 7.01
2021 Loyalty Ventures Cash Bonuses	Section 7.01
Delayed Transfer Period	Section 3.01(b)
Estimated Prorated Bonus Amount	Section 7.01
Final Liquidation Date	Section 5.01(c)
Loyalty Ventures	Preamble
Loyalty Ventures Assumed Employee Liabilities	Section 2.01(b)
Loyalty Ventures Bonus Plan	Section 7.01
Loyalty Ventures Equity Plan	Section 8.05(a)
Loyalty Ventures FSA	Section 6.03
Loyalty Ventures PSU Replacement Award	Section 8.02(a)
Loyalty Ventures RSU	Section 8.01(a)
Loyalty Ventures RSU Replacement Award	Section 8.01(a)
Personnel Records	Section 9.01
Retirement Eligible Employee	Section 8.03
Special LTIP RSU	Section 8.03
Transition Date	Section 6.01(a)
Vendor Contract	Section 11.03

ARTICLE 2
GENERAL ALLOCATION OF LIABILITIES; INDEMNIFICATION

Section 2.01. *Allocation of Employee-Related Liabilities.*

(a) Subject to the terms and conditions of this Agreement, effective as of the Distribution Date, ADS shall, or shall cause the applicable member of the ADS Group to, assume and retain, and no member of the Loyalty Ventures Group shall have any further obligation with respect to, any and all Liabilities (i) relating to, arising out of or in respect of any ADS Participant or any ADS Plan, in each case, other than any Loyalty Ventures Assumed Employee Liabilities (as defined below), or (ii) attributable to actions expressly specified to be taken by any member of the ADS Group under this Agreement, in each case, (x) whether arising before, on or after the Distribution Date, (y) whether based on facts occurring before, on or after the Distribution Date and (z) irrespective of which Person such Liabilities are asserted against or which Person such Liabilities attached to as a matter of applicable Law or contract or (iii) expressly assumed or retained, as applicable, by any member of the ADS Group pursuant to this Agreement (collectively, "**ADS Retained Employee Liabilities**"). For the avoidance of doubt, all ADS Retained Employee Liabilities are ADS Liabilities for purposes of the Separation Agreement.

(b) Subject to the terms and conditions of this Agreement, effective as of the Distribution Date, Loyalty Ventures shall, or shall cause the applicable member of the Loyalty Ventures Group to, assume, and no member of the ADS Group shall have any further obligation with respect to, any and all Liabilities (i) relating to, arising out of or in respect of any Loyalty Ventures Participant or any Loyalty Ventures Plan or (ii) attributable to actions expressly specified to be taken by any member of the Loyalty Ventures Group under this Agreement, in each case, (x) whether arising before, on or after the Distribution Date, (y) whether based on facts occurring before, on or after the Distribution Date and (z) irrespective of which Person such Liabilities are asserted against or which Person such Liabilities attached to as a matter of applicable Law or contract (collectively, "**Loyalty Ventures Assumed Employee Liabilities**"), including without limitation:

(i) employment, separation or retirement agreements or arrangements to the extent applicable to any Loyalty Ventures Participant;

(ii) wages, salaries, incentive compensation, commissions, bonuses and other compensation payable to any Loyalty Ventures Participants, without regard to when such wages, salaries, incentive compensation, equity compensation, commissions, bonuses and other compensation are or may have been earned;

(iii) severance or similar termination-related pay or benefits applicable to any Loyalty Ventures Participant relating to the termination or alleged termination of any Loyalty Ventures Participant's employment or service with the Loyalty Ventures Group or ADS Group that occurs prior to, at or after the Distribution;

(iv) workers' compensation and unemployment compensation benefits for all Loyalty Ventures Participants;

(v) change in control, transaction bonus, retention and stay bonuses payable to any Loyalty Ventures Participants;

(vi) any applicable Law (including ERISA and the Code) to the extent related to participation by any Loyalty Ventures Participant in any Employee Plan;

(vii) any Actions, allegations, demands, assessments, settlements or judgments relating to or involving any Loyalty Ventures Participant (including, without limitation, those relating to labor and employment, wages, hours, overtime, employee classification, hostile workplace, civil rights, discrimination, harassment, affirmative action, work authorization, immigration, safety and health, information privacy and security, workers' compensation, continuation coverage under group

health plans, wage payment, hiring practice and the payment and withholding of Taxes);

(viii) any costs or expenses incurred in designing, establishing and administering any Loyalty Ventures Plans or payroll or benefits administration for Loyalty Ventures Participants;

(ix) the employer portion of any employment, payroll or similar Taxes relating to any of the foregoing for any Loyalty Ventures Participant; and

(x) any Liabilities expressly assumed or retained, as applicable, by any member of the Loyalty Ventures Group pursuant to this Agreement.

For the avoidance of doubt, all Loyalty Ventures Assumed Employee Liabilities are Loyalty Ventures Liabilities for purposes of the Separation Agreement.

Section 2.02. *Indemnification*. For the avoidance of doubt, the provisions of Article 5 of the Separation Agreement shall apply to and govern the indemnification rights and obligations of the parties with respect to the matters addressed by this Agreement.

ARTICLE 3
EMPLOYEES AND CONTRACTORS; AND EMPLOYMENT

Section 3.01. *Transfers of Employment*.

(a) Effective as of the Distribution Date, (i) the employment of each Non-U.S. Loyalty Ventures Active Employee, to the extent employed at such time, will be continued by a member of the Loyalty Ventures Group, (ii) the employment of each ADS Employee, to the extent employed at such time, will be continued by a member of the ADS Group and (iii) each U.S. Loyalty Ventures Active Employee shall remain employed by a member of the ADS Group through the Distribution Date, and, immediately following the Distribution Date, shall terminate employment with the ADS Group and shall immediately commence employment with a member of the Loyalty Ventures Group and shall be treated as a Loyalty Ventures Employee for all purposes pursuant to this Agreement. Before the Distribution Date, ADS and Loyalty Ventures shall cooperate in good faith to transfer the employment of each Non-U.S. Loyalty Ventures Employee from the ADS Group to the Loyalty Ventures Group, and the parties shall use their reasonable best efforts to cause all such transfers of employment to occur no later than the Distribution Date; *provided* however, that the parties agree to mutually cooperate to transfer the employment of any Transferred Loyalty Ventures Employees to the Loyalty Ventures Group as soon as possible following the Distribution Date and, unless as otherwise contemplated in connection with the

Transition Services Agreement, in no event later than the expiration of the Delayed Transfer Period.

(b) Notwithstanding anything to the contrary in this Agreement, each Loyalty Ventures Employee who, as of the Distribution Date, is a U.S. Loyalty Ventures Inactive Employee will continue to be employed by a member of the ADS Group until such individual returns to active service. Upon a U.S. Loyalty Ventures Inactive Employee's return to active service, Loyalty Ventures will make an offer of employment to such U.S. Loyalty Ventures Inactive Employee on terms and conditions of employment consistent with (A) this Agreement and (B) the terms and conditions of employment applicable to such U.S. Loyalty Ventures Inactive Employee at such time; *provided*, that such U.S. Loyalty Ventures Inactive Employee returns to active service within 18 months following the Distribution Date (such period, the "**Delayed Transfer Period**"). For the avoidance of doubt, (x) immediately following the Distribution Date, the employment of each Loyalty Ventures Employee located in the U.S. (other than any U.S. Loyalty Ventures Inactive Employee) who is on an approved leave of absence (including parental, military or other authorized leave of absence) will continue with or be transferred to, as applicable, the Loyalty Ventures Group in accordance with Section 3.01(a) and (y) all costs relating to any compensation, benefits, severance or other employment-related costs in respect of U.S. Loyalty Ventures Inactive Employees will constitute Loyalty Ventures Assumed Employee Liabilities.

(c) When required, each of the parties hereto agrees to execute, and to use their reasonable best efforts to have the applicable employees execute, any such documentation or consents as may be necessary or desirable to reflect or effectuate any such assignments or transfers contemplated by this Section 3.01.

(d) Except as otherwise provided under the Transition Services Agreement, effective as of the Distribution Date, (i) Loyalty Ventures shall adopt or maintain, and shall cause each member of the Loyalty Ventures Group to adopt or maintain, leave of absence programs and (ii) Loyalty Ventures shall honor, and shall cause each member of the Loyalty Ventures Group to honor, all terms and conditions of authorized leaves of absence which have been granted to any Loyalty Ventures Participant before the Distribution Date, including such leaves that are to commence on or after the Distribution Date.

Except as provided in Section 8.05(i), with respect to any Delayed Transfer Employee, references to the "**Distribution Date**" in this Agreement, as applicable, shall in each case be deemed to refer to the date such Delayed Transfer Employee commences employment with the Loyalty Ventures Group, *mutatis mutandis*, if later.

Section 3.02. *Employment Agreements*.

(a) With respect to any employment, retention, severance, restrictive covenant or similar agreements with Loyalty Ventures Employees to which a member of the Loyalty Ventures Group is not a party, or which do not otherwise transfer to a Loyalty Ventures Group member by operation of applicable Law, the Parties shall use reasonable best efforts to assign, effective on or before the Distribution Date (or, with respect to Delayed Transfer Employee, effective as of the applicable Delayed Transfer Date) the applicable employment, retention, severance, restrictive covenant or similar agreement, as applicable, to a member of the Loyalty Ventures Group in the applicable jurisdiction, and Loyalty Ventures shall, or shall cause a member of the Loyalty Ventures Group to assume and perform such agreements in accordance with their terms, in each case as if originally entered into by such applicable member of the Loyalty Ventures Group, and the ADS Group shall cease to have any Liabilities or responsibilities with respect thereto; *provided*, *however*, that this Section 3.02(a) shall not apply to any employment, retention, severance, restrictive covenant or similar agreements with any Loyalty Ventures Employees who are employed in a jurisdiction outside of the United States in which the Parties do not intend for such agreements to be transferred to the Loyalty Ventures Group.

(b) With respect to any employment, retention, severance, restrictive covenant or similar agreements with ADS Employees to which a member of the ADS Group is not a party, or which do not otherwise transfer to an ADS Group member by operation of applicable Law, the Parties shall use reasonable best efforts to assign, effective on or before the Distribution Date (or, with respect to Delayed Transfer Employee, effective as of the applicable Delayed Transfer Date) the applicable employment, retention, severance, restrictive covenant or similar agreement, as applicable, to a member of the ADS Group in the applicable jurisdiction, and ADS shall, or shall cause a member of the ADS Group to assume and perform such agreements in accordance with their terms, in each case as if originally entered into by such applicable member of the ADS Group, and the Loyalty Ventures Group shall cease to have any Liabilities or responsibilities with respect thereto; *provided*, *however*, that this Section 3.02(b) shall not apply to any employment, retention, severance, restrictive covenant or similar agreements with any ADS Employees who are employed in a jurisdiction outside of the United States in which the Parties do not intend for such agreements to be transferred to the ADS Group.

(c) From and after the Distribution Date (or, if applicable, the Delayed Transfer Date), each of ADS and Loyalty Ventures hereby agrees to comply with and honor any employment, services, retention or severance agreement between any member of the ADS Group or the Loyalty Ventures Group, as the case may be, on the one hand, and any ADS Employee or ADS Contractor or Loyalty Ventures Employee or Loyalty Ventures Contractor, respectively, on the other hand, and assumes responsibility for, and, to the extent applicable, Loyalty Ventures or the relevant member of the Loyalty Ventures Group and ADS or the relevant member of the ADS Group, respectively, shall cease to be responsible for or to otherwise have any Liability in respect of, such agreements.

Section 3.03. *Contractors*. With respect to any independent contractor or consulting agreements with Loyalty Ventures Contractors or ADS Contractors to which a Loyalty Ventures Group member or an ADS Group member, respectively, is not a party, or which do not otherwise transfer to a Loyalty Ventures Group member or an ADS Group member, respectively, by operation of applicable Law, the parties shall use reasonable best efforts to assign the applicable agreements to a member of the Loyalty Ventures Group or a member of the ADS Group, as applicable, in the applicable jurisdiction, and Loyalty Ventures or ADS, as applicable, shall, or shall cause a member of the Loyalty Ventures Group or a member of the ADS Group, respectively, to assume and perform any obligations under such independent contractor and consulting agreements.

Section 3.04. *Assignment of Specified Rights*. To the extent permitted by applicable Law and the applicable agreement, if any, effective as of the Distribution Date, (i) ADS hereby assigns, to the maximum extent possible, on behalf of itself and the ADS Group, the Loyalty Ventures Specified Rights, to Loyalty Ventures and (ii) Loyalty Ventures hereby assigns, to the maximum extent possible, on behalf of itself and the Loyalty Ventures Group, the ADS Specified Rights, to ADS.

ARTICLE 4
PLANS

Section 4.01. *Plan Participation*.

(a) Except as otherwise expressly provided in this Agreement and subject to any provisions of the Transition Services Agreement, effective as of immediately following the Distribution Date, (i) (x) all Loyalty Ventures Participants shall cease any participation in, and benefit accrual under, ADS Plans other than the ADS H&W Plans (where participation will continue until the Transition Date), and (y) to the extent applicable, all members of the Loyalty Ventures Group shall cease to be participating employers under the ADS Plans and, (ii) to the extent applicable, (x) all ADS Participants shall cease any participation in, and benefit accrual under, Loyalty Ventures Plans and (y) all members of the ADS Group shall cease to be participating employers under the Loyalty Ventures Plans. Prior to the Distribution Date, ADS and Loyalty Ventures shall take all actions necessary to effectuate the actions contemplated by this Section 4.01 and to cause (A) except as otherwise set forth in the Transition Services Agreement, the applicable Loyalty Ventures Group member to have in effect such corresponding Loyalty Ventures Plan as of the Distribution Date, (B) the applicable Loyalty Ventures Group Member to assume or retain all Liabilities with respect to each Loyalty Ventures Plan and the applicable ADS Group member to assume or retain all Liabilities with respect to each ADS Plan, in each case, effective as of the Distribution Date and (C) all assets of any Loyalty Ventures Plan to be transferred to or retained by the applicable Loyalty Ventures Group member in the applicable jurisdiction and all assets of any ADS Plan to be

transferred to or retained by the applicable ADS Group member in the applicable jurisdiction, in each case, effective as of the Distribution Date. Effective as of the Distribution Date, ADS shall not be considered a fiduciary for any Loyalty Ventures Plans.

(b) The Parties agree that, to the extent the terms of this Agreement do not expressly prescribe the treatment of any specific compensation or benefits matter (including, without limitation, regarding the treatment of participation in any Employee Plans or the allocation of any Liabilities hereunder) applicable to any Delayed Transfer Employee, as the case may be, the Parties will reasonably cooperate in good faith to cause such matter to be treated in a manner consistent with the corresponding treatment provided under this Agreement of such matter as applicable to any Delayed Transfer Employee, respectively (or, if no such corresponding treatment is provided under the terms of this Agreement, then such matter shall otherwise be treated in accordance with the general approach and philosophy regarding the allocation of assets and Liabilities under the terms of this Agreement, as expressly set forth in the recitals to this Agreement).

Section 4.02. *Service Credit*. From and after the Distribution Date, for purposes of determining eligibility to participate, vesting and benefit accrual under any Loyalty Ventures Plan in which a Loyalty Ventures Employee is eligible to participate on and following the Distribution Date, such Loyalty Ventures Employee's service with any member of the ADS Group or the Loyalty Ventures Group, as the case may be, prior to the Distribution Date shall be treated as service with the Loyalty Ventures Group, to the extent recognized by the ADS Group or the Loyalty Ventures Group, as applicable, under an analogous ADS Plan or Loyalty Ventures Plan, as applicable, prior to the Distribution Date; *provided*, *however*, that such service shall not be recognized to the extent that such recognition would result in any duplication of benefits.

ARTICLE 5
RETIREMENT PLANS

Section 5.01. *401(k) Plan*.

(a) Effective as of the Distribution Date, each Loyalty Ventures Participant who participates in the ADS 401(k) Plan immediately prior to the Distribution Date (i) will cease active participation in the ADS 401(k) Plan as of the Distribution Date, (ii) will be treated as a terminated participant for purposes of the ADS 401(k) Plan and (iii) upon the establishment of the Loyalty Ventures 401(k) Plan following the Distribution Date, will become eligible to participate in the Loyalty Ventures 401(k) Plan.

(b) From and after the Distribution Date, the applicable member of the Loyalty Ventures Group shall be responsible for the administration of the Loyalty Ventures 401(k) Plan, and no member of the ADS Group shall have any Liability

or obligation (including any administration or fiduciary obligation) with respect to the Loyalty Ventures 401(k) Plan.

(c) Effective as of the Distribution Date, other than as a result of the Distribution, participants in the ADS 401(k) Plan shall not be permitted to purchase additional shares of Loyalty Ventures Common Stock under the ADS 401(k) Plan. Participants shall be permitted to sell shares of Loyalty Ventures Common Stock received as a result of the Distribution at their discretion until October 27, 2022. The remaining shares of Loyalty Ventures Common Stock received as a result of the Distribution shall be liquidated on the earlier of (i) November 1, 2022, (ii) the date the Loyalty Ventures Common Stock ceases to be readily tradable on an established securities market and (iii) the applicable effective date for the liquidation set forth in a ruling by the Supreme Court of the United States, or by any other court of applicable jurisdiction, to the effect that the ERISA duty of diversification would require the diversification of each investment option offered under a defined contribution plan or otherwise require the divestiture of any single-stock fund other than a fund of employer stock (the "**Final Liquidation Date**"). Proceeds from the sale of shares of Loyalty Ventures Common Stock in accordance with the immediately preceding sentence will be invested pro rata according to the Participant's investment election on file for new contributions to the ADS 401(k) Plan. If the participant has no investment election on file, the ADS Investment Committee shall direct the plan recordkeeper to direct proceeds to the ADS 401(k) Plan's Qualified Default Alternative Investment (QDIA). In the event that Loyalty Ventures posts a dividend during the period between the Distribution and Final Liquidation Date, the ADS 401(k) Plan will not purchase additional shares of Loyalty Ventures Common Stock, and any cash amounts received in respect of such dividends will follow the participant investment elections for new contributions to the ADS 401(k) Plan. If the participant has no investment election on file, the ADS Investment Committee shall direct the plan recordkeeper to direct proceeds to the ADS 401(k) Plan's Qualified Default Alternative Investment (QDIA). ADS shall assume sole responsibility for ensuring that the ADS 401(k) Plan is maintained in compliance with applicable Laws with respect to holding Loyalty Ventures Common Stock and shares of ADS Common Stock. Shares of Loyalty Ventures Common Stock shall not be permitted to be distributed in-kind, in a lump sum or through periodic distributions of Loyalty Ventures Common Stock, and will only be permitted to be paid in cash; *provided* that direct rollovers will be permitted as allowed by the ADS 401(k) plan in the form of payment in cash.

Section 5.02. *ADS EDCP.* Effective as of the Distribution Date, each Loyalty Ventures Participant who participates in the ADS EDCP as of immediately prior to the Distribution Date will cease active participation in the ADS EDCP. For the avoidance of doubt, from and after the Distribution Date, each Loyalty Ventures Participant shall not actively participate in the ADS EDCP, but will continue to accrue additional interest for the duration of any waiting period prior to distribution of the applicable account balance. To the maximum extent permitted by Section 409A of the Code, a Loyalty Ventures Participant

shall be considered to have undergone a "separation from service" for purposes of Section 409A of the Code and the ADS EDCP in connection with the Distribution, and, following the Distribution Date, any amounts deferred pursuant to the ADS EDCP shall be treated as prescribed by the terms of the ADS EDCP, including with respect to a "separation from service".

Section 5.03. *Section 409A*. The parties shall cooperate in good faith so that the transactions contemplated by this Agreement and the Separation Agreement will not result in adverse tax consequences under Section 409A of the Code to any Loyalty Ventures Participant, in respect of their benefits under any Employee Plan.

ARTICLE 6
HEALTH AND WELFARE PLANS; PAID TIME OFF AND VACATION

Section 6.01. *Cessation of Participation in ADS H&W Plans; Participation in Loyalty Ventures H&W Plans*.

(a) Notwithstanding anything to the contrary in Section 4.01, Loyalty Ventures Participants in the United States shall continue to participate in ADS H&W Plans pursuant to the terms of a Transition Services Agreement and Loyalty Ventures Participants shall cease to participate in ADS H&W Plans following December 31, 2021 (the "**Transition Date**").

(b) Effective as of the Transition Date, Loyalty Ventures shall cause Loyalty Ventures Participants who participate in an ADS H&W Plan immediately prior to the Transition Date to be eligible to enroll in a corresponding Loyalty Ventures H&W Plan.

(c) Subject to the terms of the applicable Loyalty Ventures H&W Plan and applicable Law, Loyalty Ventures shall use its reasonable best efforts to waive all limitations as to preexisting conditions, exclusions and waiting periods with respect to participation and coverage requirements applicable to Loyalty Ventures Participants under any Loyalty Ventures H&W Plan in which any such Loyalty Ventures Participant may be eligible to participate on or after the Transition Date to the extent that such conditions, exclusions and waiting periods are not applicable to or had been previously satisfied by any such Loyalty Ventures Participant under the corresponding ADS H&W Plans.

Section 6.02. *Assumption of Health and Welfare Plan Liabilities*. Subject to Section 6.01, effective as of the Transition Date, all Liabilities relating to, arising out of, or resulting from health and welfare coverage or claims incurred on or after the Transition Date by each Loyalty Ventures Participant under the ADS H&W Plans shall be Liabilities of the ADS Group. Notwithstanding anything to the contrary contained herein, subject to Section 6.01, any and all costs, expenses or Liabilities relating to participation by Loyalty Ventures Participants in the ADS H&W Plans during the Delayed Transfer Period shall be

reimbursed by Loyalty Ventures to the ADS Group in accordance with the terms of the Transition Services Agreement and all costs, expenses or Liabilities relating to Loyalty Ventures Participants located primarily in the U.S. shall be retained by the ADS Group during the period covered by the Transition Services Agreement. For the avoidance of doubt, subject to Section 6.03, (a) all Liabilities arising under (i) any ADS H&W Plan with respect to Loyalty Ventures Participants or (ii) any Loyalty Ventures H&W Plan and (b) all Liabilities arising out of, relating to or resulting from the cessation of a Loyalty Ventures Participant's participation in any ADS H&W Plan and transfer to a Loyalty Ventures H&W Plan as set forth herein (including any Actions or claims by any Loyalty Ventures Participants related thereto) shall, in each case, be Loyalty Ventures Assumed Employee Liabilities.

Section 6.03. *Flexible Spending Account Plan Treatment*. Each Loyalty Ventures Participant shall continue to participate in the ADS FSA in accordance with its existing terms as contemplated by the Transition Services Agreement through December 31, 2021 (the grace period permitted by plan design shall end on March 31, 2022 for service dates through December 31, 2021). The Loyalty Ventures Participants shall continue to make contributions during 2021 in accordance with their elections as of the Distribution Date and shall otherwise participate on the same terms and conditions as of prior to the Distribution Date. Effective as of January 1, 2022, Loyalty Ventures intends to establish a flexible spending account plan for health and dependent care expenses ("**Loyalty Ventures FSA**"). *Workers' Compensation Liabilities*. Unless as otherwise expressly provided in the Separation Agreement, effective as of the Distribution Date, all workers' compensation Liabilities relating to, arising out of, or resulting from any claim by any Loyalty Ventures Participant that result from an accident or from an occupational disease, regardless of whether incurred before, on or after the Distribution Date, shall be assumed by Loyalty Ventures and shall constitute Loyalty Ventures Assumed Employee Liabilities. The parties shall cooperate with respect to any notification to appropriate governmental agencies of the disposition and the issuance of new, or the transfer of existing, workers' compensation insurance policies and contracts governing the handling of claims.

Section 6.05. *Vacation and Paid Time Off*. Effective as of the Distribution Date, the applicable Loyalty Ventures Group member shall recognize and assume all Liabilities with respect to vacation, holiday, sick leave, paid time off, floating holidays, personal days and other paid time off with respect to Loyalty Ventures Participants accrued on or prior to the Distribution Date, and Loyalty Ventures shall credit each such Loyalty Ventures Participant with such accrual; *provided*, that if any such vacation or paid time off is required under applicable Law to be paid out to the applicable Loyalty Ventures Participant in connection with the Distribution, such payment will be made by Loyalty Ventures as of the Distribution Date, and Loyalty Ventures will credit such Loyalty Ventures Participant with unpaid vacation time or paid time off in respect thereof; it being understood that any amount of vacation or paid time off required to be

paid out in connection with the Distribution shall constitute Loyalty Ventures Assumed Employee Liabilities.

Section 6.06. *COBRA and HIPAA*.

(a) The ADS Group shall administer the ADS Group's compliance with the health care continuation coverage requirements of COBRA, the certificate of creditable coverage requirements of HIPAA and the corresponding provisions of the ADS H&W Plans with respect to Loyalty Ventures Participants who incur a COBRA "qualifying event" occurring on or before the Transition Date; *provided* that, for the avoidance of doubt, any Liabilities related thereto shall constitute Loyalty Ventures Assumed Employee Liabilities.

(b) Loyalty Ventures shall be solely responsible for all Liabilities incurred pursuant to COBRA and for administering, at Loyalty Ventures' expense, compliance with the health care continuation coverage requirements of COBRA, the certificate of creditable coverage requirements of HIPAA, and the corresponding provisions of the Loyalty Ventures H&W Plans with respect to Loyalty Ventures Participants who incur a COBRA "qualifying event" that occurs at any time after the Transition Date.

(c) The parties agree that neither the Distribution nor any assignment or transfer of the employment or services of any employee or individual independent contractor as contemplated under this Agreement shall constitute a COBRA "qualifying event" for any purpose of COBRA.

ARTICLE 7
INCENTIVE COMPENSATION

Section 7.01. *Incentive Compensation*. Each Loyalty Ventures Participant participating in any ADS Plan that is a cash bonus or cash incentive plan (each, an "**ADS Bonus Plan**") as of immediately prior to the Distribution Date shall, as of the Distribution Date, transfer to a Loyalty Ventures Plan that is a cash bonus or cash incentive plan (each, a "**Loyalty Ventures Bonus Plan**") relating to the Loyalty Ventures 2021 fiscal year (the "**2021 Loyalty Ventures Cash Bonuses**"), but shall be credited with service for any time the Loyalty Ventures Participant provided services to ADS or the ADS Group between January 1, 2021 and the Distribution Date. Any 2021 Loyalty Ventures Cash Bonuses that are earned and payable to Loyalty Ventures Participants under such Loyalty Ventures Bonus Plans will be paid by Loyalty Ventures in accordance with the terms of the applicable Loyalty Ventures Bonus Plan (including terms relating to the timing of payment); *provided* that at or following the Distribution Date, ADS shall determine the amount that would be payable to Loyalty Ventures Participants pursuant to the terms of an ADS Bonus Plan for the period beginning on January 1, 2021 and ending on the Distribution Date and, within thirty (30) days following the Distribution Date, will pay such amount to Loyalty Ventures (the "**Estimated Prorated Bonus Amount**"). To the extent that following the

end of the Loyalty Ventures 2021 fiscal year it is determined that the amount of the 2021 Loyalty Ventures Cash Bonuses attributable to the period prior to the Distribution Date is (i) greater than the Estimated Prorated Bonus Amount, ADS shall reimburse Loyalty Ventures for any such excess amount and (ii) less than the Estimated Prorated Bonus Amount, Loyalty Ventures shall reimburse ADS for any such amount.

ARTICLE 8
TREATMENT OF OUTSTANDING EQUITY AWARDS

Section 8.01. *RSUs*.

(a) Loyalty Ventures Participants.

(i) ADS RSUs Granted More Than a Year Prior. Effective as of three (3) Business Days prior to the Record Date, each ADS RSU that (i) is outstanding as of three (3) Business Days prior to the Record Date, (ii) was granted more than one year prior to such date and (iii) held by a Loyalty Ventures Participant shall immediately vest and be settled in shares of ADS Common Stock to be credited to such Loyalty Ventures Participant's account prior to the Record Date.

(ii) ADS RSUs Granted Less Than a Year Prior. Effective as of the Distribution Date, each ADS RSU (other than the Special Achievement RSUs or Special LTIP RSUs (each as defined below)) that (i) is outstanding immediately prior to the Distribution Date, (ii) was granted less than one year prior to such date and (iii) held by a Loyalty Ventures Participant, shall be forfeited and, as soon as reasonably practicable following the Distribution Date, shall be replaced with (A) a new award (the "**Loyalty Ventures RSU Replacement Award**") with a grant date fair value (as determined by the Loyalty Ventures Compensation Committee) equal to 75% of the value of the ADS RSU, with (x) one half of such Loyalty Ventures RSU Replacement Award to be granted as a restricted stock unit award with respect to Loyalty Ventures Common Stock (the "**Loyalty Ventures RSU**") that has a grant date fair value (as determined by the Loyalty Ventures Compensation Committee) equal to 50% of the value of the Loyalty Ventures RSU Replacement Award, with the number of shares of Loyalty Ventures Common Stock relating to such Loyalty Ventures RSU to be determined by the Loyalty Ventures Compensation Committee, taking the ADS Pre-Distribution Stock Value multiplied by the number of ADS RSUs and divided by the Loyalty Ventures Stock Value, with any fractional shares rounded up to the nearest whole number of shares and (y) a long-term cash incentive award equal to 50% of the value of the Loyalty Ventures RSU Replacement Award to be determined by the Loyalty Ventures Compensation Committee, taking the ADS Pre-Distribution Stock Value multiplied by the number of ADS RSUs and (B) a cash payment equal to

25% of the aggregate value of such ADS RSUs valued at the ADS Pre-Distribution Stock Value. The Loyalty Ventures RSU Replacement Awards shall be subject to the same terms and conditions (including vesting and payment schedules) as applicable to the corresponding ADS RSUs as of immediately prior to the Distribution Date and the cash payment pursuant to clause (B) above shall be paid by the ADS Group, subject to any applicable withholding, as soon as practicable following the Distribution Date by the ADS Group, and in no event more than thirty (30) days following the Distribution Date.

(b) ADS Participants. Effective as of the Distribution Date, each ADS RSU that is outstanding immediately prior to the Distribution Date and held by an ADS Participant shall be adjusted to reflect the Distribution and become an Adjusted ADS RSU. The number of shares of ADS Common Stock subject to such Adjusted ADS RSU shall be determined by the ADS Compensation Committee in a manner intended to preserve the value of such ADS RSU by multiplying the aggregate number of ADS RSUs in each grant by the ADS Pre-Distribution Stock Value divided by the ADS Post-Distribution Stock Value, with any fractional shares rounded up to the nearest whole number of shares and provided that in no case will such ADS RSUs result in a reduction of such ADS RSUs. Each such Adjusted ADS RSU shall be subject to the same terms and conditions (including vesting and payment schedules) as applicable to the corresponding ADS RSU as of immediately prior to the Distribution Date.

Section 8.02. *PSUs*.

(a) Loyalty Ventures Participants. Effective as of the Distribution Date, each ADS PSU that is (i) outstanding immediately prior to the Distribution Date and (ii) held by a Loyalty Ventures Participant, shall be forfeited and, as soon as practicable following the Distribution Date, replaced with (A) a new award (the "**Loyalty Ventures PSU Replacement Award**") with a grant date fair value (as determined by the Loyalty Ventures Compensation Committee) 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, with (x) one half of such Loyalty Ventures PSU Replacement Award to be granted as a Loyalty Ventures RSU that has a grant date fair value (as determined by the Loyalty Ventures Compensation Committee) equal to 50% of the value of the Loyalty Ventures PSU Replacement Award, with the number of shares of Loyalty Ventures Common Stock relating to such Loyalty Ventures RSU to be determined by the Loyalty Ventures Compensation Committee, multiplying the ADS Pre-Distribution Stock Value by the number of ADS PSUs and divided by the Loyalty Ventures Stock Value, with any fractional shares rounded up to the nearest whole number of shares and (y) a long-term cash incentive award equal to 50% of the value of the Loyalty Ventures PSU Replacement Award to be determined by the Loyalty Ventures Compensation Committee, multiplying the ADS Pre-Distribution Stock Value by the number of ADS PSUs and (B) a cash payment equal to 25% of the aggregate value of such

ADS PSUs valued at the ADS Pre-Distribution Stock Value; in the case of each ADS PSU, as of the Distribution Date the performance-based vesting conditions with respect to each such ADS PSU will be deemed to have been achieved at target performance level by the ADS Group. The Loyalty Ventures PSU Replacement Awards shall be subject to the same terms and conditions (including time vesting and payment schedules after taking into account deemed target performance) as applicable to the corresponding ADS PSU as of immediately prior to the Distribution Date and the cash payment pursuant to clause (B) above shall be paid by the ADS Group, subject to any applicable withholding, as soon as practicable following the Distribution Date, and in no event more than thirty (30) days following the Distribution Date.

(b) ADS Participants. Effective as of the Distribution Date, each ADS PSU that is outstanding immediately prior to the Distribution Date and held by an ADS Participant shall be adjusted to reflect the Distribution and become an Adjusted ADS PSU. The number of shares of ADS Common Stock subject to such Adjusted ADS PSU shall be determined by the ADS Compensation Committee in a manner intended to preserve the value of such ADS PSU by multiplying the aggregate number of ADS PSUs in each grant by the ADS Pre-Distribution Stock Value divided by the ADS Post-Distribution Stock Value, with any fractional shares rounded up to the nearest whole number of shares. Each such Adjusted ADS PSU shall be subject to the same terms and conditions (including performance-based metrics, vesting and payment schedules) as applicable to the corresponding ADS PSU immediately prior to the Distribution Date, *provided* that, the performance-based metrics underlying each such Adjusted ADS PSU may be adjusted, as determined by the ADS Compensation Committee in its sole discretion, to reflect the Distribution.

Section 8.03. *Special LTIP RSU*. Effective as of the Distribution Date, each ADS RSU that (i) is outstanding immediately prior to the Distribution Date, (ii) was granted less than one year prior to such date and (iii) held by a Loyalty Ventures Participant located in each jurisdiction set forth on Schedule 8.03 (each, a "**Special LTIP RSU**"), shall be forfeited and, as soon as practicable following the Distribution Date, replaced with (A) a long-term cash incentive award equal to 75% of the value of the Special LTIP RSU to be determined by the Loyalty Ventures Compensation Committee, multiplying the ADS Pre-Distribution Stock Value by the number of Special LTIP RSUs, that is subject to the same vesting and payment schedules as applicable to the corresponding Special LTIP RSU as of immediately prior to the Distribution Date and (B) a cash payment equal to 25% of the aggregate value of such Special LTIP RSUs valued at the ADS Pre-Distribution Stock Value that is paid by the ADS Group, subject to any applicable withholding, as soon as practicable following the Distribution Date and in no event more than thirty (30) days following the Distribution Date.

Section 8.04. *Special Achievement RSUs*. Effective as of the Distribution Date, each ADS RSU identified as a Special Achievement RSU shall be forfeited in exchange for the right to receive an amount in cash equal to the value of the

Special Achievement RSU (as determined by the ADS Compensation Committee), multiplying the ADS Pre-Distribution Stock Value by the number of Special Achievement RSUs, with such cash payment to be made by the ADS Group, subject to any applicable withholding as soon as practicable following the Distribution Date, and in no event more than thirty (30) days following the Distribution Date.

Section 8.05. *Miscellaneous Terms and Actions; Tax Reporting and Withholding*.

(a) Effective as of the Distribution Date, Loyalty Ventures shall adopt an equity incentive compensation plan for the benefit of eligible participants (the "**Loyalty Ventures Equity Plan**"). Prior to the Distribution Date, each of ADS and Loyalty Ventures shall take any actions necessary to give effect to the transactions contemplated by this Article 8, including, in the case of Loyalty Ventures, the reservation and application for listing of shares of Loyalty Ventures Common Stock as is necessary to effectuate the transactions contemplated by this Article 8. From and after the Distribution Date, (i) Loyalty Ventures shall retain the Loyalty Ventures Equity Plan, and all Liabilities thereunder shall constitute Loyalty Ventures Assumed Employee Liabilities, and (ii) ADS shall retain the ADS Equity Plan, and all Liabilities thereunder shall constitute ADS Retained Employee Liabilities. From and after the Distribution Date, all Adjusted ADS Awards, regardless of by whom held, shall be granted under and subject to the terms of the ADS Equity Plan and shall be settled by ADS, and all Loyalty Ventures Awards, regardless of by whom held, shall be granted under and subject to the terms of the Loyalty Ventures Equity Plan and shall be settled by Loyalty Ventures.

(b) Unless otherwise required by applicable Law, (i) the applicable member of the Loyalty Ventures Group shall be responsible for all applicable income, payroll, employment and other similar tax withholding, remittance and reporting obligations in respect of Loyalty Ventures Participants relating to any Loyalty Ventures Awards and (ii) the applicable member of the ADS Group shall be responsible for all applicable income, payroll, employment and other similar tax withholding, remittance and reporting obligations in respect of ADS Participants relating to any Adjusted ADS Awards and any ADS RSUs in accordance with Section 8.01(a). For the avoidance of doubt, the Distribution shall not, in and of itself, be treated as a Change in Control (as defined in the ADS Equity Plan or the Loyalty Ventures Equity Plan, as applicable).

(c) Loyalty Ventures shall prepare and file with the SEC a registration statement on an appropriate form with respect to the shares of Loyalty Ventures Common Stock subject to the Loyalty Ventures Awards pursuant to this Article 8 and shall use its reasonable best efforts to have such registration statement declared effective as soon as practicable following the Distribution Date and to maintain the effectiveness of such registration statement covering such Loyalty

Ventures Awards (and to maintain the current status of the prospectus contained therein) for so long as any Loyalty Ventures Awards remain outstanding.

(d) Prior to the Distribution Date, each party shall take all such steps as may be required to cause any dispositions of ADS Common Stock (including Adjusted ADS Awards or any other derivative securities with respect to ADS Common Stock) or acquisitions of Loyalty Ventures Common Stock (including Loyalty Ventures Awards or any other derivative securities with respect to Loyalty Ventures Common Stock) resulting from the Distribution or the transactions contemplated by this Agreement or the Separation Agreement by each individual who is subject to the reporting requirements of Section 16(a) of the Exchange Act with respect to ADS or who are or will become subject to such reporting requirements with respect to Loyalty Ventures to be exempt under Rule 16b-3 promulgated under the Exchange Act.

Section 8.06. *Employee Stock Purchase Plan.* Effective as of the Distribution Date (or, if applicable, the Delayed Transfer Date), each Loyalty Ventures Participant shall cease participation in the ADS ESPP.

ARTICLE 9
PERSONNEL RECORDS; PAYROLL AND TAX WITHHOLDING

Section 9.01. *Personnel Records*. To the extent permitted by applicable Law, each of the Loyalty Ventures Group and the ADS Group shall be permitted by the other to access and retain copies of such records, data and other personnel-related information in any form ("**Personnel Records**") as may be necessary or appropriate to carry out their respective obligations under applicable Law, the Separation Agreement or any of the Ancillary Agreements, and for the purposes of administering their respective employee benefit plans and policies. All Personnel Records shall be accessed, retained, held, used, copied and transmitted in accordance with all applicable Laws, policies and agreements between the parties hereto.

Section 9.02. *Payroll; Tax Reporting and Withholding.*

(a) Subject to the obligations of the parties as set forth in the Transition Services Agreement, effective as of no later than the Distribution Date, (i) the members of the Loyalty Ventures Group shall be solely responsible for providing payroll services (including for any payroll period already in progress) to the Loyalty Ventures Employees and for any Liabilities with respect to garnishments of the salary and wages thereof and (ii) the members of the ADS Group shall be solely responsible for providing payroll services (including for any payroll period already in progress) to the ADS Employees and for any Liabilities with respect to garnishments of the salary and wages thereof.

(b) To the extent consistent with the terms of the Tax Matters Agreement, the party that is responsible for making a payment hereunder shall be

responsible for (i) making the appropriate withholdings, if any, attributable to such payments and (ii) preparing and filing all related required forms and returns with the appropriate Governmental Authority.

ARTICLE 10
NON-U.S. EMPLOYEES AND EMPLOYEE PLANS

Section 10.01. *Special Provisions for Employees and Employee Plans Outside of the United States*.

(a) From and after the date hereof, to the extent not addressed in this Agreement, the parties shall reasonably cooperate in good faith to effect the provisions of this Agreement with respect to employees and employee-, compensation- and benefits-related matters outside of the United States (including Employee Plans covering non-U.S. ADS Participants and Non-U.S. Loyalty Ventures Participants), which in all cases shall be consistent with the general approach and philosophy regarding the allocation of assets and Liabilities (as expressly set forth in the recitals to this Agreement).

(b) Without limiting the generality of Section 3.03(a), to the extent required by applicable Law, Loyalty Ventures or a member of the Loyalty Ventures Group, as applicable, shall become a party to the applicable collective bargaining, works council, or similar arrangements with respect to Loyalty Ventures Employees or Loyalty Ventures Contractors located outside of the United States and shall comply with all obligations thereunder from and after the Distribution Date.

ARTICLE 11
GENERAL AND ADMINISTRATIVE

Section 11.01. *Sharing of Participant Information*. To the maximum extent permitted under applicable Law, ADS and Loyalty Ventures shall share, and shall cause each member of its respective Group to reasonably cooperate with the other party hereto to (i) share, with each other and their respective agents and vendors all participant information reasonably necessary for the efficient and accurate administration of each of the ADS Plans and the Loyalty Ventures Plans, (ii) provide prompt written notification regarding the termination of employment or service of any Loyalty Ventures Participant or ADS Participant to the extent relevant to the administration of an ADS Plan or Loyalty Ventures Plan, but in no event later than 30 days following such termination of employment or service, (iii) facilitate the transactions and activities contemplated by this Agreement and (iv) resolve any and all employment-related claims regarding Loyalty Ventures Participants. Loyalty Ventures and its respective authorized agents shall, subject to applicable Laws, be given reasonable and timely access to, and may make copies of, all information relating to the subjects of this Agreement in the custody of the ADS Group, to the extent reasonably necessary for such administration. ADS Group members shall be entitled to retain copies of all Loyalty Ventures

Books and Records relating to the subjects of this Agreement in the custody of the ADS Group, subject to the terms of the Separation Agreement and applicable Law.

Section 11.02. *Cooperation.* Following the date of this Agreement, the parties shall, and shall cause their respective Subsidiaries to, cooperate in good faith with respect to any employee compensation or benefits matters that either party reasonably determines require the cooperation of the other party in order to accomplish the objectives of this Agreement (including, without limitation, relating to any audits by any Governmental Authorities).

Section 11.03. *Vendor Contracts*. Prior to the Distribution Date, ADS and Loyalty Ventures will cooperate in good faith and use reasonable best efforts to (a) negotiate with the current third-party providers to separate and assign to the Loyalty Ventures Group or Loyalty Ventures Plan or the ADS Group or ADS Plan, as applicable, the applicable rights and obligations under each group insurance policy, health maintenance organization, administrative services contract, third-party administrator agreement, letter of understanding or arrangement that pertains to one or more ADS Plans or Loyalty Ventures Plans, respectively (each, a "**Vendor Contract**"), to the extent that such rights or obligations pertain to Loyalty Ventures Participants or ADS Participants, respectively, or, in the alternative, to negotiate with the current third-party providers to provide substantially similar services to a Loyalty Ventures Plan or ADS Plan, respectively, on substantially similar terms under separate contracts with a member of the Loyalty Ventures Group or the Loyalty Ventures Plans or ADS Group or the ADS Plans, respectively, as applicable and (b) to the extent permitted by the applicable third-party provider, obtain and maintain pricing discounts or other preferential terms under the applicable Vendor Contracts.

Section 11.04. *Data Privacy*. Notwithstanding anything to the contrary herein, the Parties agree that any applicable data privacy laws and any other obligations of the ADS Group and the Loyalty Ventures Group to maintain the confidentiality of any employee information held by any member of the ADS Group or the Loyalty Ventures Group, as applicable, or any information held in connection with any Employee Plans in accordance with applicable Law will govern the disclosure of employee information between the Parties under this Agreement. Each of ADS and Loyalty Ventures will ensure that it has in place appropriate technical and organizational security measures to protect the personal data of the ADS Participants and Loyalty Ventures Participants, respectively.

Section 11.05. *Notices of Certain Events*. Each of Loyalty Ventures and ADS shall promptly notify and provide copies to the other of: (a) written notice from any Person alleging that the approval or consent of such Person is or may be required in connection with the transactions contemplated by this Agreement; (b) any written notice or other communication from any Governmental Authority in connection with the transactions contemplated by this Agreement or the Separation Agreement; and (c) any actions, suits, claims, investigations or

proceedings commenced or, to its knowledge, threatened against, relating to or involving or otherwise affecting the Loyalty Ventures Group or the ADS Group, as the case may be, that relate to the consummation of the transactions contemplated by this Agreement or the Separation Agreement; *provided* that the delivery of any notice pursuant to this Section 11.05 shall not affect the remedies available hereunder to the party receiving such notice.

Section 11.06. *No Third Party Beneficiaries*. Notwithstanding anything to the contrary herein, nothing in this Agreement shall: (a) create any obligation on the part of any member of the Loyalty Ventures Group or any member of the ADS Group to retain the employment or services of any current or former employee, director, independent contractor or other service provider; (b) be construed to create any right, or accelerate entitlement, to any compensation or benefit whatsoever on the part of any future, present, or former employee or service provider of any member of the ADS Group or the Loyalty Ventures Group (or any beneficiary or dependent thereof) under this Agreement, the Separation Agreement, any ADS Plan or Loyalty Ventures Plan or otherwise; (c) preclude Loyalty Ventures or any Loyalty Ventures Group member (or, in each case, any successor thereto), at any time after the Distribution Date, from amending, merging, modifying, terminating, eliminating, reducing, or otherwise altering in any respect any Loyalty Ventures Plan, any benefit under any Loyalty Ventures Plan or any trust, insurance policy, or funding vehicle related to any Loyalty Ventures Plan (in each case in accordance with the terms of the applicable arrangement); (d) other than as required to comply with the terms of the Transition Services Agreement, preclude ADS or any ADS Group member (or, in each case, any successor thereto), at any time after the Distribution Date, from amending, merging, modifying, terminating, eliminating, reducing, or otherwise altering in any respect any ADS Plan, any benefit under any ADS Plan or any trust, insurance policy, or funding vehicle related to any ADS Plan (in each case in accordance with the terms of the applicable arrangement); or (e) confer any rights or remedies (including any third-party beneficiary rights) on any current or former employee or service provider of any member of the ADS Group or the Loyalty Ventures Group or any beneficiary or dependent thereof or any other Person.

Section 11.07. *Fiduciary Matters*. ADS and Loyalty Ventures each acknowledge that actions required to be taken pursuant to this Agreement may be subject to fiduciary duties or standards of conduct under ERISA or other applicable Law, and no party shall be deemed to be in violation of this Agreement if it fails to comply with any provisions hereof based upon its good faith determination (as supported by advice from counsel experienced in such matters) that to do so would violate such a fiduciary duty or standard. Each party shall be responsible for taking such actions as are deemed necessary and appropriate to comply with its own fiduciary responsibilities and shall fully release and indemnify the other party for any Liabilities caused by the failure to satisfy any such responsibility.

Section 11.08. *Consent of Third Parties*. If any provision of this Agreement is dependent on the consent of any third party (such as a vendor or Governmental Authority), the parties shall cooperate in good faith and use reasonable best efforts to obtain such consent, and if such consent is not obtained, to implement the applicable provisions of this Agreement to the full extent practicable. If any provision of this Agreement cannot be implemented due to the failure of such third party to consent, the parties shall negotiate in good faith to implement the provision in a mutually satisfactory manner. A party's obligation to use its "reasonable best efforts" shall not require such party to take any action to the extent it would reasonably be expected to (i) jeopardize, or result in the loss or waiver of, any attorney-client or other legal privilege, (ii) contravene any applicable Law or fiduciary duty, (iii) result in the loss of protection of any Intellectual Property or other proprietary information or (iv) incur any non-routine or unreasonable cost or expense.

Section 11.09. *Sponsored Employees*. The parties shall, and shall cause their respective Group members to, cooperate in good faith with each other and the applicable Governmental Authorities with respect to the process of obtaining work authorization for each Sponsored Employee to work with Loyalty Ventures or a Loyalty Ventures Group member, including but not limited to, petitioning the applicable Governmental Authorities for the transfer of each Sponsored Employee's (as well as any spouse or dependent thereof, as applicable) visa or work permit, or the grant of a new visa or work permit, to any Loyalty Ventures Group member. Any costs or expenses incurred with the foregoing shall constitute Loyalty Ventures Assumed Employee Liabilities. In the event that it is not legally permissible for a Sponsored Employee to continue work with the Loyalty Ventures Group from and after the Distribution Date, the parties shall reasonably cooperate to provide for the services of such Sponsored Employee to be made available exclusively to the Loyalty Ventures Group under an employee secondment or similar arrangement, which any costs incurred by the ADS Group (including those relating to compensation and benefits in respect of such Sponsored Employee) shall constitute Loyalty Ventures Assumed Employee Liabilities.

ARTICLE 12
NON-SOLICIT AND NO-HIRE

Section 12.01. *No-Hire/Non-Solicitation of Employees*.

(a) During the applicable Restricted Period, Loyalty Ventures shall not, and shall cause each member of the Loyalty Ventures Group not to, (i) solicit or induce, or attempt to solicit or induce, any ADS Employee to terminate his or her employment or service relationship with any member of the ADS Group or (ii) hire any ADS Employee who is or was employed by any member of the ADS Group at any time prior to the expiration of the applicable Restricted Period (other than, for the avoidance of doubt, a Loyalty Ventures Employee); *provided* that (A) the restrictions set forth in clause (i) of this Section 12.01(a) shall not prohibit

any member of the Loyalty Ventures Group from placing public advertisements or conducting any other form of general solicitation that is not specifically targeted toward an ADS Employee (*provided* that nothing in this proviso shall permit the hiring of an ADS Employee who responds to any such public advertisement or general solicitation which would otherwise be restricted by clause (ii) of this Section 12.01(a), (B) the restrictions in clause (ii) of this Section 12.01(a) shall not apply to hiring (1) any ADS Employee who has ceased employment with the ADS Group for a period of at least (x) six months, in the case of such employees who are at the level of Senior Vice President or above, and (y) three months, in the case of such employees who are at the level of Vice President or (2) any ADS Employee whose employment was involuntarily terminated by a member of the ADS Group.

(b) During the applicable Restricted Period, ADS shall not, and shall cause each member of the ADS Group not to, (i) solicit or induce, or attempt to solicit or induce, any Loyalty Ventures Employee to terminate his or her employment or service relationship with any member of the Loyalty Ventures Group or (ii) hire any Loyalty Ventures Employee who is or was employed by any member of the Loyalty Ventures Group at any time prior to the expiration of the applicable Restricted Period (other than, for the avoidance of doubt, any ADS Employee); *provided* that (A) the restrictions set forth in clause (i) of this Section 12.01(b) shall not prohibit any member of the ADS Group from placing public advertisements or conducting any other form of general solicitation that is not specifically targeted toward a Loyalty Ventures Employee (*provided* that nothing in this proviso shall permit the hiring of a Loyalty Ventures Employee who responds to any such public advertisement or general solicitation which would otherwise be restricted by clause (ii) of this Section 12.01(b), (B) the restrictions in clause (ii) of this Section 12.01(b) shall not apply to hiring (1) any Loyalty Ventures Employee who has ceased employment with the Loyalty Ventures Group for a period of at least (x) six months, in the case of such employees who are at the level of Senior Vice President or above, and (y) three months, in the case of such employees who are at the level of Vice President or (2) Loyalty Ventures Employee whose employment was involuntarily terminated by a member of the Loyalty Ventures Group.

(c) The Parties acknowledge and agree that one or more exceptions may be made to the provisions of this Article 12 at the sole discretion, and with the written consent of, the General Counsel of ADS and Loyalty Ventures, as applicable. Any exception made shall not be used as a precedent to compel or allow any further exception(s).

ARTICLE 13
MISCELLANEOUS

Section 13.01. *General*. The provisions of Article 6 of the Separation Agreement (other than Section 6.06 as it relates to Third-Party Beneficiaries of the Separation Agreement) are hereby incorporated by reference into and deemed

part of this Agreement and shall apply, *mutatis mutandis*, as if fully set forth in this Agreement.

[Signature Page Follows]

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

ALLIANCE DATA SYSTEMS CORPORATION

By: _____
Name:
Title:

LOYALTY VENTURES INC.

By: _____
Name:
Title:

Special LTIP RSU (exhibit 8.03)

RSUs (Exclude Foreign Countries)
Belgium
Brazil
Japan
South Korea
Poland
Spain
United Kingdom

Special Achievement RSUs (exhibit 8.04)

ID	Associate		Cash	Units
644997	[redacted]	$	[redacted]	[redacted]
679589	[redacted]	$	[redacted]	[redacted]
687495	[redacted]	$	[redacted]	[redacted]
707140	[redacted]	$	[redacted]	[redacted]

EXHIBIT B

FORM OF TAX MATTERS AGREEMENT

[Attached]

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 [●], 2021

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TAX MATTERS AGREEMENT

This TAX MATTERS AGREEMENT (the "**Agreement**") is entered into as of [●], 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 as of the date hereof (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(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)
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: _____
Name:
Title:

Loyalty Ventures on its own behalf and on behalf of the members of the Loyalty Ventures Group

By: _____
Name:
Title:

SCHEDULE A[1]

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).

[1] Note to PwC: Please review.

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.

EXHIBIT C

FORM OF TRANSITION SERVICES AGREEMENT

[Attached]

TRANSITION SERVICES AGREEMENT

THIS TRANSITION SERVICES AGREEMENT (this "**Agreement**"), dated as of [•] (the "**Effective Date**"), has been executed by and between Alliance Data Systems Corporation, a Delaware corporation ("**ADS**"), and Loyalty Ventures Inc., a Delaware corporation ("**Loyalty Ventures**") (each, a "**Party**" and collectively, the "**Parties**").

RECITALS

WHEREAS, pursuant to that certain Separation and Distribution Agreement dated [•] between the Parties (the "**Separation Agreement**"), the Parties have set forth the principal actions required to effect the Distribution (as defined in the Separation Agreement) and to set forth certain agreements that will govern the relationship between those Parties following the Distribution.

WHEREAS, the Separation Agreement provides that, in connection with the consummation of the transactions contemplated thereby, the Parties will enter into this Agreement, pursuant to which each of ADS and Loyalty Ventures has agreed to (i) provide the Services (as defined below) where it is listed as the Providing Party in Exhibit A and (ii) accept and receive from the Providing Party the Services where it is listed as the Receiving Party in Exhibit A, in each case on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, the Parties to this Agreement, intending to be legally bound, agree as follows.

1. DEFINITIONS.

For the purposes of this Agreement, the following capitalized terms are defined in this Section 1 and shall have the meaning specified herein. Other terms that are capitalized but not specifically defined in this Section 1 or in the body of the Agreement shall have the meanings set forth in the Separation Agreement.

1.1 "**Business**" means (a) with respect to ADS, the ADS Business (as defined in the Separation Agreement) and (b) with respect to Loyalty Ventures, the LoyaltyOne Business (as defined in the Separation Agreement) and the operation of the LoyaltyVentures Group.

1.2 "**Confidential Information**" means any and all proprietary and confidential or nonpublic information either Party (or its Affiliates) provides to or receives from the other Party in connection with the provision of the Services hereunder, concerning the business, business relationships (including prospective customers and business partners) and financial affairs of the Parties, their Affiliates or other representatives and third party service providers, whether or notin writing and whether or not labeled or identified as confidential or proprietary, including inventions, trade secrets, technical information, know-how, research and development activities and information disclosed by third parties of a proprietary or confidential nature or under an obligation of confidence; *provided*, *however*, that "Confidential Information" does not include any information that (a) is or becomes generally available to the public other than as a result of disclosure made after the execution of the Separation Agreement by the Party (or its Affiliates) desiring to treat such information as non-confidential, (b) is or becomes available to the Party

desiring to treat such information as non-confidential on a non-confidential basis from a source that is not bound by confidentiality agreements regarding the disclosure of such information, or (c) is required to be disclosed pursuant to a governmental order or decree or other legal requirement, *provided* that the Party required to disclose such information shall give the other Party prompt notice thereof prior to such disclosure and, at the request of the other Party, shall cooperate in all reasonable respects in maintaining the confidentiality of such information, including obtaining a protective order or other similar order. Subject to the proviso in the immediately preceding sentence, all user identification numbers and passwords disclosed to and any information obtained by either Party (or its Affiliates) as a result of its access to and use of the Systems shall be deemed to be, and shall be treated as, Confidential Information.

1.3 "**Consent**" has the meaning set forth in Section 3.2.

1.4 "**Fee**" and "**Fees**" have the meanings set forth in Section 4.1.

1.5 "**FTE**" means a level of effort equal to forty (40) hours per week during the Providing Party's (or its applicable Affiliate's) business hours.

1.6 "**FTE Fee**" means the fee for an FTE that performs an applicable Service, which fee is specified in Exhibit A with respect to such Service.

1.7 "**Providing Party**" shall mean ADS or Loyalty Ventures, as applicable, as indicated in Exhibit A with respect to each Service.

1.8 "**Receiving Party-Funded Payments**" means payments that will be (a) paid by the Receiving Party or its Affiliates directly to a third party service provider or (b) processed by the Providing Party or its Affiliate as part of the Services but that will be funded by Receiving Party or its Affiliates prior to payment through deposit(s) into a Receiving Party operating bank account from which the Providing Party can process the applicable payment, including payroll and accounts payable payments, as such payments are expressly identified on Exhibit A. In circumstances where the Providing Party is processing Receiving Party-Funded Payments, including payroll and accounts payable, the Providing Party shall have no obligation to process such payments if there are not sufficient funds available in the applicable operating bank account to make such payments.

1.9 "**Receiving Party**" shall mean ADS or Loyalty Ventures, as applicable, as indicated in Exhibit A with respect to each Service.

1.10 "**Service Fee**" means the services fee applicable to a category of Services (exclusive of any FTE Fees for such category of Services), which fee includes the cost of certain hardware, software, systems and services used to perform such Services. The Service Fee for each category of Services is set forth on Exhibit A.

1.11 "**Service**" or "**Services**" means, either individually or in the aggregate, as applicable, (a) those services set forth in Exhibit A and (b) those services added to the scope of this Agreement in accordance with Section 2.2.

1.12 "**Systems**" has the meaning specified in Section 2.4.

1.13 "**Transition Period**" means the period of time beginning on the Distribution Date

andending on the earlier of (a) the expiration or termination date for the last Service in effect (as such final expiration or termination date is set forth on Exhibit A, as such Exhibit may be amended by the Parties in accordance with Section 12.4), and (b) termination of this Agreement in accordance with Section 11.

2. SERVICES.

2.1 Provision of Services. During the Transition Period, the Providing Party shall, subject to the terms and conditions of this Agreement, including Section 2.2 and Exhibit A, provide or cause to be provided to the Receiving Party each individual Service commencing on the Effective Date (unless a later date is specified in Exhibit A) and continuing for the time period associated with such Service as set forth on Exhibit A (the "**Service Period**"), as the applicable Service Period may be extended pursuant to Section 2.3(a) or earlier terminated pursuant to this Agreement. Unless otherwise agreed in an amendment to this Agreement, the Providing Party shall have no obligation to provide a Service beyond the Service Period and any extensions thereof pursuant to Section 2.3(a) specified for such Service or component thereof on Exhibit A.

2.2 Standard of Services and Certain Limitations. Subject to any limitations set forth in Exhibit A and elsewhere in this Agreement, the Providing Party shall provide, or cause its Subsidiaries to provide, the Services to the Receiving Party in a manner that is substantially the same (including with respect to quality, timeliness, care, priority, volume and data security) as the manner the Services (or similar services) were provided by the Providing Party in connection with the operation of the Receiving Party's Business during the 12-month period immediately prior to the date hereof (the "**Baseline Period**"); provided that, for the avoidance of doubt, the foregoing shall not prohibit the Providing Party from changing vendors or making upgrades, updates, improvements or other changes to the extent that such changes, updates, upgrades and do not materially or unnecessarily degrade, delay or otherwise cause the failure of any Service set forth on Exhibit A. Notwithstanding the foregoing, the Providing Party shall not be obligated to provide any Service: (a) to the extent the provision of such Service would exceed any volume, usage or other effort or resource limits (e.g., specified FTEs, hours) specified in Exhibit A (with respect to Services or components thereof for which such limits are specified in Exhibit A); (b) to the extent it would require the Providing Party to use, acquire or allocate personnel, equipment or other resources in excess of the level of resources historically used, acquired or allocated to the provision of such Services by the Providing Party in connection with the operation of the Receiving Party's Business during the Baseline Period; (c) to the extent performance of a Service would require the Providing Party to violate applicable Law (provided that the Providing Party shall use reasonable best efforts to provide Services in a manner that avoids any such violation); or (d) to the extent performance of a Service would require, or could be construed to be or to require, the provision of any legal, accounting, audit, attest, or tax advice or other services that require a professional license, registration or certification (and the Services and all other activities conducted by the Providing Party in connection with this Agreement shall be deemed to exclude any such advice and services). Subject to Section 3.2, the Providing Party will be responsible for its compliance with all contracts and agreements with third parties in the provision of Services. For clarity, except as set forth on Exhibit A, the Services do not include any services or efforts with respect to the Receiving Party's (or its Affiliates') migration to, or integration of, new software applications, networks, systems or processes, whether provided or implemented by the Receiving Party, its Affiliate or a third party, including custom data extraction, migration and conversion, separation from the Providing Party's systems and applications, and any work required to set up any new third party service provider (including, for the avoidance of doubt, any ERP conversion, HR

platform, lease accounting platform, reconciliation tool or other future state platform). The Receiving Party shall not and shall cause its Affiliates not to resell, subcontract, sublicense or otherwise make available any of the Services to any person or permit the use of the Services by any person other than the Receiving Party or one of its Affiliates (and their third-party service providers) in connection with the conduct of the Receiving Party's Business. The Providing Party may provide the Services through its Affiliates or subcontractors and the Providing Party shall have the exclusive right to select, employ, pay, supervise, administer, direct and discharge the personnel who will perform the Services. The Providing Party's use of Affiliates or subcontractors in connection with the Services shall not relieve the Providing Party of its obligations under this Agreement and the Providing Party will be responsible for any actions or inactions by any such person. Without limiting the Providing Party's obligations herein, the Providing Party shall perform the Services in accordance with, and subject to, the Providing Party's internal policies and procedures applicable to the provision of the Services to the extent such internal policies and procedures similarly apply to the operations of the Providing Party and its Affiliates ("**Standard Policies**"). The Receiving Party shall comply with any Standard Policies that were applicable during the Baseline Period and all reasonable Standard Policies implemented after the Effective Date (and will participate, at the Providing Party's expense, in any necessary testing or training with respect thereto), in each case of which the Providing Party provides the Receiving Party prior notice in connection with the receipt of the Services to the extent such policies and procedures apply to the receipt of Services, *provided, however,* the Receiving Party shall not be required to incur any additional expenses in connection with any efforts to comply with the Standard Policies to the extent such Standard Policies were not applicable during the Baseline Period.

2.3 Extension and Discontinuation of Services

(a) Upon the expiration of each applicable Service Period, the obligation of the Providing Party with respect to the provision of the applicable Service shall automatically and immediately terminate. If the Receiving Party desires to continue any Service beyond the applicable Service Period, unless otherwise specified on Exhibit A with respect to a Service, the Receiving Party shall provide a written notice to the Providing Party at least 45 days or, in the case of Services with an initial duration of 12 months as specified on Exhibit A, 60 days prior to the end of the applicable Service Period that describes the Service the Receiving Party desires to extend and the duration of such extension, which for the avoidance of doubt, shall not exceed the Extension Period specified for such Service on Exhibit A (each an "**Extension Period**"). In the event the Receiving Party requests an Extension Period, (i) the Receiving Party shall pay any additional reasonable costs and expenses that the Providing Party will incur solely in connection with the provision of the extended Services during any Extension Period (including the cost of any third-party contract consents, renewals or similar amounts resulting from the provision of the extended Services which would not have been incurred by the Providing Party without the provision of the extended Services and the Providing Party could not have reasonably avoided payment for such periods, even if such amounts are expended for periods after such Extension Period, e.g., if a vendor requires a one-year contract renewal even if the applicable Extension Period is 6 months and the Providing Party would not have otherwise renewed such contract or portion thereof), (ii) the Parties shall document any changes to the applicable Services or related terms in the Agreement as agreed by the Parties in accordance with Section 12.4 with respect to the performance of such Services during the Extension Period and (iii) the Providing Party shall provide such Services during such Extension Period.

(b) If the Receiving Party desires to terminate any Service or portion thereof, the Receiving Party may submit a Termination Request pursuant to Section 11.2(b) with respect to the Service that the Receiving Party desires to terminate.

2.4 Additional Services.

(a) The Providing Party shall consider in good faith any reasonable written request by the Receiving Party or any of its Affiliates for new services that are not reflected in Exhibit A at the time of such request (an "**Additional Service**"); *provided that* the Receiving Party may not request any service that is identified in Exhibit A as unavailable. If the Receiving Party desires to request an Additional Service to be provided hereunder by the Providing Party, the Services Manager for the Receiving Party shall, no later than sixty (60) days prior to the requested commencement date of such Additional Service, provide a written request thereof to the Services Manager for the Providing Party describing such Additional Service and the anticipated commencement date thereof. If an Additional Service is requested that needs to commence within less than sixty (60) days from the Receiving Party's request for such Additional Service, including to comply with a request from a Governmental Entity or any applicable Law, the Parties will use commercially reasonable efforts to assess and make a final determination pursuant to this Section 2.4 in an expedited manner to satisfy the request of the Governmental Entity or to comply with applicable Law, on whether such Additional Service can be provided and the terms and conditions and Fees (which shall be calculated in accordance with the principles used to calculate the Fees for similar Services) for such Additional Service added, notwithstanding the sixty (60) day and thirty (30) day references in Section 2.4(a) and Section 2.4(b), respectively.

(b) Within thirty (30) days following the receipt of such request for an Additional Service, the Services Manager for the Providing Party shall provide the Services Manager for the Receiving Party with a written response to such request setting forth the applicable Fees (which shall be calculated in accordance with the principles used to calculate the Fees for similar Services) for such Additional Service and an assessment as to whether the requested commencement or completion dates can be achieved. Following receipt by the Services Manager for the Recipient Party of such response, the terms and conditions, including the applicable commencement date, the termination date, and the Fees on which such Additional Service, if any, shall be provided by the Providing Party, shall be as mutually agreed upon in writing by the Services Managers for the Parties.

(c) Upon agreement of the Services Managers for the Parties in accordance with this Section 2.4, Exhibit A shall be amended or updated by the Services Managers for the Parties to add any Additional Service and to reflect the Fees applicable to such Additional Service. Any agreed Additional Service shall constitute a Service under this Agreement and be subject in all respects to the provisions of this Agreement as if fully set forth in Exhibit A as of the date hereof. It is understood that the Providing Party may in its sole and absolute discretion decline to provide any such Additional Service and the Receiving Party acknowledges that the Providing Party shall be under no obligation to provide, and may not have the resources, capabilities or capacity to provide, any Additional Service, and may determine not to do so for any reason or no reason; provided that if such Additional Service is required to comply with a request from a Governmental Entity or any applicable Law, and such Additional Service cannot be performed by the Receiving Party itself or cannot be provided by a third party, including outside advisors, the Providing Party shall use commercially reasonable efforts to provide such Additional Service; *provided that*, the Providing Party shall not be required to use commercially reasonable efforts to provide any service

that is identified in Exhibit A as unavailable.

(d) If, after the Effective Date, the Providing Party discovers that it, or its Affiliates, is performing any service for the Receiving Party that is not set forth on Exhibit A and is not a service that is incidental and not material in nature as determined by the Providing Party or that is identified in Exhibit A as unavailable, the Providing Party shall inform the Receiving Party in writing and the Receiving Party may request the Providing Party to add this service as an Additional Service pursuant to this Section 2.4. For clarity, if such service is not requested by the Receiving Party to be an Additional Service or the terms and conditions and applicable Fees are not mutually agreed to, the Providing Party may stop performing such service.

2.5 Access to Systems. During the Transition Period, if either Party is given access to the other Party's information technology infrastructure, including network and other equipment, proprietary and third party software, electronic files, and databases (collectively, "**Systems**") in connection with the Services, such Party shall access and use, and cause its Affiliates to access and use, the other Party's Systems solely in accordance with this Agreement and, withoutlimiting the foregoing, solely as necessary to provide or receive the Services, as applicable. Each Party shall limit, and cause its Affiliates to limit, access to the Systems to employees (and, with the other Party's consent, to contractors) of such Party and its Affiliates who the other Party has approved in writing (such approval not to be unreasonably withheld or delayed; provided that ADS may deny access to any individual whom ADS reasonably and good faith believes is not adequately trained to use the Systems) to access the Systems and who have a specific requirement to have such access in connection with this Agreement. All access to the Systems and any portion thereof shall be through secured controlled processes agreed by the Parties prior to any such access and shall be subject to information technology, data security, acceptable use and other policies applicable to the access or use of such Systems and each Party shall comply with all such policies, in each case, to the extent such policies have been providedto the other Party in writing prior to the date of such access. The Providing Party shall be excused from the performance of a Service or portion thereof to the extent the Receiving Party's or its Affiliates' policies applicable to its or their Systems prevent the performance of such Service or portion thereof but only to the extent such policies differ from policies that were applicable during the Baseline Period; *provided*, *however*, that the Parties will cooperate in good faith to make alternative arrangements and the Providing Party's obligation with respect to the applicable Service shall be to provide as much of the benefit of the applicable Service as is reasonably practicable in compliance with the Receiving Party's or its Affiliates' policies applicable to its or their Systems. Each Party shall cooperate, and cause its Affiliates to cooperate, with the other Party in the investigation of any apparent unauthorized access to any Systems by employees, contractors or other personnel of such Party or any apparent unauthorized use or disclosure of Confidential Information by such personnel.

2.6 Security. If a Party becomes aware that the integrity or security of any Systems or portion thereof used to perform or receive the Services, including any data stored thereon, has been, is being, or is reasonably likely to be, compromised or otherwise materially adversely affected (including if caused by the access to such Systems or portion thereof by the other Party) (a "**Security Issue**"), such Party shall provide the other Party with prompt written notice thereof and shall use its reasonable best efforts to mitigate such Security Issue and the other Party shall provide reasonable cooperation to such Party with respect to such mitigation activities. Notwithstanding the foregoing, if a Party becomes aware of any Security Issue, such Party may suspend the other Party's and its Affiliates' access to such Party's Systems or portion thereof for the purpose of addressing or mitigating the effects of the Security Issue and preventing arecurrence

thereof. The other Party's and its Affiliates' access to the applicable System shall be restored once the Security Issue is resolved.

2.7 Data Protection under GDPR.

(a) For the purposes of this Agreement, "**General Data Protection Regulation**" or "**GDPR**" means Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC, and the terms "**controller**," "**processor**," "**data subject**," "**personal data**," "**processing**" and "**supervisory authority**" shall have the meaning given in the General Data Protection Regulation. The provisions of this Section 2.7 shall apply only to the extent that the provision of the Services requires the processing of personal data by the Providing Party, either directly or indirectly, on behalf of the Receiving Party and only to the extent the GDPR is applicable to such processing.

(b) Exhibit B describes in more detail the processing of personal data carried out in relation to the provision of the Services.

(c) When the Providing Party acts as a processor for the Receiving Party as controller for the purpose of providing a Service, the Providing Party shall:

(i) process personal data for the sole purpose of providing the Services and only on documented instructions from the controller, including with regard to transfers of personal data outside the European Economic Area or to an international organization (unless the processor is required to do so by European Union, Member State or applicable Law to which the processor is subject, in which case the processor shall inform the controller of that legal requirement unless prohibited by that Law on important grounds of public interest) and immediately inform the controller if, in the processor's opinion, any processing instruction given by the controller infringes the GDPR;

(ii) ensure that all its employees and subcontractors authorized to process personal data are subject to binding confidentiality obligations in respect of the processed personal data;

(iii) taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, implement and maintain appropriate technical and organizational measures to ensure a level of security appropriate to the risk, including as appropriate: (1) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services; (2) the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident; (3) a process for regularly testing, assessing and evaluating the effectiveness of technical and organizational measures for ensuring the security of the processing; and (4) in assessing the appropriate level of security pursuant to this Section 2.7(c)(iii), take account of the risks that are presented by processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to personal data transmitted, stored or otherwise processed;

(iv) only engage another processor either (1) as permitted under this Agreement, or (2) with the Receiving Party's prior specific written authorization, and in each case by entering into a legally binding written agreement that places same or equivalent data protection

obligations as those set out in this Section 2.7 on the (sub)processor, provided that if the (sub)processor fails to fulfill its data protection obligations the processor shall remain fully liable to the controller for the performance of the (sub)processor's obligations;

(v) taking into account the nature of the processing, assist the Receiving Party by appropriate technical and organizational measures, insofar as this is possible, for the fulfillment of the Receiving Party's obligations to respond to requests for exercising the data subjects' rights laid down in the GDPR;

(vi) when required by the performance of this Agreement and taking into account the nature of processing and the information available to the processor, assist the Receiving Party, including by providing necessary information, in ensuring compliance with the Receiving Party's security, data protection impact assessment, data breach notifications and supervisory authority consultation obligations under the GDPR and any other applicable EU Member State data protection law. Other than as required by applicable law, the Providing Party shall not issue any notification or other communications to the data subjects or applicable supervisory authorities without the Receiving Party's prior written consent;

(vii) promptly notify the Receiving Party of any breach of personal data in relation to the performance of this Agreement after having knowledge of the breach (with a reasonable degree of certainty) so as to enable the Receiving Party to comply with its obligations to notify the relevant supervisory authority and data subjects within the timeframe provided by the GDPR. The Providing Party shall provide all such timely information and cooperation as the Receiving Party may reasonably require in order for the Receiving Party or its designee to investigate such breach and fulfill applicable data breach reporting obligations under GDPR and any other applicable EU Member State data protection law. The Providing Party shall take reasonable measures and actions to remedy or mitigate the effects of the breach and shall, to the extent not prohibited by applicable law, keep the Receiving Party informed of all developments in connection with the breach;

(viii) process personal data for no longer than is necessary for the provision of the Services for which these processing activities are carried out (as further described in Exhibit A). At the Receiving Party's election, delete or return to the Receiving Party all processed personal data and delete existing copies (including any electronically stored personal data) at the end of the provision of the Services (unless European Union or Member State law requires the processor to store the personal data or such retention is necessary for the establishment, exercise or defense of legal claims related to the processor in which case the Providing Party shall only store or retain such personal data as is required by such law or as is necessary in relation to such legal claims, and only until such storage or retention is no longer required by such law or necessary in relation to such legal claims, and shall destroy or return the personal data in accordance with this provision as soon as retention of the personal data is no longer required by law or is no longer necessary in relation to such legal claims); and

(ix) make available to the Receiving Party all information necessary to demonstrate compliance with Article 28 of the GDPR and allow for and cooperate in audits, including inspections, conducted by the Receiving Party's mandated auditor in accordance with and subject to the following conditions (other than to the extent such audit is required due to a request of a supervisory authority whose instructions conflict with the following conditions, in which case the instructions of the supervisory authority will prevail to the extent of the conflict):

(1) audit operations will be conducted by an external independent auditor appointed by the Receiving Party (subject to prior approval of the processor, not to be unreasonably withheld or delayed); (2) audit operations can be conducted only during normal business hours and business days (except as otherwise agreed in writing by the Parties); (3) the Receiving Party may conducta maximum of one (1) audit per year (except in case of urgency for major issues, in which case the Receiving Party will provide explanation to the audited processor on the reasons for conducting such audit and its urgent nature); (4) any audit will be subject to one (1)-week prior written notice served to the relevant processor; (5) the Receiving Party can only request to have access to information which is strictly required for the purpose of achieving the objectives of the audit, subject to appropriate confidentiality undertakings taken by the processor's designated auditor; (6) the Receiving Party will, and will cause its auditor to, endeavor to minimize any inconvenience or disturbance to the normal operations of the processor's business; (7) the Receiving Party's external auditor will comply with any security measure and other directions provided by the relevant processor; and any cost incurred in connection with an audit requested by the Receiving Party will be borne by the Receiving Party unless the audit comes to the conclusion that the processor is not in compliance with Article 28 of the GDPR, in which case the processor will bear the costs of the relevant audit.

2.8 Data Protection under PIPEDA

(a) The provisions of this Section 2.8 shall apply only to the extent that (i) the performance of the Services requires the processing by the Providing Party of personal data in the control of the Receiving Party, either directly or indirectly, and (ii) the Canadian Privacy Laws are applicable to such activities.

(b) With respect to any Personal Data in the control of the Receiving Party that is processed by the Providing Party on behalf of the Receiving Party, the Providing Party shall (i) process such Personal Data only for the purpose of discharging its obligations hereunder (or as otherwise authorized by the Receiving Party in writing), (ii) promptly advise the Receiving Party of any request by an individual to access, correct or otherwise challenge the accuracy of such Personal Data, or any other communication received by the Providing Party in respect of such Personal Data, including any withdrawal or variation of consent by an individual, and to work, in a timely manner, with the Receiving Party to respond to such requests (which response shall first be approved by the Receiving Party), including by providing access to, correcting and ceasing to use or disclose such Personal Data as requested by such individual, (iii) use all reasonable efforts to protect and safeguard such Personal Data, including to protect such Personal Data from unauthorized or unlawful processing, (iv) return, delete or render irretrievable any such Personal Data in its possession or control at the request and direction of Purchasers at any time during the Term and, in any event, delete or render irretrievable at the expiry or termination of this Agreement, and (v) only process such Personal Data in Canada or such other jurisdictions as the Providing Party may advise the Receiving Party of from time to time.

(c) For the purposes of ensuring compliance with this Section 2.7, the Providing Party shall cooperate with the Receiving Party's reasonable requests to review the Providing Party's privacy practices and procedures from time to time during the Term. In connection with any such audit, the Providing Party shall promptly furnish any information or documentation that the Receiving Party may reasonably request.

(d) As promptly as practicable after any Party becomes aware of any breach of

security, any actual or suspected unauthorized or unlawful conduct or activities, or any breach of the terms of this Agreement, in each case, relating to the processing of Personal Data by the Providing Party on behalf of the Receiving Party, (i) such Party shall notify the other Party in writing, and (ii) the Parties shall take all reasonable actions to address or mitigate the effects of such breach and prevent a recurrence thereof.

(e) For purposes of this Section 2.8, (i) "**Canadian Privacy Laws**" means each applicable private sector, privacy legislation in Canada, including PIPEDA (Personal Information Protection and Electronics Document Act), and (ii) "**Personal Data**" means identified or identifiable information that on its own or combined with other pieces of data can identify an individual.

2.9 Data Protection.

(a) In addition to Section 2.7 and Section 2.8, the Providing Party shall comply with any other data protection regulations or laws applicable to the Providing Party in relation to providing the Services tothe Receiving Party. Additionally, the Providing Party shall provide reasonable and timely assistance to the Receiving Party in relation to the Receiving Party's obligations under any applicable data protection regulations or laws relating to the Receiving Party's receipt of the Services.

3. OTHER OBLIGATIONS.

3.1 Cooperation. The Parties shall cooperate in good faith with each other in all reasonable respects in matters relating to the provision and receipt of the Services. The Receiving Party shall provide the Providing Party with such cooperation, access, assistance and information as the Providing Party reasonably requests in connection with the performance of the Services pursuant to this Agreement, including providing to the Providing Party within any reasonable time period requested by the Providing Party answers to questions, information, technical consultations, and access to the Receiving Party personnel, systems and temporary access to facilities as necessary to enable the Providing Party to perform the Services pursuant to this Agreement. The Providing Party shall, and shall cause its personnel, including subcontractor and Affiliate personnel, to comply with the Receiving Party's standard rules and policies regarding access to and use of the Receiving Party's facilities.

3.2 Consents. To the extent the Providing Party's delivery of any Service as described in this Agreement requires the approval, consent, permission, waiver or agreement (each, a "**Consent**") from any relevant third party with whom the Providing Party has an existing contract the Providing Party shall use its reasonable best efforts to obtain a Consent fromsuch third party as necessary to enable the Providing Party to perform the Services. Subject to Section 6.03 of the Separation Agreement (which shall control with respect to matters set forth therein), the Providing Party shall be responsible for the one-time costs of any Consents required under the Providing Party's existing contract and is necessary for the performance of the Services ("**Consent Costs**"), which shall not include the cost of any license or payments attributable to or in respect of goods or services provided under any such contract. The Providing Party shall pay such Consent Costs directly to the relevant third party. The Providing Party's provision of any Services that requires the use or license of intellectual property, services or other assets owned by, licensed or purchased from a third party will be subject to the terms and conditions of any contracts between the

Providing Party (or its Affiliates) and such third party, as well as the terms of any related Consents, if applicable and necessary for the performance of the Services. The Receiving Party shall, and shall cause all of its Affiliates to, comply with the terms of all such contracts and Consents that are applicable to the Receiving Party's access to and use of the Services in connection with the receipt of the Services, and of which the Providing Party provides the Receiving Party with prior written notice. To the extent that any Consent is not obtained, the Parties will cooperate in good faith to make alternative arrangements and the Providing Party's obligation with respect to the applicable Service shall be to provide as much of the benefit of the applicable Service as is reasonably practicable without such Consent and each Party will continue to use its reasonable best efforts to obtain such Consent.

3.3 License to Receiving Party Materials. During the Transition Period, subject to Section8, the Receiving Party (on behalf of itself and its Affiliates) hereby grants to the Providing Party a non-exclusive license to use the hardware, software, records, manuals, documentation, databases and other intellectual property that is owned by or licensable bythe Receiving Party or its Affiliates following the Distribution Date and that is reasonably necessary in orderfor the Providing Party to provide the applicable Services (collectively, the "**Receiving Party Materials**") solely forthe purpose of providing the Services to the Receiving Party during the Transition Period.

3.4 License to Providing Party Materials. During the Transition Period, subject to Section 3.2 and Section 8, the Providing Party (on behalf of itself and its Affiliates) hereby grants to the Receiving Party and its Affiliates a non-exclusive license to use the hardware, software, records, manuals, documentation, databases and other intellectual property that is owned by or licensable by the Providing Party or its Affiliates and that is reasonably necessary inorder for the Receiving Party to receive the applicable Services (collectively, the "**Providing Party Materials**") solely for the purpose of receiving the applicable Services during the Transition Period. The Receiving Party may permit a consultant or subcontractor to use such Providing Party Materials for the sole purpose of providing services relating to the Services to the Receiving Party and the Receiving Party shall be responsible for any act or omission of such consultant or subcontractor as if it were performed or not performed by the Receiving Party.

3.5 Reliance. Neither the Providing Party nor any of its Affiliates shall be liable for the impairmentof any Service to the extent resulting from the failure of the Receiving Party or its Affiliates to provide the Providing Party with accurate, complete and timely information as reasonably required or reasonably requested in the performance or delivery of any Service.

4. FEES AND PAYMENT.

4.1 Fees and Expenses. The Receiving Party shall pay, in each case in accordance with this Section 4: (i) the fees specified in Exhibit A, including the FTE Fees and the Service Fees (each, a "**Fee**" and collectively, the "**Fees**") for each Service or category of Services, as applicable; (ii) any Termination Expenses; (iii) any Receiving-Party Funded Payments; (iv) where Loyalty Ventures is the Receiving Party, amounts payable in connection with Loyalty Ventures U.S. employees remaining on ADS benefit plans through December 31, 2021, as contemplated by Section 6.01(a) of the Employee Matters Agreement and as detailed in Exhibit A (but excluding, for the avoidance of doubt, any amount payable pursuant to Section 4.1(i)) and (v) to the extent not previously paid by the Receiving Party, any costs, expenses or other amounts for which the Receiving Party is responsible under the Separation Agreement (including Section 6.03 thereof) or other Ancillary Agreement.

4.2 Payment; Invoices. Unless otherwise specified in this Section 4 or in an exhibit hereto, the Providing Party will deliver to the Receiving Party invoices that specify the Fees for the Services (itemized by Service, e.g., Finance, IT, HR) and any other amounts payable under this Agreement. The Receiving Party shall pay any amounts in such invoices within thirty (30) days after receipt.

4.3 Service Provision Taxes. All amounts payable pursuant to this Agreement are exclusive of Service Provision Taxes. The Receiving Party shall pay (or cause to be paid) and be responsible for, on receipt of a valid invoice (or other valid and customary documentation, if any) in compliance with applicable Law and reasonably detailing the applicable Service Provision Taxes (as defined below) and a calculation of the amount due, any sales, use, excise, value-added, service, goods and services, consumption, gross receipts or similar Taxes imposed on or in connection with the provision of Services hereunder by any Governmental Entity ("**Service Provision Taxes**"). The Providing Party shall issue to the Receiving Party a valid and timely invoice separately stating the Service Provision Taxes and shall itemize the taxable and non-taxable portions of the amountdue on such invoice. The Receiving Party will then remit to the Providing Party the Service Provision Taxes with payment of the invoiced amount within thirty (30) days after receipt. For clarity, Service Provision Taxes shall not include any Taxes measured by or imposed on the Providing Party's net income or profits nor any interest, penalties or other charges attributable to the Providing Party's improper filing relating to Service Provision Taxes. The Receiving Party shall be entitled to deduct and withhold, or cause to be deducted and withheld, any Taxes as required by applicable Law in connection with any amounts payable pursuant to this Agreement; provided that the Receiving Party will provide notice to the Providing Party (and will use commercially reasonable efforts to provide such notice at least five (5) business days) prior to withholding to give the Providing Party an opportunity to provide additional information or to apply for an exemption from, or a reduced rate of, withholding. Any such amounts withheld or deducted and properly remitted to the applicable Governmental Entity shall be treated for purposes of this Agreement as having been paid to the person in respect of which such deduction or withholding was made. The Parties shall use reasonable best efforts to minimize Service Provision Taxes or Tax withholding to the extent legally permissible (e.g., by applying for exemption certificates or issuingany certificate or similar document that the other Party may require in order to obtain a taxcredit, deduction or similar relief) and to calculate any applicable Service Provision Taxes or withholding Tax and tomake payment thereof directly to the appropriate Governmental Entity. The Receiving Party shall not be obligated to pay such Service Provision Taxes if and to the extent that the Receiving Party has provided the Providing Party with any valid exemption certificates or other applicable valid documentation that would, to the Providing Party's reasonable satisfaction, eliminate or reduce such Service Provision Taxes. If the Providing Party receives any refund or credit in respect of Service Provision Taxes that are borne by theReceiving Party pursuant to this Agreement, the Providing Party shall promptly pay, or cause to be paid, to the Receiving Party the amount of such refund or such credit (net of any additional Taxes and reasonable related out-of-pocket costs and expenses that the Providing Party incurs as a result of the receipt of such refund or such credit). Except as otherwise specifically provided in this Agreement, Tax matters shall be exclusively governed by the Tax Matters Agreement, and in the event of any inconsistency between the Tax Matters Agreement and this Agreement with respect to Tax matters, the Tax Matters Agreement shall control.

5. OWNERSHIP OF INTELLECTUAL PROPERTY AND OTHER PROPERTY. This Agreement and the performance of the Services hereunder will not affect the ownership of any

property or Intellectual Property rights as set forth in the Separation Agreement and applicable Ancillary Agreements. Neither Party nor its Affiliates will gain, by virtue of this Agreement or the Services provided hereunder, by implication or otherwise, any rights of ownership of any property or Intellectual Property rights of the other Party or its Affiliates. No licenses, express or implied, are being granted by the Parties under this Agreement other than as set forth in Section 3.3 and Section 3.4.

6. COORDINATION AND COMMUNICATION. During the term of this Agreement, ADS and Loyalty Ventures shall each designate a group of individuals who shall work cooperatively with their counterparts to facilitate and administer this Agreement. Each Party shall appoint a principal point of contact with respect to each category of Services described in Exhibit A (each, a "**Services Manager**"), which Services Manager shall be the primary point of contact inrelation to issues arising with respect to the applicable category of Services. Either Party may replace a Services Manager with an individual of comparable qualifications and experience by giving notice in writing to the other Party setting forth the name of (i) the Services Manager to be replaced and (ii) the replacement Services Manager. The initial Services Managers for each Party are identified on Exhibit A.

7. CONFIDENTIALITY.

7.1 Obligations. Each Party expressly acknowledges and agrees that all Confidential Information of the other Party shall be maintained by such Party in confidence, using the same degree of care to preserve the confidentiality of such Confidential Information that the Party to whom such Confidential Information is disclosed would use to preserve the confidentiality of its own information of a similar nature and in no event less than a reasonable degree of care. Unless authorized in writing by the other Party, neither Party may use, disclose or permit to be disclosed any Confidential Information of the other Party to any Person, except (a) with respect to the Providing Party, as may be reasonably required in connection with the performance of Services, or with respect tothe Receiving Party, as may be reasonably required in connection with the receipt of Services, (b) to the Party's agents, contractors or representatives who need to know such information and are informed by such Party of the confidential nature of the information and are bound to maintain its confidentiality, and (c) to the extent reasonably necessary in connection with the enforcement of the terms or conditions of this Agreement or the Separation Agreement.

8. LIMITATIONS OF LIABILITY. IN NO EVENT WILL EITHER PARTY OR ANY OF ITS AFFILIATES OR REPRESENTATIVES HAVE ANY LIABILITY TO THE OTHER PARTY OR TO ANY OTHER PERSON FOR CONSEQUENTIAL OR OTHER INDIRECT DAMAGES INCLUDING LOST PROFITS (WHICH ARE HEREBY DISCLAIMED) OR ANY SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, ARISING FROM OR RELATEDTO THE SERVICES OR THIS AGREEMENT, EXCEPT FOR AND TO THE EXTENT OF ANY DIRECT DAMAGES CAUSED BY SUCH PARTY'S FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT IN CONNECTION WITH THIS AGREEMENT OR BREACH OF CONFIDENTIALITY UNDER SECTION 7. WITHOUT LIMITING THE FOREGOING, EXCEPT FOR A PARTY'S LIABILITY FOR INDEMNIFICATION CLAIMS UNDER SECTION 9 OR BREACH OF CONFIDENTIALITY UNDER SECTION 7, IN NO EVENT WILL EITHER PARTY'S OR ANY OF ITS AFFILIATES' OR REPRESENTATIVES' LIABILITY ARISING FROM OR RELATED TO THIS AGREEMENT EXCEED AN AMOUNT EQUAL TO THE AGGREGATE SERVICE FEES AND FTE FEES ACTUALLY PAID TO SUCH PARTY PURSUANT TO THIS AGREEMENT.

9. INDEMNIFICATION

9.1 Indemnification of the Receiving Party. Subject to the first sentence of Section 8, the Providing Party (in its capacity as such) hereby agrees to indemnify and hold the Receiving Party (in its capacity as such), its Affiliates and their respective employees, agents, officers and directors (each, a "**Receiving Party Indemnitee**") harmless from and against any losses, cost, interest, charges, expenses (including reasonable attorneys' fees), obligations, liabilities, settlement payments, awards, judgments, fines, penalties, damages, assessments or deficiencies (collectively, "**Losses**") arising out of, in connection with or by reason of, the Providing Party's or its Affiliates' fraud, gross negligence or willful misconduct in connection with the provision of any Services hereunder.

9.2 Indemnification of the Providing Party. Subject to the first sentence of Section 8, the Receiving Party (in its capacity as such) hereby agrees to indemnify and hold the Providing Party (in its capacity as such) and its Affiliates and their respectiveemployees, agents, officers and directors (each, a "**Providing Party Indemnitee**") harmless from and against any Losses arising out of, in connection with or by reason of the Receiving Party's fraud, gross negligence or willful misconduct in connection with the receipt of any Services hereunder.

9.3 Indemnification Procedures. Section 5.04 of the Separation Agreement shall govern, *mutatis mutandis*, claims for indemnification under Section 9.2 and Section 9.3.

9.4 Calculation of Losses. The amount of any Losses payable under this Agreement by the indemnifying party hereunder shall be net of any amounts recovered by the indemnified party under applicable insurance policies or from any other Person alleged to be responsible therefor. If the indemnified party hereunder receives any amounts under applicable insurance policies, or from any other Person alleged to be responsible for any Losses, subsequent to an indemnification payment by the indemnifying party, then such indemnified party shall promptly reimburse the indemnifying party for any payment made or expense incurred by such indemnifying party in connection with providing such indemnification payment up to the amount received by the indemnified party, net of any expenses incurred by such indemnified party in collecting such amount.

10. DISCLAIMER. WITHOUT LIMITING SECTION 2.2(a), THE SERVICES, AND ANY FACILITIES, EQUIPMENT, AND OTHER ITEMS PROVIDED UNDER THISAGREEMENT ARE PROVIDED "AS IS." THE PROVIDING PARTY (IN ITS CAPACITY AS SUCH) MAKES NO REPRESENTATIONS OR WARRANTIES UNDER THIS AGREEMENT WITH RESPECT TO THE SERVICES AND SUCH PROVIDING PARTY DISCLAIMS ANY AND ALL REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE SERVICES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF QUALITY, PERFORMANCE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT.

11. TERM AND TERMINATION.

11.1 Term of Agreement. Subject to earlier termination in accordance with its terms, the term of this Agreement begins on the Distribution Date and will continue until the earlier of (i) the end of the Transition Period, or (ii) the date on which all Services have been terminated

in accordance with Section 11.2 (the "**Term**").

11.2 Term and Termination of Services.

(a) The Service Period of each individual Service shall be as set forth on Exhibit A for such Service.

(b) Except for those Services designated on Exhibit A as not being eligible for early termination the Receiving Party may terminate a Service or Services early by providing a written notice to the Providing Party at least 60 days before the termination date that describes the Service or Services that the Receiving Party is requesting to terminate and the proposed dates of termination (each, a "**Termination Request**"). The Parties will promptly discuss each Termination Request in good faith, taking into consideration circumstances related to each Service contained in the Termination Request, including any interdependencies between such Service and any other ongoing Services, changes required to other Services or Agreement terms in connection with any such termination, and proposed termination timelines. After the Providing Party's receipt of a Termination Request, the Parties will promptly agree on a schedule (it being agreed that such schedules shall provide for termination as soon as reasonably practicable unless otherwise agreed by the parties) for termination of the applicable Services that are the subject of the Termination Request and the Providing Party shall promptly and in good faith advise the Receiving Party in writing of (i) any other Services that are dependent on the Services subject to the Termination Request that must be terminated or modified as a result of the termination of the Services subject to the Termination Request and (ii)the amount, if any, of early termination costs or expenses actually incurred by the Providing Party solely to theextent associated with such termination, including those related to third party providers such as reimbursement for the portion of any prepaid licenses or services agreements applicable to the period between the termination date and the end of the Service Period set forth in Exhibit A or applicable to any periods that the Providing Party was required to extend such licenses or agreements in connection with an extension of such Service as requested by the Receiving Party pursuant to Section 2.3 (such expenses which the Providing Party has advised the Receiving Party of in writing and in good faith, the "**Termination Expenses**") and the Receiving Party shall be responsible for and pay such Termination Expenses in accordance with Section 4. The Receiving Party may withdraw its Termination Request by delivering a written withdrawal notice within 10 days after the Providing Party advises Receiving Party of theamount of any Termination Expenses associated with the applicable termination. If the Receiving Party does not submit such withdrawal notice within such 10-day period, such Termination Request will be final, binding and irrevocable. The Providing Party will use its reasonable best efforts to mitigate any such Termination Expenses. Upon such termination and payment of any Termination Expenses, the Receiving Party's obligation to pay for the terminated Services shall terminate, and the Providing Party shall cease, or cause its Affiliates or third party service providers to cease, providing the terminated Services.

11.3 Termination for Cause.

(a) Each Party may terminate this Agreement immediately, upon written notice if the other Party breaches in any material respect any material term of this Agreement andfails to cure such breach within thirty (30) days after receipt by the breaching Party of written notice from the non-breaching Party describing such breach.

(b) Each Party may terminate this Agreement immediately, upon written notice

if the other Party (i) makes a general assignment for the benefit of creditors, enters into liquidation or petitions or applies to any tribunal for the appointment of a custodial, receiver, administrator, administrative receiver or trustee for all or a substantial part of its assets, or (ii) commences any proceeding under any bankruptcy, reorganization, arrangement, readjustment of debt, dissolution or liquidation Law of any jurisdiction whether now or hereafter in effect or the other Party has had any such petition or application filed or any such proceeding commenced against it in which an order for relief is entered or an adjudication or appointment is made and which remains undismissed for a period of sixty (60) days or more.

11.4 Effect of Termination. Immediately following the expiration or termination of this Agreement, or the termination of any particular Service, the Providing Party shall cease, or cause its Affiliates or subcontractors to cease, providing the applicable Services. In the event of termination by either Party in accordance with the provisions of this Agreement or expiration of the Agreement, any amount outstanding and payable as of the date of the termination or expiration shall remain payable by the Receiving Party and become due immediately upon termination or expiration. Following the termination of any Service, the Receiving Party shall immediately cease access and use of those Providing Party Systems accessed and used in connection with such Service and shall, as promptly as practicable, return to the Providing Party any equipment or other property of the Providing Party in the possession or control of the Receiving Party to the extent relating to such Service. The following provisions of this Agreement shall survive its termination: Sections 1, 2.7, 2.8, 2.9, 3.5, 4, 5, 7, 8, 9, 10, 11.4 and 12.

12. MISCELLANEOUS.

12.1 Relationship of the Parties. It is agreed and understood that neither Party is the agent, representative or partner of the other Party and neither Party has any authority or power to bind or contract in the name of or to create any liability against the other Party in any way or for any purpose pursuant to this Agreement, and that all Services are provided by the Providing Party (directly or through its Affiliates or subcontractors) as an independent contractor. Nothing contained in this Agreement shall be construed to give either Party the power to direct and control the day-to-day activities of the other Party, constitute the Parties as partners, joint venturers, principal and agent,employer and employee, co-owners, or otherwise as participants in a joint undertaking, or allow either Party to create or assume any obligation on behalf of the other Party for any purpose whatsoever.

12.2 Force Majeure. Neither Party shall be liable for any failure to perform its obligations under this Agreement due to a force majeure event during the Term, including but not limited to an act of God, flood, earthquake, fire, explosion, interruption or defect in the supply of electricity or water, act of government, war, acts of terror, civil commotion, insurrection, embargo, riots, lockouts, inability to obtain raw materials, or labor disputes.

12.3 Notices. All notices and other communications to be given to any Party hereunder shall be sufficiently given for all purposes hereunder if in writing and delivered by hand, courier or overnight delivery service, three days after being mailed by certified or registered mail, return receipt requested, with appropriate postage prepaid, or by e-mail (so long as a receipt of such e-mail is requested and received), and shall be directed to the address set forth below (or at such other address as such Party shall designate by like notice):

(a) If to ADS:

Alliance Data Systems Corporation
7500 Dallas Parkway, Suite 700
Plano, Texas 75024
Attention: Joseph L. Motes III, Executive Vice President, Chief Administrative Officer, General Counsel & Secretary
E-mail: generalcounsel@alliancedata.com

with copies (which shall not constitute notice) to:

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

(b) If to Loyalty Ventures:

Loyalty Ventures, Inc.
7500 Dallas Parkway, Suite 700
Plano, Texas 75024
Attention: Cynthia L. Hageman, Executive Vice President, General Counsel & Secretary
E-mail: generalcounsel@loyalty.com and investorrelations@loyalty.com

with copies (which shall not constitute notice) to:

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

12.4 Amendments and Waivers.

(a) This Agreement may not be modified or amended except by an instrument or instruments in writing executed and delivered by the Party against whom enforcement of any such modification or amendment is sought. Any Party to this Agreement may, only by an instrument in writing, waive compliance by the other Party to this Agreement with any term or provision of this Agreement on the part of such other Party to this Agreement to be performed or complied with. The waiver by any Party to this Agreement of a breach of any term or provision of this Agreement shall not be construed as a waiver of any subsequent breach.

(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 law.

12.5 Dispute Resolution.

(a) Prior to initiating any proceeding relating to any dispute or controversy against the other Party in connection with this Agreement (a "**Dispute**"), the Parties shall attempt in good faith to resolve the Dispute in accordance with this Section 12.5.

(b) The Party initiating the Dispute shall first send written notice of theDispute to the other Party specifying the nature of the dispute (the "**Dispute Notice**"). The applicable Services Managers shall confer and discuss such Dispute within 5 days after receipt ofthe Dispute Notice. If the Services Managers cannot agree on a resolution of the Dispute within 10 days after receipt of the Dispute Notice, the Dispute shall be escalated to senior executives designated by each Party for resolution. The applicable Services Manager of the Party initiating the Dispute shall promptly prepare (after consultation with the other Party's Services Manager) for review by such senior executives a summary stating (a) the issues in dispute and each Party's position thereon, (b) a summary of the evidence and arguments supporting each Party's position (attaching all relevant documents) and (c) a summary of the negotiations that have taken place to date.

(c) The senior executives shall conduct good faith discussions within 5 days after receipt of the summary described above. If the senior executives cannot agree on a resolution of the Dispute within 20 days after receipt of the Dispute Notice, either Party may initiate an Action with respect to such Dispute.

12.6 Governing Law; Jurisdiction and Forum; Waiver of Jury Trial.

(a) This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without regard to any choice or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware. In addition,each of the Parties irrevocably (i) submits to the personal jurisdiction of the Delaware Court of Chancery in and for New Castle County, or in the event (but only in the event) that such Delaware Court of Chancery does not have subject matter jurisdiction over such dispute, the United States District Court for the District of Delaware, or in the event (but only in the event) that such United States District Court also does not have jurisdiction over such dispute, any Delaware State court sitting in New Castle County, in the event any dispute (whether in contract,tort or otherwise) arises out of this Agreement or the transactions contemplated hereby, (ii) agrees that it will not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court (and of the appropriate appellate courts therefrom), (iii) waives any objection to the laying of venue of any Action relating to this Agreement or the transactions contemplated thereby in such court, (iv) waives and agrees not to plead or claim in any such court that any Action relating to this Agreement or the transactions contemplated thereby brought in any such court has been brought in an inconvenient forum, and (v) agrees thatit will not bring any Action relating to this Agreement or the transactions contemplated hereby inany court other than the Delaware Court of Chancery in and for New Castle County, or in the event (but only in the event) that such Delaware Court of Chancery does not have subject matter jurisdiction over such Action, the United States District Court for the District of Delaware, or in the event (but only in the event) that such United States District Court also does not have jurisdiction over such Action, any Delaware State court sitting

in New Castle County. Process in any such suit, action or proceeding may be served on any Party anywhere in the world, whether within or without the jurisdiction of any such court. Each Party agrees that service of process upon such Party in any such Action shall be effective if notice is given in accordance with Section 12.3.

(b) EACH PARTY TO THIS AGREEMENT WAIVES TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY ANY PARTY AGAINST THE OTHER PARTY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER AGREEMENTS EXECUTED IN CONNECTION HEREWITH OR THE ADMINISTRATION THEREOF OR THE TRANSACTION OR ANY OF THE OTHER TRANSACTIONS CONTEMPLATED HEREIN OR THEREIN. NEITHER PARTY TO THIS AGREEMENT SHALL SEEK A JURY TRIAL IN ANY LAWSUIT, PROCEEDING, COUNTERCLAIM OR ANY OTHER LITIGATION PROCEDURE BASED UPON, OR ARISING OUT OF, THIS AGREEMENT. NEITHER PARTY WILL SEEK TO CONSOLIDATE ANY SUCH ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. EACH PARTY TO THIS AGREEMENT CERTIFIES THAT IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT OR INSTRUMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS SET FORTH IN THIS SECTION 12.6. NO PARTY HAS IN ANY WAY AGREED WITH OR REPRESENTED TO THE OTHER PARTY THAT THE PROVISIONS OF THIS SECTION 12.6 WILL NOT BE FULLY ENFORCED IN ALL INSTANCES.

12.7 Entire Agreement. This Agreement, together with the Separation Agreement and the Ancillary Agreements and the Exhibits and Schedules hereto and thereto constitute the entire agreement between the Parties with respect to the subject matter of this Agreement and supersede any prior discussion, correspondence, negotiation, term sheet, agreement, understanding or arrangement, and there are no agreements, understandings, representations or warranties between the Parties other than those set forth or referred to in this Agreement, the Separation Agreement and the Ancillary Agreements and the Exhibits and Schedules hereto and thereto. In the event of a conflict or inconsistency between the main body of this Agreement and an Exhibit or other attachment hereto the main body of this Agreement shall govern.

12.8 Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party hereto. Upon such a determination, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible ina mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

12.9 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties to this Agreement and their respective successors and permitted assigns; provided that no Party to this Agreement may assign this Agreement without the express prior written consent of the other Party, except that either Party may transfer or assign, in whole or fromtime to time in part, its rights or obligations under this Agreement to any of its Affiliates. Any attempted assignment in violation of this Section 12.9 shall be null and void *ab initio*.

Notwithstanding the foregoing, either Party hereto may assign or transfer this Agreement and all of its rights and obligations hereunder to any third party that acquires all or substantially all of such Party's assets or business to which this Agreement relates (whether by sale of assets, stock, merger, consolidation, reorganization or otherwise); *provided* that this Agreement and the Services shall not apply to any other business of such third party acquirer. Nor shall this Agreement and the Services apply with respect to any acquisition by the Receiving Party that would materially expand the scope of the Services.

12.10 No Third Party Beneficiaries. Nothing in this Agreement, including the exhibits hereto, is intended to confer in or on behalf of any Person not a party to this Agreement (and their successors and assigns) any rights, benefits, causes of action or remedies with respect to thesubject matter or any provision hereof; provided that each of the Parties may enforce any applicable payment or reimbursement obligation set forth in this Agreement on behalf of its Affiliates.

12.11 Non-Recourse. No past, present or future director, officer, employee, incorporator, member, partner, stockholder, Affiliate, agent, attorney or representative of either Partyor any of its Affiliates shall have any liability for any obligations or liabilities of such Party for any claim based on, in respect of or by reason of the transactions contemplated by this Agreement.

12.12 Headings; Definitions. The Section and Article headings contained in this Agreement are inserted for convenience of reference only and will not affect the meaning or interpretation of this Agreement.

12.13 Counterparts. This Agreement may be executed in one or more counterparts, and by the different Parties in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page to this Agreement byelectronic transmission method (including by facsimile or by e-mail in "pdf" form) shall be as effective as delivery of a manually executed counterpart of this Agreement.

[*Signature page follows*]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

ALLIANCE DATA SYSTEMS CORPORATION

By:_____

Name:_____

Title:_____

LOYALTY VENTURES INC.

By:_____

Name:_____

Title:_____

EXHIBIT D

FORM OF AMENDED AND RESATATED CERTIFICATE OF INCORPORATION

[Attached]

AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION OF
LOYALTY VENTURES INC.

LOYALTY VENTURES INC., a corporation organized and existing under the laws of the State of Delaware (the "**Corporation**"), hereby certifies as follows:

1. The name of the Corporation is Loyalty Ventures Inc.

2. The original Certificate of Incorporation of the Corporation was filed with the Secretary of State of the State of Delaware on June 21, 2021 and amended on October 20, 2021.

3. This Amended and Restated Certificate of Incorporation restates and amends the provisions of the Certificate of Incorporation of the Corporation and was duly adopted in accordance with the provisions of Sections 141, 242 and 245 of the General Corporation Law of the State of Delaware.

4. The Certificate of Incorporation of the Corporation, as amended and restated herein, shall, upon the effective date of this Amended and Restated Certificate of Incorporation, read as follows:

ARTICLE 1.
NAME

The name of the Corporation is Loyalty Ventures Inc.

ARTICLE 2.
REGISTERED OFFICE AND AGENT

The address of its registered office in the State of Delaware is Corporation Trust Center, 1209 Orange Street, City of Wilmington, County of New Castle, Delaware 19801. The name of its registered agent at such address is The Corporation Trust Company.

ARTICLE 3.
PURPOSE AND POWERS

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware as the same exists or may hereafter be amended ("**DGCL**").

ARTICLE 4.
CAPITAL STOCK

(A) Authorized Shares

1. **Classes of Stock.** The total number of shares of stock that the Corporation shall have authority to issue is 220,000,000, consisting of 200,000,000 shares of Common Stock, par value $0.01 per share (the "**Common Stock**"), and 20,000,000 shares of Preferred Stock, par value $0.01 per share (the "**Preferred Stock**").

2. **Preferred Stock.** The Board of Directors is hereby empowered, without any action or vote by the Corporation's stockholders (except as may otherwise be provided by the terms of any class or series of Preferred Stock then outstanding), to authorize by resolution or resolutions from time to time the issuance of one or more classes or series of Preferred Stock and to fix the designations, powers, preferences and relative, participating, optional or other rights, if any, and the qualifications, limitations or restrictions thereof, if any, with respect to each such class or series of Preferred Stock and the number of shares constituting each such class or series, and to increase or decrease the number of shares of any such class or series to the extent permitted by the DGCL.

(B) Voting Rights

Each holder of Common Stock, as such, shall be entitled to one vote for each share of Common Stock held of record by such holder on all matters on which stockholders generally are entitled to vote; provided, however, that, except as otherwise required by law, holders of Common Stock, as such, shall not be entitled to vote on any amendment to this Certificate of Incorporation (including any certificate of designations relating to any class or series of Preferred Stock) that relates solely to the terms of one or more outstanding classes or series of Preferred Stock if the holders of such affected class or series are entitled, either separately or together with the holders of one or more other such classes or series, to vote thereon pursuant to this Certificate of Incorporation (including any certificate of designations relating to any class or series of Preferred Stock) or pursuant to the DGCL.

ARTICLE 5.
BYLAWS

The Board of Directors shall have the power to adopt, amend or repeal the bylaws of the Corporation (the "**Bylaws**").

The stockholders may adopt, amend or repeal the Bylaws only as set forth in Section 6.06 of the Corporation's Bylaws.

ARTICLE 6.
BOARD OF DIRECTORS

(A) Power of the Board of Directors. The business and affairs of the Corporation shall be managed by or under the direction of a Board of Directors.

(B) **Number of Directors.** The number of directors which shall constitute the Board of Directors shall, as of the date this Certificate of Incorporation becomes effective, be five and, thereafter, shall 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.

(C) Election of Directors.

(1) From the effective date of this Certificate of Incorporation (the "**Effective Date**") until the completion of the seventh annual meeting of stockholders to occur after the Effective Date (the "**Sunset Date**"), the directors shall be divided into three classes, designated Class I, Class II and Class III. Each class shall consist, as nearly as may be practicable, of one-third of the total number of directors constituting the entire Board of Directors. Each director shall serve for a term ending on the date of the third annual meeting of stockholders next following the annual meeting at which such director was

elected; *provided* that directors initially designated as Class I directors shall serve for a term ending on the date of the 2022 annual meeting, directors initially designated as Class II directors shall serve for a term ending on the 2023 annual meeting, and directors initially designated as Class III directors shall serve for a term ending on the date of the 2024 annual meeting. Notwithstanding the foregoing, each director shall hold office until such director's successor shall have been duly elected and qualified or until such director's earlier death, resignation or removal. In the event of any change in the number of directors, the Board of Directors shall apportion any newly created directorships among, or reduce the number of directorships in, such class or classes as shall equalize, as nearly as possible, the number of directors in each class. Commencing with the 2029 annual meeting, the classification of the Board of Directors shall begin a phase-out and each director whose term ends at the 2029 annual meeting and each annual meeting thereafter and is then up for election, and is then elected, shall be elected for a one-year term and such director shall hold office until such director's successor shall have been duly elected and qualified or until such director's earlier death, resignation or removal. For the avoidance of doubt, in no event will a decrease in the number of directors shorten the term of any incumbent director.

(2) The names and mailing addresses of the persons who are to serve initially as directors of each Class are:

	Name	**Mailing Address**
Class I	Barbara L. Rayner	7500 Dallas Parkway, Suite 700 Plano, Texas 75024
Class II	Charles L. Horn Richard A. Genovese	7500 Dallas Parkway, Suite 700 Plano, Texas 75024
Class III	Graham W. Atkinson Roger H. Ballou	7500 Dallas Parkway, Suite 700 Plano, Texas 75024

(3) There shall be no cumulative voting in the election of directors. Election of directors need not be by written ballot unless the Bylaws so provide.

(D) Vacancies. Vacancies on the Board of Directors resulting from death, resignation, removal or otherwise and newly created directorships resulting from any increase in the number of directors shall, except as otherwise required by law, be filled solely by a majority of the directors then in office (although less than a quorum) or by the sole remaining director. Prior to the Sunset Date, each director so appointed shall hold office for a term that shall coincide with the term of the Class to which such director shall have been appointed and, after the Sunset Date, each director so appointed shall hold office for the remainder of the term of the director for which the vacancy occurred and until such director's successor shall have been duly elected and qualified.

(E) Removal. For so long as the directors are divided into classes, no director may be removed from office by the stockholders except for cause with the affirmative vote of the holders of not less than a majority of the total voting power of all outstanding securities of the Corporation generally entitled to vote in the election of directors, voting together as a single class. From and after the time at which the directors are no longer divided into classes, any director may be removed at any time, either with or without cause, upon the affirmative vote of the holders of not less than a majority of the total voting power of all outstanding securities of the Corporation generally entitled to vote in the election of directors, voting together as a single class.

ARTICLE 7.
MEETINGS OF STOCKHOLDERS

(A) Annual Meetings. An annual meeting of stockholders for the election of directors to succeed those whose terms expire and for the transaction of such other business as may properly come before the meeting shall be held at such place, on such date, and at such time as the Board of Directors shall determine.

(B) Special Meetings. Special meetings of the stockholders may be called as set forth in Section 2.03 of the Corporation's Bylaws.

(C) No Action by Written Consent. Subject to the rights of the holders of any class or series of Preferred Stock then outstanding, as may be set forth in the resolution or resolutions adopted by the Board of Directors pursuant to Article 4(A) hereto for such class or series of Preferred Stock, any action required or permitted to be taken at any annual or special meeting of stockholders may be taken only upon the vote of stockholders at an annual or special meeting duly noticed and called in accordance with the DGCL, as amended from time to time, and this Article 7 and may not be taken by written consent of stockholders without a meeting.

ARTICLE 8.
LMITATION OF LIABILITY/INDEMNIFICATION

(A) Limited Liability. A director of the Corporation shall not be liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director to the fullest extent permitted by the DGCL.

(B) Right to Indemnification.

(1) Each person (and the heirs, executors or administrators of such person) who was or is a party or is threatened to be made a party to, or is involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such person is or was a director or officer of the Corporation or is or was serving at the request of the Corporation as a director or officer of another corporation, partnership, joint venture, trust or other enterprise, shall be indemnified and held harmless by the Corporation to the fullest extent permitted by the DGCL. The right to indemnification conferred in this Article 8 shall also include the right to be paid by the Corporation the expenses incurred in connection with any such proceeding in advance of its final disposition to the fullest extent authorized by the DGCL. The right to indemnification conferred in this Article 8 shall be a contract right.

(2) The Corporation may, by action of its Board of Directors, provide indemnification to such of the employees and agents of the Corporation to such extent and to such effect as the Board of Directors shall determine to be appropriate and authorized by the DGCL.

(C) Insurance. The Corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss incurred by such person in any such capacity or arising out of such person's status as such, whether or not the Corporation would have the power to indemnify such person against such liability under DGCL.

(D) Nonexclusivity of Rights. The rights and authority conferred in this Article 8 shall not be exclusive of any other right that any person may otherwise have or hereafter acquire.

(E) Preservation of Rights. Neither the amendment nor repeal of this Article 8, nor the adoption of any provision of this Certificate of Incorporation or the Bylaws, nor, to the fullest extent permitted by DGCL, any modification of law, shall adversely affect any right or protection of any person granted pursuant hereto existing at, or arising out of or related to any event, act or omission that occurred prior to, the time of such amendment, repeal, adoption or modification (regardless of when any proceeding (or part thereof) relating to such event, act or omission arises or is first threatened, commenced or completed).

ARTICLE 9.
SECTION 203 OF THE DGCL

(A) Opt Out of DGCL 203. The Corporation shall not be governed by Section 203 of the DGCL until such time as Alliance Data Systems Corporation no longer beneficially owns 5% or more of the then outstanding shares of our Common Stock, at which such time the Corporation shall automatically become subject to Section 203 of the DGCL.

(B) Limitations on Business Combination. Notwithstanding the foregoing, during such time in which the Corporation is not subject to Section 203 of the DGCL, the Corporation shall not engage in any Business Combination, at any point in time at which the Corporation's Common Stock is registered under Section 12(b) or 12(g) of the Exchange Act with any Interested Stockholder (as defined herein) for a period of three (3) years following the time that such stockholder became an Interested Stockholder, unless:

(1) prior to such time, the Board approved either the Business Combination or the transaction which resulted in the stockholder becoming an Interested Stockholder, or

(2) upon consummation of the transaction which resulted in the stockholder becoming an Interested Stockholder, the Interested Stockholder owned at least 85% of the Voting Stock (defined below) of the Corporation outstanding at the time the transaction commenced, excluding for purposes of determining the Voting Stock outstanding (but not the outstanding Voting Stock owned by the Interested Stockholder) those shares owned by (i) Persons who are directors and also officers or (ii) employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer, or

(3) at or subsequent to such time, the Business Combination is approved by the Board and authorized at an annual or special meeting of the stockholders, and not by written consent, by the affirmative vote of at least 66 2/3% of the Voting Stock of the Corporation outstanding that is not owned by the Interested Stockholder.

(C) Definitions. For purposes of this Article 9,

(1) "**Affiliate**" means a Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, another Person.

(2) "**Associate**," when used to indicate a relationship with any Person, means:

(i) any corporation, partnership, unincorporated association or other entity of which such Person is a director, officer or partner or is, directly or indirectly, the owner of 20% or more of any class of Voting Stock;

(ii) any trust or other estate in which such Person has at least a 20% beneficial interest or as to which such Person serves as trustee or in a similar fiduciary capacity; and

(iii) any relative or spouse of such Person, or any relative of such spouse, who has the same residence as such Person.

(3) "**Business Combination**," when used in reference to the Corporation and any Interested Stockholder of the Corporation, means:

(i) any merger or consolidation of the Corporation or any direct or indirect majority-owned subsidiary of the Corporation (a) with the Interested Stockholder, or (b) with any other corporation, partnership, unincorporated association or other entity if the merger or consolidation is caused by the Interested Stockholder and as a result of such merger or consolidation Section B of this Article 9 is not applicable to the surviving entity;

(ii) any sale, lease, exchange, mortgage, pledge, transfer or other disposition (in one transaction or a series of transactions), except proportionately as a stockholder of the Corporation, to or with the Interested Stockholder, whether as part of a dissolution or otherwise, of assets of the Corporation or of any direct or indirect majority owned subsidiary of the Corporation which assets have an aggregate market value equal to 10% or more of either the aggregate market value of all the assets of the Corporation determined on a consolidated basis or the aggregate market value of all the outstanding stock of the Corporation;

(iii) any transaction which results in the issuance or transfer by the Corporation or by any direct or indirect majority-owned subsidiary of the Corporation of any stock of the Corporation or of such subsidiary to the Interested Stockholder, except: (a) pursuant to the exercise, exchange or conversion of securities exercisable for, exchangeable for or convertible into stock of the Corporation or any such subsidiary which securities were outstanding prior to the time that the Interested Stockholder became such; (b) pursuant to a merger under Section 251(g) of the DGCL; (c) pursuant to a dividend or distribution paid or made, or the exercise, exchange or conversion of securities exercisable for, exchangeable for or convertible into stock of the Corporation or any such subsidiary which security is distributed, pro rata to all holders of a class or series of stock of the Corporation subsequent to the time the Interested Stockholder became such; (d) pursuant to an exchange offer by the Corporation to purchase stock made on the same terms to all holders of said stock; or (e) any issuance or transfer of stock by the Corporation; provided, however, that in no case under items (iii)-(v) of this subsection (c) shall there be an increase in the Interested Stockholder's proportionate share of the stock of any class or series of the Corporation or of the Voting Stock of the Corporation (except as a result of immaterial changes due to fractional share adjustments);

(iv) any transaction involving the Corporation or any direct or indirect majority-owned subsidiary of the Corporation which has the effect, directly or indirectly, of increasing the proportionate share of the stock of any class or series, or securities convertible into the stock of any class or series, of the Corporation or of any such subsidiary which is owned by the Interested Stockholder, except as a result of immaterial changes due to fractional share adjustments or as a

result of any purchase or redemption of any shares of stock not caused, directly or indirectly, by the Interested Stockholder; or

(v) any receipt by the Interested Stockholder of the benefit, directly or indirectly (except proportionately as a stockholder of the Corporation), of any loans, advances, guarantees, pledges, or other financial benefits (other than those expressly permitted in subsections (i) to (iv) above) provided by or through the Corporation or any direct or indirect majority-owned subsidiary.

(4) "**control**," including the terms "**controlling**," "**controlled by**" and "**under common control with**," 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 Stock, by contract, or otherwise. A Person who is the owner of 20% or more of the outstanding Voting Stock of the Corporation, partnership, unincorporated association or other entity shall be presumed to have control of such entity, in the absence of proof by a preponderance of the evidence to the contrary. Notwithstanding the foregoing, a presumption of control shall not apply where such Person holds Voting Stock, in good faith and not for the purpose of circumventing this Article 9, as an agent, bank, broker, nominee, custodian or trustee for one or more owners who do not individually or as a group have control of such entity.

(5) "**Interested Stockholder**" means any Person (other than the Corporation and any direct or indirect majority-owned subsidiary of the Corporation) that (i) is the owner of 15% or more of the outstanding Voting Stock of the Corporation, or (ii) is an Affiliate or Associate of the Corporation and was the owner of 15% or more of the outstanding Voting Stock of the Corporation at any time within the three (3) year period immediately prior to the date on which it is sought to be determined whether such Person is an Interested Stockholder, and the Affiliates and Associates of such Person; provided, however, that the term "**Interested Stockholder**" shall not include (a) Alliance Data Systems Corporation or any of its Affiliates or successor or any "group," or any member of any such group, to which such Persons are a party under Rule 13d-5 of the Exchange Act or (b) any Person whose ownership of shares in excess of the 15% limitation set forth herein is the result of any action taken solely by the Corporation; provided that such Person specified in this clause (b) shall be an Interested Stockholder if thereafter such Person acquires additional shares of Voting Stock of the Corporation, except as a result of further corporate action not caused, directly or indirectly, by such Person. For the purpose of determining whether a Person is an Interested Stockholder, the Voting Stock of the Corporation deemed to be outstanding shall include stock deemed to be owned by the Person through application of the definition of "owner" below but shall not include any other unissued stock of the Corporation which may be issuable pursuant to any agreement, arrangement or understanding, or upon exercise of conversion rights, warrants or options, or otherwise.

(6) "**owner**," including the terms "**own**" and "**owned**," when used with respect to any stock, means a Person that individually or with or through any of its Affiliates or Associates:

(i) beneficially owns such stock, directly or indirectly; or

(ii) has (a) the right to acquire such stock (whether such right is exercisable immediately or only after the passage of time) pursuant to any agreement, arrangement or understanding, or upon the exercise of conversion rights, exchange rights, warrants or options, or otherwise; provided, however, that a Person shall not be deemed the owner of stock tendered pursuant to a tender or exchange offer made by such Person or any of such Person's Affiliates or

Associates until such tendered stock is accepted for purchase or exchange; or (b) the right to vote such stock pursuant to any agreement, arrangement or understanding; provided, however, that a Person shall not be deemed the owner of any stock because of such Person's right to vote such stock if the agreement, arrangement or understanding to vote such stock arises solely from a revocable proxy or consent given in response to a proxy or consent solicitation made to ten (10) or more Persons; or

(iii) has any agreement, arrangement or understanding for the purpose of acquiring, holding, voting (except voting pursuant to a revocable proxy or consent as described in item (b) of subsection (ii) above), or disposing of such stock with any other Person that beneficially owns, or whose Affiliates or Associates beneficially own, directly or indirectly, such stock.

(7) "**Person**" means any individual, corporation, partnership, unincorporated association or other entity.

(8) "**stock**" means, with respect to any corporation, capital stock and, with respect to any other entity, any equity interest.

(9) "**Voting Stock**" means stock of any class or series entitled to vote generally in the election of directors.

ARTICLE 10.
EXCLUSIVE FORUM

(a) Unless the Corporation consents in writing to the selection of an alternative forum, the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the Corporation; (ii) any action asserting a claim for or based on a breach of a fiduciary duty owed by any current or former director or officer or other employee or agent of the Corporation to the Corporation or to the Corporation's stockholders, including a claim alleging the aiding and abetting of such a breach of fiduciary duty; (iii) any action asserting a claim against the corporation or any current or former director or officer or other employee or agent of the Corporation arising pursuant to any provision of the Delaware General Corporation Law ("**DGCL**") or the Corporation's certificate of incorporation or bylaws (as any of the foregoing may be amended from time to time); (iv) any action asserting a claim related to or involving the Corporation 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 DGCL; shall be 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). Notwithstanding the foregoing, the provisions of this subsection (a) shall not apply to suits brought to enforce any liability or duty created by the Exchange Act or the Securities Act of 1933, as amended (the "**Securities Act**").

(b) The federal district courts of the United States of America shall be, to the fullest extent permitted by law, the sole and exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act, including the applicable rules and regulations promulgated thereunder.

ARTICLE 11.
AMENDMENTS

The Corporation reserves the right to amend this Certificate of Incorporation in any manner permitted by the DGCL and all rights and powers conferred upon stockholders, directors and officers herein are granted subject to this reservation. Notwithstanding the foregoing, the provisions set forth in Articles 4(B), 5, 6, 7, 9, and this Article 11 may not be repealed or amended in any respect, and no other provision may be adopted, amended or repealed which would have the effect of modifying or permitting the circumvention of the provisions set forth in any of Articles 4(B), 5, 6, 7, 9, or this Article 11, unless such action is approved by the affirmative vote of the holders of not less than 66 2/3% of the total voting power of all outstanding securities of the Corporation generally entitled to vote in the election of directors, voting together as a single class; provided, however, that the provisions of this sentence shall be of no force and effect effective as of the Sunset Date.

IN WITNESS WHEREOF, the Corporation has caused this Amended and Restated Certificate of Incorporation to be duly signed by Charles L. Horn, its President and Chief Executive Officer, who hereby acknowledges under penalties of perjury that the facts herein stated are true and this Amended and Restated Certificate of Incorporation is the act and the deed of the Corporation, this 4th day of November, 2021.

LOYALTY VENTURES INC.

_____

Charles L. Horn
President and Chief Executive Officer

EXHIBIT E

FORM OF AMENDED AND RESTATED BYLAWS

[Attached]

AMENDED AND RESTATED BYLAWS
OF
LOYALTY VENTURES INC.

November 4, 2021

OFFICES

Section 1.01. *Registered Office.* The registered office of Loyalty Ventures Inc. (the "**Corporation**") within the State of Delaware shall be located at either (i) the principal place of business of the Corporation in the State of Delaware or (ii) the office of the corporation or individual acting as the Corporation's registered agent in Delaware.

Section 1.02. *Other Offices.* The Corporation may also have offices at such other places both within and without the State of Delaware as the board of directors of the Corporation (the "**Board of Directors**") may from time to time determine or the business of the Corporation may require.

Section 1.03. *Books.* The books of the Corporation may be kept within or without the State of Delaware as the Board of Directors may from time to time determine or the business of the Corporation may require.

ARTICLE 2
STOCKHOLDER MEETINGS

Section 2.01. *Time and Place of Meetings.* All meetings of stockholders shall be held at such place, either within or without the State of Delaware, on such date and at such time as may be determined from time to time by the Board of Directors (or the Chair of the Board of Directors in the absence of a designation by the Board of Directors), provided that the Board of Directors may in its sole discretion determine that the meeting shall not be held at any physical place, but may instead be held solely by means of remote communication pursuant to Section 6.07.

Section 2.02. *Annual Meetings.* An annual meeting of stockholders, commencing with the year 2022, shall be held for the election of directors and to transact such other business as may properly be brought before the meeting.

Section 2.03. *Special Meetings.*

(a) Subject to this Section 2.03, from the effective date of these bylaws (the "**Effective Date**") until the completion of the seventh annual meeting of stockholders to occur after the Effective Date (the "**Sunset Date**"), special meetings of the stockholders may be called only by the Board of Directors acting pursuant to a resolution adopted by a majority of the Board of Directors.

(b) Upon the Sunset Date, a special meeting of stockholders shall be called by the Secretary of the Corporation at the written request or requests (each, a "**Special Meeting**

Request" and, collectively, the "**Special Meeting Requests**") of holders of record of at least 20% of the voting power of the outstanding capital stock of the Corporation entitled to vote on the matter or matters to be brought before the proposed special meeting (the "**Requisite Percentage**"). A Special Meeting Request to the Secretary shall be signed and dated by each stockholder of record (or a duly authorized agent of such stockholder) requesting the special meeting (each, a "**Requesting Stockholder**"), shall comply with this Section 2.03, and shall include (i) a statement of the specific purpose or purposes of the special meeting, (ii) the information required by Section 2.10(a)(iii) and (iii) documentary evidence that the Requesting Stockholders own the Requisite Percentage as of the date of such written request to the Secretary; provided, however, that if the Requesting Stockholders are not the beneficial owners of the shares representing the Requisite Percentage, then to be valid, the Special Meeting Request(s) must also include documentary evidence (or, if not simultaneously provided with the Special Meeting Request(s), such documentary evidence must be delivered to the Secretary within 10 business days after the date on which the Special Meeting Request(s) are delivered to the Secretary) that the beneficial owners on whose behalf the Special Meeting Request(s) are made beneficially own the Requisite Percentage as of the date on which such Special Meeting Request(s) are delivered to the Secretary. In addition, the Requesting Stockholders and the beneficial owners, if any, on whose behalf the Special Meeting Request(s) are being made shall promptly provide any other information reasonably requested by the Corporation.

(c) A special meeting requested by stockholders shall be held on such date and at such time as may be fixed by the Board of Directors in accordance with these Bylaws; provided, however, that the date of any such special meeting shall not be more than 150 days after a Special Meeting Request that satisfies the requirements of this Section 2.03 is received by the Secretary.

(d) Notwithstanding the foregoing provisions of this Section 2.03, a special meeting requested by stockholders shall not be held if (i) the Special Meeting Request does not comply with this Section 2.03, (ii) the Special Meeting Request relates to an item of business that is not a proper subject for stockholder action under applicable law, (iii) an annual or special meeting of stockholders that included an identical or substantially similar item of business ("**Similar Business**") was held not more than 120 days before the Special Meeting Request was received by the Secretary, (iv) the Board of Directors has called or calls for an annual or special meeting of stockholders to be held within 90 days after the Special Meeting Request is received by the Secretary and the business to be conducted at such meeting includes the Similar Business or (v) the Special Meeting Request was made in a manner that involved a violation of Regulation 14A under the Exchange Act or other applicable law. For purposes of this Section 2.03(d), the nomination, election or removal of directors shall be deemed to be Similar Business with respect to all items of business involving the nomination, election or removal of directors, changing the size of the Board of Directors and filling of vacancies and/or newly created directorships resulting from any increase in the authorized number of directors. The Board of Directors shall determine in good faith whether the requirements set forth in this Section 2.03(d) have been satisfied.

(e) In determining whether a special meeting of stockholders has been requested by the record holders of shares representing in the aggregate at least the Requisite Percentage, multiple Special Meeting Requests delivered to the Secretary will be considered together only if (i) each

Special Meeting Request identifies substantially the same purpose or purposes of the special meeting and substantially the same matters proposed to be acted on at the special meeting (in each case as determined in good faith by the Board of Directors) and (ii) such Special Meeting Requests have been dated and delivered to the Secretary within 60 days of the earliest dated Special Meeting Request. A Requesting Stockholder may revoke a Special Meeting Request at any time by written revocation delivered to the Secretary and if, following such revocation, there are outstanding un-revoked requests from Requesting Stockholders holding less than the Requisite Percentage, the Board of Directors may, in its discretion, cancel the special meeting. If none of the Requesting Stockholders appears or sends a duly authorized agent to present the business to be presented for consideration that was specified in the Special Meeting Request, the Corporation need not present such business for a vote at such special meeting.

(f) Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting pursuant to Section 2.04. Nothing contained herein shall prohibit the Board of Directors from submitting matters to the stockholders at any special meeting requested by stockholders.

Section 2.04. *Notice of Meetings and Adjourned Meetings; Waivers of Notice.* (a) Whenever stockholders are required or permitted to take any action at a meeting, a written notice of the meeting shall be given which shall state the place, if any, date and hour of the meeting, the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called. Unless otherwise provided by the General Corporation Law of the State of Delaware as the same exists or may hereafter be amended ("**Delaware Law**"), such notice shall be given not less than 10 nor more than 60 days before the date of the meeting to each stockholder of record entitled to vote at such meeting. The Board of Directors or the chair of the meeting may adjourn the meeting to another time or place (whether or not a quorum is present), and notice need not be given of the adjourned meeting if the time, place, if any, and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, are announced at the meeting at which such adjournment is made. At the adjourned meeting, the Corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 30 days, or after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

(b) A written waiver of any such notice signed by the person entitled thereto, or a waiver by electronic transmission by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends the meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Business transacted at any special meeting of stockholders shall be limited to the purposes stated in the notice.

Section 2.05. *Quorum.* Unless otherwise provided under the Certificate of Incorporation or these Bylaws and subject to Delaware Law, the presence, in person or by proxy, of the holders of a majority of the total voting power of all outstanding securities of the Corporation generally

entitled to vote at a meeting of stockholders shall constitute a quorum for the transaction of business. If, however, such quorum shall not be present or represented at any meeting of the stockholders, the Chair of the meeting or a majority in voting interest of the stockholders present in person or represented by proxy may adjourn the meeting, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented any business may be transacted that might have been transacted at the meeting as originally notified.

Section 2.06. *Voting.* (a) Unless otherwise provided in the Certificate of Incorporation and subject to Delaware Law, each stockholder shall be entitled to one vote for each outstanding share of capital stock of the Corporation held by such stockholder. Any share of capital stock of the Corporation held by the Corporation shall have no voting rights. Except as otherwise required by law, the Certificate of Incorporation or these Bylaws, in all matters other than the election of directors, the affirmative vote of the holders of a majority of the votes cast at the meeting on the subject matter shall be the act of the stockholders. Abstentions and broker non-votes shall not be counted as votes cast. Subject to the rights of the holders of any class or series of preferred stock to elect additional directors under specific circumstances, as may be set forth in the certificate of designations for such class or series of preferred stock, directors shall be elected by a plurality of the votes of the shares of capital stock of the Corporation present in person or represented by proxy at the meeting and entitled to vote on the election of directors.

(b) Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to a corporate action in writing without a meeting may authorize another person or persons to act for such stockholder by proxy, appointed by an instrument in writing, subscribed by such stockholder or by his attorney thereunto authorized, or by proxy sent by cable, telegram or by any means of electronic communication permitted by law, which results in a writing from such stockholder or by his attorney, and delivered to the secretary of the meeting. No proxy shall be voted after three (3) years from its date, unless said proxy provides for a longer period.

Section 2.07. *Action by Consent.* Subject to the rights of the holders of any class or series of preferred stock then outstanding, as may be set forth in the certificate of designations for such class or series of preferred stock, any action required or permitted to be taken at any annual or special meeting of stockholders may be taken only upon the vote of stockholders at an annual or special meeting duly noticed and called in accordance with Delaware Law and may not be taken by written consent of stockholders without a meeting.

Section 2.08. *Organization.* At each meeting of stockholders, the Chair of the Board of Directors, if one shall have been elected, or in the Chair's absence or if one shall not have been elected, the director designated by the vote of the majority of the directors present at such meeting, shall act as chair of the meeting. The Secretary (or in the Secretary's absence or inability to act, the person whom the chair of the meeting shall appoint secretary of the meeting) shall act as secretary of the meeting and keep the minutes thereof.

Section 2.09. *Order of Business.* The order of business at all meetings of stockholders shall be as determined by the chair of the meeting.

Section 2.10. *Nomination of Directors and Proposal of Other Business.*

(a) *Annual Meetings of Stockholders*. (i) Nominations of persons for election to the Board of Directors or the proposal of other business to be transacted by the stockholders at an annual meeting of stockholders may be made only (A) pursuant to the Corporation's notice of meeting (or any supplement thereto), (B) by or at the direction of the Board of Directors or any committee thereof or (C) as may be provided in the certificate of designations for any class or series of preferred stock or (D) by any stockholder of the Corporation who is a stockholder of record at the time of giving of notice provided for in paragraph (ii) of this Section 2.10(a) and at the time of the annual meeting, who shall be entitled to vote at the meeting and who complies with the procedures set forth in this Section 2.10(a), and, except as otherwise required by law, any failure to comply with these procedures shall result in the nullification of such nomination or proposal.

(ii) For nominations or other business to be properly brought before an annual meeting of stockholders by a stockholder pursuant to clause (D) of paragraph (i) of this Section 2.10(a), the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation and any such proposed business (other than the nominations of persons for election to the Board of Directors) must constitute a proper matter for stockholder action. To be timely, a stockholder's notice shall be delivered to, or mailed and received by, the Secretary of the Corporation at the principal executive offices of the Corporation not less than 120 days nor more than 150 days prior to the first anniversary of the preceding year's annual meeting of stockholders; *provided, however*, that in the event that the date of the annual meeting is advanced more than 30 days prior to such anniversary date or delayed more than 70 days after such anniversary date then to be timely such notice must be received by the Corporation no earlier than 120 days prior to such annual meeting and no later than the later of 70 days prior to the date of the meeting or the 10th day following the day on which public announcement of the date of the meeting was first made by the Corporation. In no event shall the adjournment or postponement of any meeting, or any announcement thereof, commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above.

(iii) A stockholder's notice to the Secretary shall set forth (A) as to each person whom the stockholder proposes to nominate for election or reelection as a director: (1) all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors, or is otherwise required, in each case pursuant to Regulation 14A under the Securities Exchange Act of 1934 (as amended (together with the rules and regulations promulgated thereunder), the "**Exchange Act**")) including such person's written consent to being named in the proxy statement as a nominee and to serving as a director if elected; and (2) a reasonably detailed description of any compensatory, payment or other financial agreement, arrangement or understanding that such person has with any other person or entity other than the Corporation including the amount of any payment or payments received or receivable thereunder, in each case in connection with candidacy or service as a director of the Corporation (a "**Third-Party Compensation Arrangement**"), (B) as to any other business that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration and in the event that

such business includes a proposal to amend these Bylaws, the text of the proposed amendment), the reasons for conducting such business and any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made and (C) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the proposal is made:

(1) the name and address of such stockholder (as they appear on the Corporation's books) and any such beneficial owner;

(2) for each class or series, the number of shares of capital stock of the Corporation that are held of record or are beneficially owned by such stockholder and by any such beneficial owner;

(3) a description of any agreement, arrangement or understanding between or among such stockholder and any such beneficial owner, any of their respective affiliates or associates, and any other person or persons (including their names) in connection with the proposal of such nomination or other business;

(4) a description of any agreement, arrangement or understanding (including, regardless of the form of settlement, any derivative, long or short positions, profit interests, forwards, futures, swaps, options, warrants, convertible securities, stock appreciation or similar rights, hedging transactions and borrowed or loaned shares) that has been entered into by or on behalf of, or any other agreement, arrangement or understanding that has been made, the effect or intent of which is to create or mitigate loss to, manage risk or benefit of share price changes for, or increase or decrease the voting power of, such stockholder or any such beneficial owner or any such nominee with respect to the Corporation's securities;

(5) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to bring such nomination or other business before the meeting;

(6) a representation as to whether such stockholder or any such beneficial owner intends or is part of a group that intends to (i) deliver a proxy statement and/or form of proxy to holders of at least the percentage of the voting power of the Corporation's outstanding capital stock required to approve or adopt the proposal or to elect each such nominee and/or (ii) otherwise to solicit proxies from stockholders in support of such proposal or nomination;

(7) any other information relating to such stockholder, beneficial owner, if any, or director nominee or proposed business that would be required to be disclosed in a proxy statement or other filing required to be made in connection with the solicitation of proxies in support of such nominee or proposal pursuant to Section 14 of the Exchange Act; and

(8) such other information relating to any proposed item of business as the Corporation may reasonably require to determine whether such proposed item of business is a proper matter for stockholder action.

If requested by the Corporation, the information required under clauses 2.10(a)(iii)(C)(2), (3) and (4) of the preceding sentence of this Section 2.10 shall be supplemented by such stockholder and any such beneficial owner not later than 10 days after the record date for the meeting to disclose such information as of the record date.

(b) *Special Meetings of Stockholders*. Nominations of persons for election to the Board of Directors of the Corporation at a special meeting of stockholders may be made by stockholders only (i) in accordance with Section 2.03 or (ii) if the election of directors is included as business to be brought before a special meeting in the Corporation's notice of meeting, then only by any stockholder of the Corporation who is a stockholder of record at the time of giving of notice provided for in this Section 2.10(b) at the time of the special meeting, who shall be entitled to vote at the meeting and who complies with the procedures set forth in this Section 2.10(b). The proposal by stockholders of other business to be conducted at a special meeting of stockholders may be made only in accordance with Section 2.03. For nominations to be properly brought by a stockholder before a special meeting of stockholders pursuant to this Section 2.10(b), the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation. To be timely, a stockholder's notice shall be delivered to or mailed and received at the principal executive offices of the Corporation (A) not earlier than 150 days prior to the date of the special meeting nor (B) later than the later of 120 days prior to the date of the special meeting or the 10th day following the day on which public announcement of the date of the special meeting was first made. A stockholder's notice to the Secretary shall comply with the notice requirements of Section 2.10(a)(iii).

(c) *General*. (i) To be eligible to be a nominee for election as a director, the proposed nominee must provide to the Secretary of the Corporation in accordance with the applicable time periods prescribed for delivery of notice under Section 2.10(a)(ii) or Section 2.10(b): (1) a completed D&O questionnaire (in the form provided by the Secretary of the Corporation at the request of the nominating stockholder) containing information regarding the nominee's background and qualifications and such other information as may reasonably be required by the Corporation to determine the eligibility of such proposed nominee to serve as a director of the Corporation or to serve as an independent director of the Corporation, (2) a written representation that, unless previously disclosed to the Corporation, the nominee is not and will not become a party to any voting agreement, arrangement or understanding with any person or entity as to how such nominee, if elected as a director, will vote on any issue or that could interfere with such person's ability to comply, if elected as a director, with his/her fiduciary duties under applicable law, (3) a written representation and agreement that, unless previously disclosed to the Corporation pursuant to Section 2.10(a)(iii)(A)(2), the nominee is not and will not become a party to any Third-Party Compensation Arrangement and (4) a written representation that, if elected as a director, such nominee would be in compliance and will continue to comply with the Corporation's corporate governance guidelines as disclosed on the Corporation's website, as amended from time to time. At the request of the Board of Directors, any person nominated by the Board of Directors for election as a director shall furnish to the

Secretary of the Corporation the information that is required to be set forth in a stockholder's notice of nomination that pertains to the nominee.

(ii) No person shall be eligible to be nominated by a stockholder to serve as a director of the Corporation unless nominated in accordance with the procedures set forth in this Section 2.10. No business proposed by a stockholder shall be conducted at a stockholder meeting except in accordance with the procedures set forth in Section 2.03 and this Section 2.10.

(iii) The chair of the meeting shall, if the facts warrant, determine and declare to the meeting that a nomination was not made in accordance with the procedures prescribed by these Bylaws or that business was not properly brought before the meeting, and if he/she should so determine, he/she shall so declare to the meeting and the defective nomination shall be disregarded or such business shall not be transacted, as the case may be. Notwithstanding the foregoing provisions of this Section 2.10, unless otherwise required by law, if the stockholder (or a qualified representative of the stockholder) does not appear at the annual or special meeting of stockholders of the Corporation to present a nomination or other proposed business, such nomination shall be disregarded or such proposed business shall not be transacted, as the case may be, notwithstanding that proxies in respect of such vote may have been received by the Corporation and counted for purposes of determining a quorum. For purposes of this Section 2.10, to be considered a qualified representative of the stockholder, a person must be a duly authorized officer, manager or partner of such stockholder or must be authorized by a writing executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as proxy at the meeting of stockholders and such person must produce such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, at the meeting of stockholders.

(iv) Without limiting the foregoing provisions of this Section 2.10, a stockholder shall also comply with all applicable requirements of the Exchange Act with respect to the matters set forth in this Section 2.10; *provided*, *however*, that any references in these Bylaws to the Exchange Act are not intended to and shall not limit any requirements applicable to nominations or proposals as to any other business to be considered pursuant to this Section 2.10, and compliance with paragraphs (a)(i)(C) and (b) of this Section 2.10 shall be the exclusive means for a stockholder to make nominations or submit other business (other than as provided in Section 2.10(c)(v)).

(v) Notwithstanding anything to the contrary, the notice requirements set forth herein with respect to the proposal of any business pursuant to this Section 2.10 shall be deemed satisfied by a stockholder if such stockholder has submitted a proposal to the Corporation in compliance with Rule 14a-8 under the Exchange Act, and such stockholder's proposal has been included in a proxy statement that has been prepared by the Corporation to solicit proxies for the meeting of stockholders.

ARTICLE 3
DIRECTORS

Section 3.01. *General Powers.* Except as otherwise provided in Delaware Law or the Certificate of Incorporation, the business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors.

Section 3.02. *Number, Election and Term of Office.* The Board of Directors shall consist of not less than three nor more than twelve directors, with the exact number of directors to be determined from time to time solely by resolution adopted by the affirmative vote of a majority of the Board. No decrease in the size of the Board of Directors shall serve to shorten the term of an incumbent director. As set forth in Article 6 of the Certificate of Incorporation, from the Effective Date until the Sunset Date, the directors shall be divided into three classes, designated Class I, Class II and Class III. Each class shall consist, as nearly as may be practicable, of one-third of the total number of directors constituting the entire Board of Directors. Except as otherwise provided in the Certificate of Incorporation, each director shall serve for a term ending on the date of the third annual meeting of stockholders next following the annual meeting at which such director was elected. Commencing with the 2029 annual meeting of stockholders, the classification of the Board of Directors shall begin a phase-out and each director then or thereafter elected shall be elected for a one-year term. Notwithstanding the foregoing, each director shall hold office until such director's successor shall have been duly elected and qualified or until such director's earlier death, resignation or removal. Directors need not be stockholders.

Section 3.03. *Quorum and Manner of Acting.* Unless the Certificate of Incorporation or these Bylaws require a greater number, a majority of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors and, except as otherwise expressly required by law or by the Certificate of Incorporation, the act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors. When a meeting is adjourned to another time or place (whether or not a quorum is present), notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting, the Board of Directors may transact any business which might have been transacted at the original meeting. If a quorum shall not be present at any meeting of the Board of Directors, the directors present thereat shall adjourn the meeting, from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

Section 3.04. *Time and Place of Meetings.* The Board of Directors shall hold its meetings at such place, either within or without the State of Delaware, and at such time as may be determined from time to time by the Board of Directors (or the Chair of the Board of Directors in the absence of a determination by the Board of Directors) provided that the Board of Directors may in its sole discretion determine that the meeting shall not be held at any physical place, but may instead be held solely by means of remote communication pursuant to Section 6.07.

Section 3.05. *Annual Meeting.* The Board of Directors shall meet for the purpose of organization, the appointment of officers and the transaction of other business, as soon as

practicable after each annual meeting of stockholders. Notice of such meeting need not be given. In the event such annual meeting is not so held, the annual meeting of the Board of Directors may be held at such place either within or without the State of Delaware, on such date and at such time as shall be specified in a notice thereof given as provided in Section 3.07 herein or in a waiver of notice thereof signed by any director who chooses to waive the requirement of notice.

Section 3.06. *Regular Meetings.* Regularly scheduled, periodic meetings of the Board of Directors may be held without notice at such times, dates and places as shall from time to time be determined by the Board of Directors.

Section 3.07. *Special Meetings.* Special meetings of the Board of Directors may be called by the Chair of the Board of Directors or the President and shall be called by the Chair of the Board of Directors, or the President or the Secretary of the Corporation, on the written request of three directors. Notice of special meetings of the Board of Directors shall be given to each director at least 48 hours before the date of the meeting in such manner as is determined by the Board of Directors.

Section 3.08. *Committees.* The Board of Directors may designate one or more committees, each committee to consist of one or more of the directors of the Corporation. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board of Directors, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it; but no such committee shall have the power or authority in reference to the following matters: (a) approving or adopting, or recommending to the stockholders, any action or matter expressly required by Delaware Law to be submitted to the stockholders for approval or (b) adopting, amending or repealing any Bylaw of the Corporation. Each committee shall keep regular minutes of its meetings and report the same to the Board of Directors when required.

Section 3.09. *Action by Consent.* Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if all members of the Board of Directors or committee, as the case may be, consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions, are filed with the minutes of proceedings of the Board of Directors or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

Section 3.10. *Resignation.* Any director may resign from the Board of Directors at any time by giving notice to the Board of Directors or to the Secretary of the Corporation. Any such notice must be in writing or by electronic transmission to the Board of Directors or to the Secretary of the Corporation. The resignation of any director shall take effect upon receipt of

notice thereof or at such later time as shall be specified in such notice; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 3.11. *Vacancies.* Unless otherwise provided in the Certificate of Incorporation, vacancies on the Board of Directors resulting from death, resignation, removal or otherwise and newly created directorships resulting from any increase in the number of directors shall, except as otherwise required by law, be filled solely by a majority of the directors then in office (although less than a quorum) or by the sole remaining director. Prior to the Sunset Date, each director so appointed shall hold office for a term that shall coincide with the term of the Class to which such director shall have been appointed and, after the Sunset Date, each director so appointed shall hold office for the remainder of the term of the director for which the vacancy occurred and until such director's successor shall have been duly elected and qualified. If there are no directors in office, then an election of directors may be held in accordance with Delaware Law. Unless otherwise provided in the Certificate of Incorporation, when one or more directors shall resign from the Board of Directors, effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have the power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective, and each director so chosen shall hold office as provided in the filling of the other vacancies.

Section 3.12. *Removal.* For so long as the directors are divided into classes, no director may be removed from office by the stockholders except for cause with the affirmative vote of the holders of not less than a majority of the total voting power of all outstanding securities of the corporation generally entitled to vote in the election of directors, voting together as a single class. From and after the time at which the directors are no longer divided into classes, any director may be removed at any time, either with or without cause, upon the affirmative vote of the holders of not less than a majority of the total voting power of all outstanding securities of the Corporation generally entitled to vote in the election of directors, voting together as a single class.

Section 3.13. *Compensation.* Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, the Board of Directors shall have authority to fix the compensation of directors, including fees and reimbursement of expenses.

ARTICLE 4
OFFICERS

Section 4.01. *Principal Officers.* The principal officers of the Corporation shall be a Chief Executive Officer, a President, one or more Vice Presidents, a Treasurer and a Secretary who shall have the duty, among other things, to record the proceedings of the meetings of stockholders and directors in a book kept for that purpose. The Corporation may also have such other principal officers, including one or more Controllers, as the Board of Directors may in its discretion appoint. One person may hold the offices and perform the duties of any two or more of said offices, except that no one person shall hold the offices and perform the duties of President and Secretary.

Section 4.02. *Appointment, Term of Office and Remuneration.* The principal officers of the Corporation shall be appointed by the Board of Directors in the manner determined by the Board of Directors. Each such officer shall hold office until his or her successor is appointed, or until his or her earlier death, resignation or removal. The remuneration of all officers of the Corporation shall be fixed by the Board of Directors or any committee thereof to which such duty has been properly delegated. Any vacancy in any office shall be filled in such manner as the Board of Directors shall determine.

Section 4.03. *Subordinate Officers.* In addition to the principal officers enumerated in Section 4.01 herein, the Corporation may have one or more Assistant Treasurers, Assistant Secretaries and Assistant Controllers and such other subordinate officers, agents and employees as the Board of Directors may deem necessary, each of whom shall hold office for such period as the Board of Directors may from time to time determine.

Section 4.04. *Removal.* Any officer may be removed, with or without cause, at any time, by resolution adopted by the Board of Directors.

Section 4.05. *Resignations.* Any officer may resign at any time by giving notice to the Board of Directors. Any such notice must be in writing. The resignation of any officer shall take effect upon receipt of notice thereof or at such later time as shall be specified in such notice; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 4.06. *Powers and Duties.* The officers of the Corporation shall have such powers and perform such duties incident to each of their respective offices and such other duties as may from time to time be conferred upon or assigned to them by the Board of Directors.

ARTICLE 5
CAPITAL STOCK

Section 5.01. *Certificates for Stock; Uncertificated Shares.* The shares of the Corporation shall be uncertificated, provided that the Board of Directors may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be certificated shares or a combination of certificated and uncertificated shares. Except as otherwise required by law, the rights and obligations of the holders of uncertificated shares and the rights and obligations of the holders of shares represented by certificates of the same class and series shall be identical. Every holder of stock represented by certificates shall be entitled to have a certificate signed by, or in the name of the Corporation by the Chair or Vice Chair of the Board of Directors, or the Chief Executive Officer, President or any Vice President, and by the Treasurer or an Assistant Treasurer, or the Secretary or an Assistant Secretary of such Corporation representing the number of shares registered in certificate form. Any or all of the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if such person were such officer, transfer agent or

registrar at the date of issue. A Corporation shall not have power to issue a certificate in bearer form.

Section 5.02. *Transfer of Shares.* Shares of the stock of the Corporation may be transferred on the record of stockholders of the Corporation by the holder thereof or by such holder's duly authorized attorney upon surrender of a certificate therefor properly endorsed or upon receipt of proper transfer instructions from the registered holder of uncertificated shares or by such holder's duly authorized attorney and upon compliance with appropriate procedures for transferring shares in uncertificated form as established by the transfer agent or registrar of such stock, unless waived by the Corporation.

Section 5.03. *Authority for Additional Rules Regarding Transfer.* The Board of Directors shall have the power and authority to make all such rules and regulations as they may deem expedient concerning the issue, transfer and registration of certificated or uncertificated shares of the stock of the Corporation, as well as for the issuance of new certificates in lieu of those which may be lost or destroyed, and may require of any stockholder requesting replacement of lost or destroyed certificates, bond in such amount and in such form as they may deem expedient to indemnify the Corporation, and/or the transfer agents, and/or the registrars of its stock against any claims arising in connection therewith.

ARTICLE 6
GENERAL PROVISIONS

Section 6.01. *Fixing the Record Date.* (a) In order that the Corporation may determine the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing such record date is adopted by the Board of Directors, and which record date shall not be more than 60 nor less than 10 days before the date of such meeting. If the Board of Directors so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the Board of Directors determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; *provided* that the Board of Directors may in its discretion or as required by law fix a new record date for determination of stockholders entitled to vote at the adjourned meeting, and in such case shall fix the same date or an earlier date as the record date for stockholders entitled to notice of such adjourned meeting.

(b) In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board of Directors may fix a record date, which

record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than 60 days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

Section 6.02. *Dividends.* Subject to limitations contained in Delaware Law and the Certificate of Incorporation, the Board of Directors may declare and pay dividends upon the shares of capital stock of the Corporation, which dividends may be paid either in cash, in property or in shares of the capital stock of the Corporation.

Section 6.03. *Year.* The fiscal year of the Corporation shall commence on January 1 and end on December 31 of each year.

Section 6.04. *Corporate Seal.* The seal of the Corporation shall be in such form as shall from time to time be adopted by the Board. The seal may be used by causing it or a facsimile thereof to be impressed, affixed or otherwise reproduced.

Section 6.05. *Voting of Stock Owned by the Corporation.* The Board of Directors may authorize any person, on behalf of the Corporation, to attend, vote at and grant proxies to be used at any meeting of stockholders of any corporation (except this Corporation) in which the Corporation may hold stock.

Section 6.06. *Amendments.* These Bylaws or any of them, may be altered, amended or repealed, or new Bylaws may be made, by the stockholders entitled to vote thereon at any annual or special meeting thereof or by the Board of Directors. Notwithstanding the foregoing, unless a higher percentage is required by the Certificate of Incorporation as to the provisions set forth in Article 2, Article 3 and Article 5 of these Bylaws, all such amendments must be approved by the affirmative vote of the holders of not less than 66$^{2}/_{3}$% of the total voting power of all outstanding securities of the Corporation, generally entitled to vote in the election of directors, voting together as a single class, or by a majority of the Board of Directors; provided, however, that the provisions of this sentence shall be of no force and effect effective as of the Sunset Date.

Section 6.07. Meeting Attendance via Remote Communication Equipment.

(a) Stockholder Meetings. If authorized by the Board of Directors in its sole discretion, and subject to such guidelines and procedures as the Board of Directors may adopt, stockholders and proxyholders not physically present at a meeting of stockholders may, by means of remote communication:

1. participate in a meeting of stockholders; and

2. be deemed present in person and vote at a meeting of stockholders, whether such meeting is to be held at a designated place or solely by means of remote communication, provided that (A) the Corporation shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote communication is a stockholder or proxyholder, (B) the Corporation shall implement reasonable measures to provide such stockholders and proxyholders a reasonable opportunity to

participate in the meeting and to vote on matters submitted to the stockholders, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with such proceedings, and (C) if any stockholder or proxyholder votes or takes other action at the meeting by means of remote communication, a record of such votes or other action shall be maintained by the Corporation.

(b) Board Meetings. Unless otherwise restricted by applicable law, the certificate of incorporation or these Bylaws, members of the Board of Directors or any committee thereof may participate in a meeting of the Board of Directors or any committee thereof by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other. Such participation in a meeting shall constitute presence in person at the meeting, except where a person participates in the meeting for the express purpose of objecting at the beginning of the meeting to the transaction of any business on the ground that the meeting was not lawfully called or convened.

ARTICLE 7
INTERESTED DIRECTORS, OFFICERS AND STOCKHOLDERS

Section 7.01. *Validity.* To the fullest extent permitted by law, any contract or other transaction between the Corporation and any of its directors, officers or stockholders (or any corporation or firm in which any of them are directly or indirectly interested) shall be valid for all purposes notwithstanding the presence of such director, officer or stockholder at the meeting authorizing such contract or transaction, or his or her participation or vote in such meeting or authorization.

Section 7.02. *Disclosure; Approval*. The foregoing shall, however, apply only if the material facts of the relationship or the interests of each such director, officer or stockholder are known or disclosed:

(a) to the Board and it nevertheless in good faith authorizes or ratifies the contract or transaction by a majority of the directors present, each such interested director to be counted in determining whether a quorum is present but not in calculating the majority necessary to carry the vote; or

(b) to the stockholders and they nevertheless in good faith authorize or ratify the contract or transaction by a majority of the shares present, each such interested person to be counted for quorum and voting purposes.

Section 7.03. *Nonexclusive*. This provision shall not be construed to invalidate any contract or transaction that would be valid in the absence of this provision.

ANNEX A

RESTRUCTURING PLAN

[Attached]

Mergers & Acquisitions

Alliance Data Systems Corporation

The Proposed Transaction

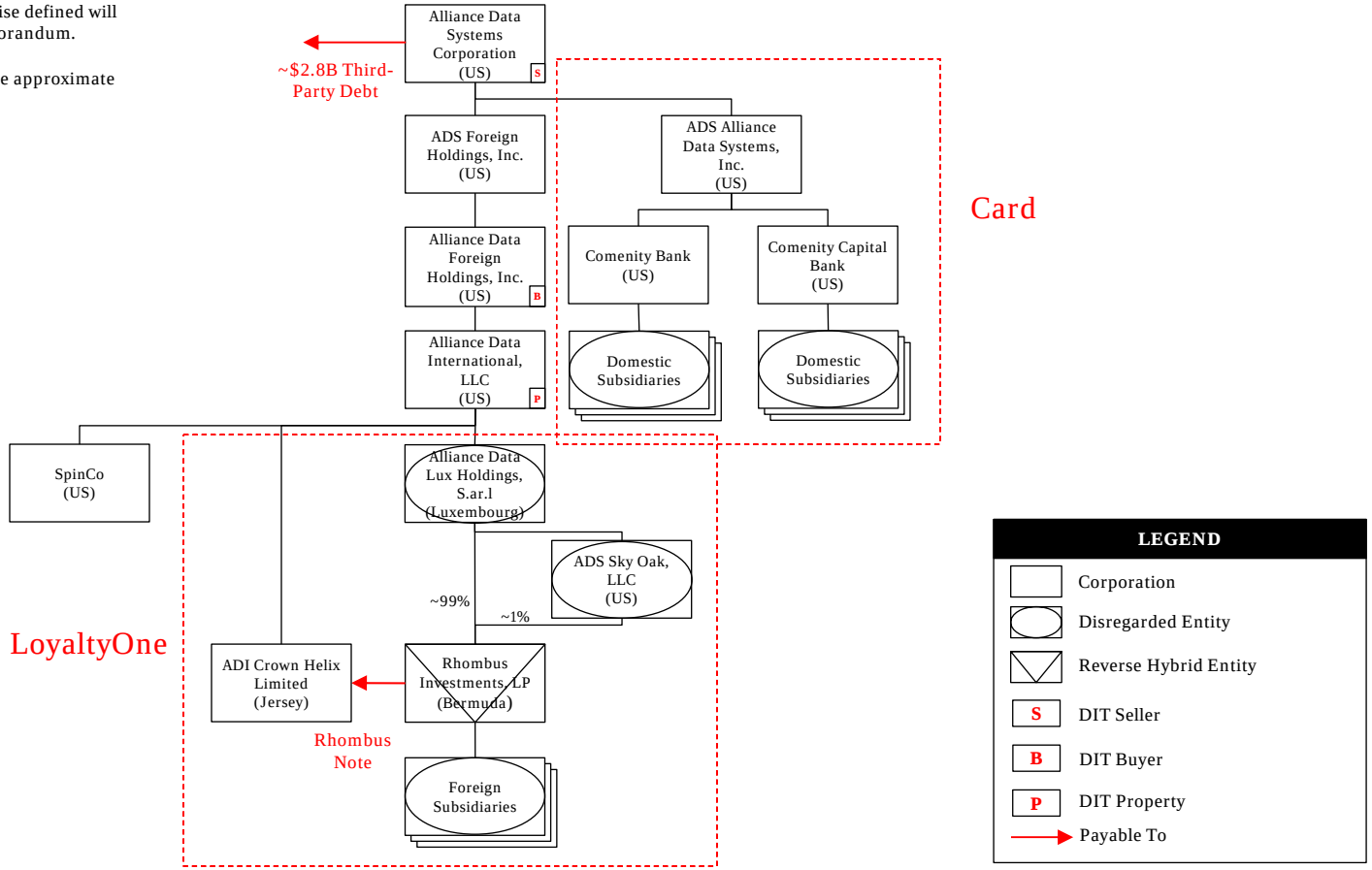
November 3, 2021

pwc

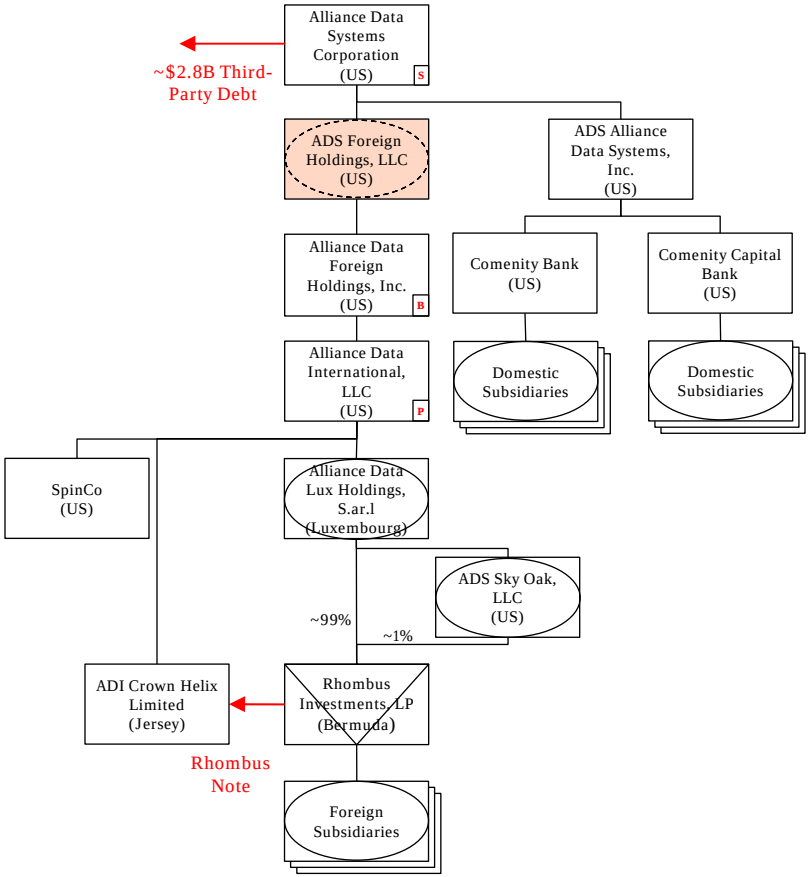
Condensed Current Structure

Any terms used herein and not otherwise defined will have the same meaning as in the Memorandum.

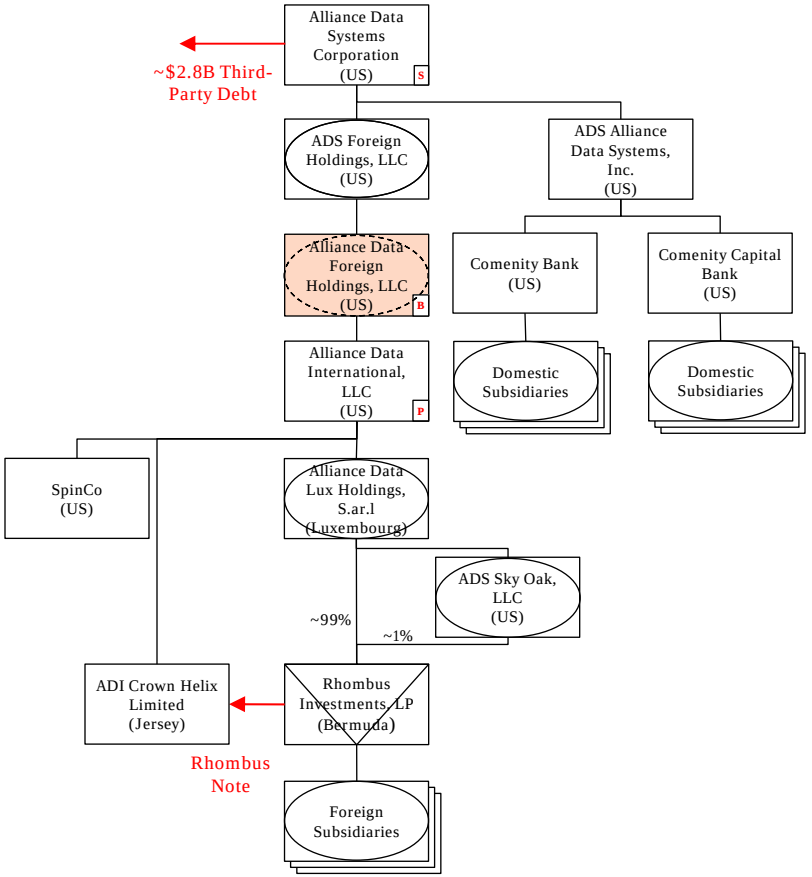
All dollar amounts expressed herein are approximate and are for discussion purposes only.



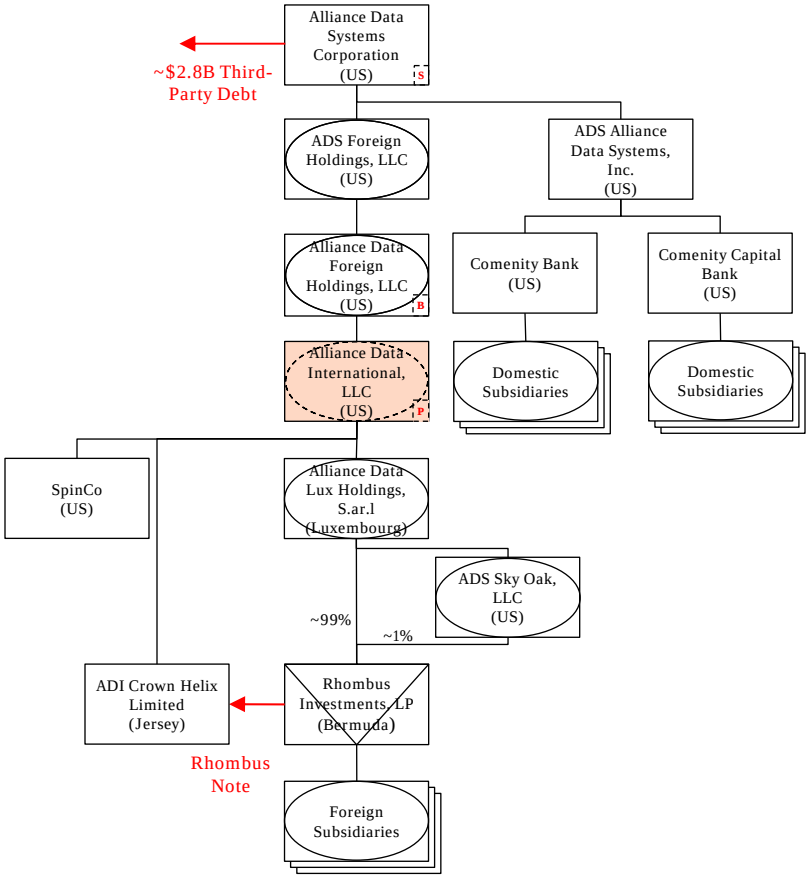
Step 1: ADSFH converts to an LLC.



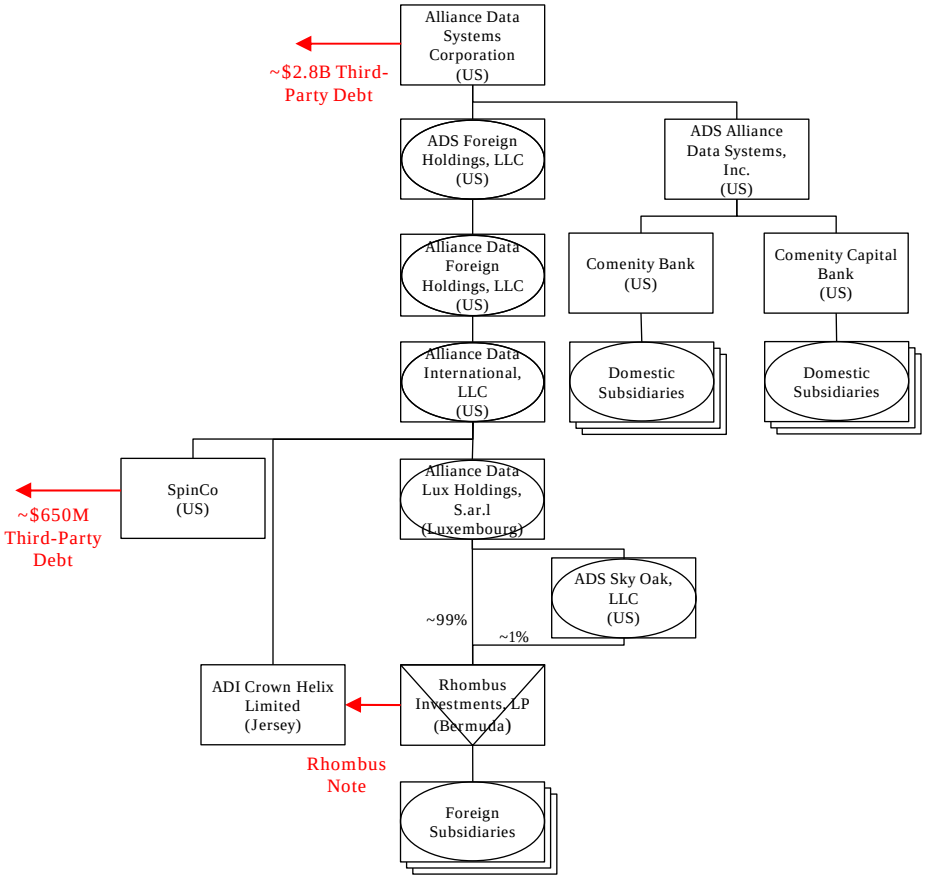
Step 2: ADFH converts to an LLC.



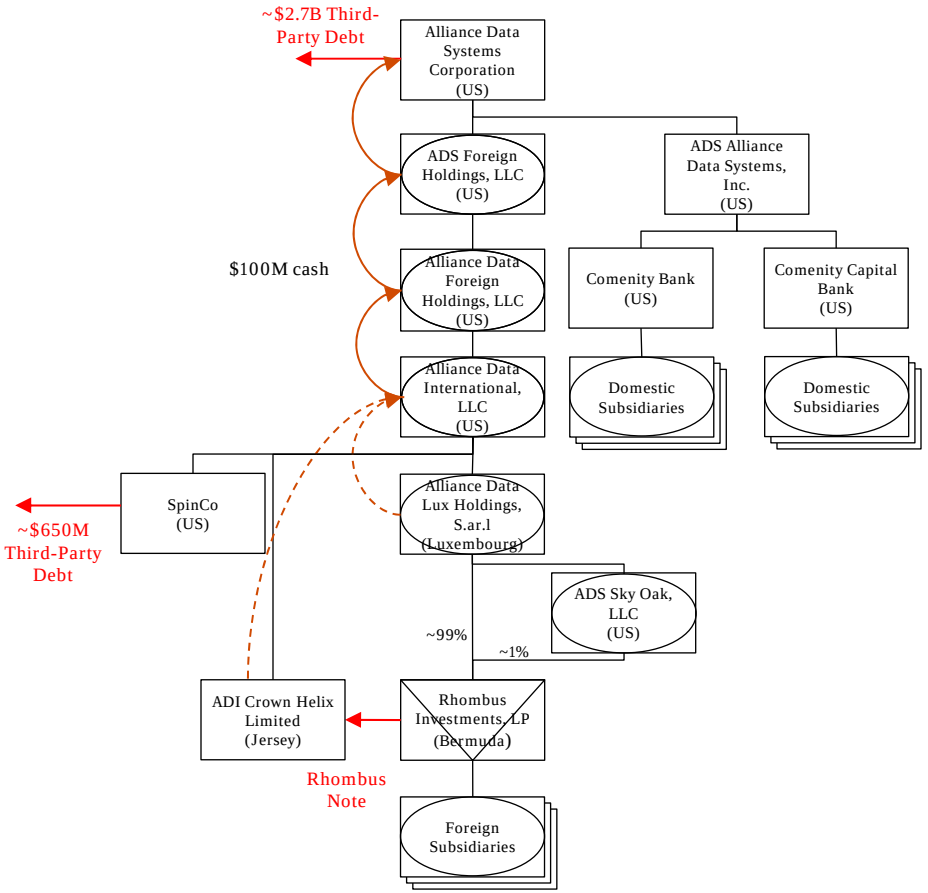
Step 3: ADILC elects to be treated as a disregarded entity for U.S. federal tax purposes.



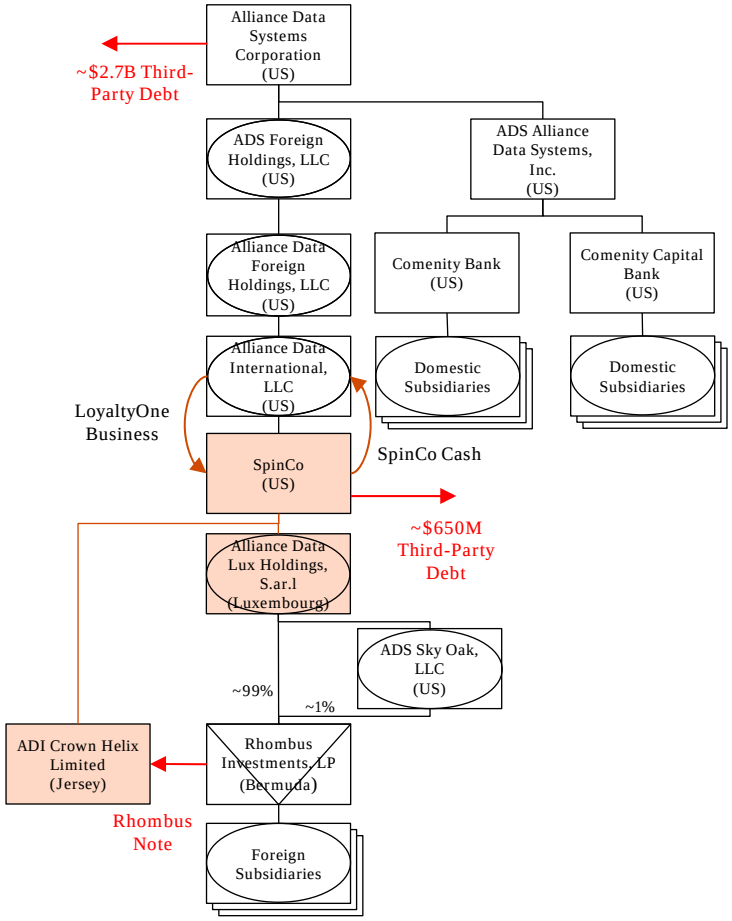
Step 4: SpinCo borrows approximately $650 million of new debt from third-parties.



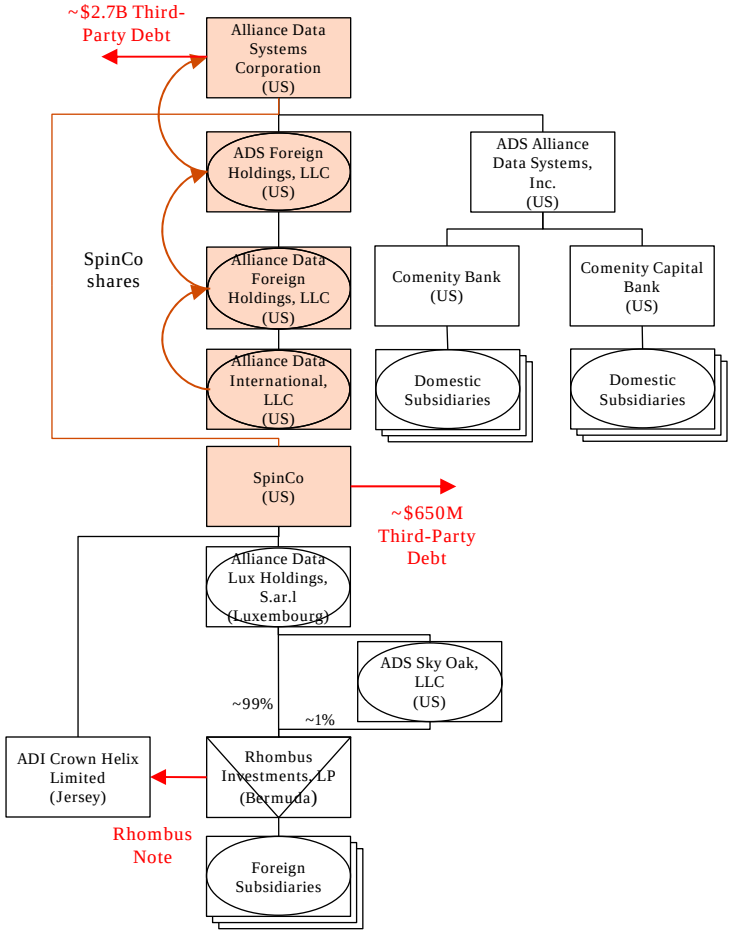
Step 5: Lux Holdings and/or ADICH distributes approximately $100 million of cash up the chain to ADS. ADS uses the approximately $100 million of cash to pay down a portion of its third-party debt.



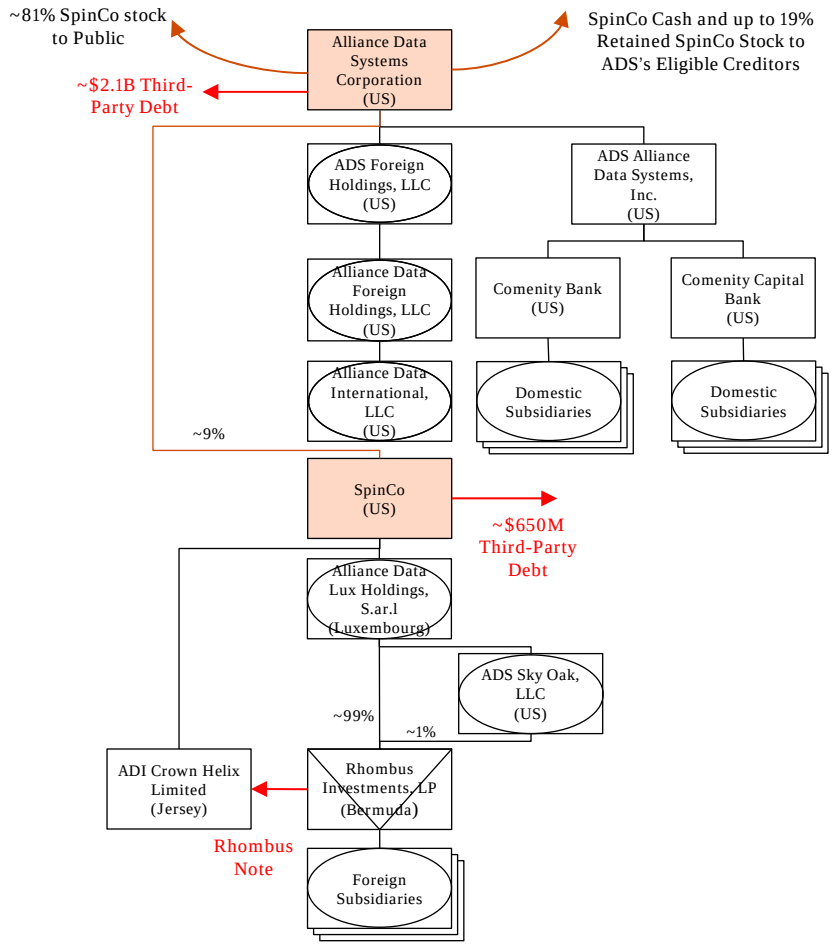
Step 6: ADILC transfers all of the issued and outstanding stock of Lux Holdings and ADICH (*i.e.*, the LoyaltyOne Business) to SpinCo in exchange for SpinCo stock and the SpinCo Cash.



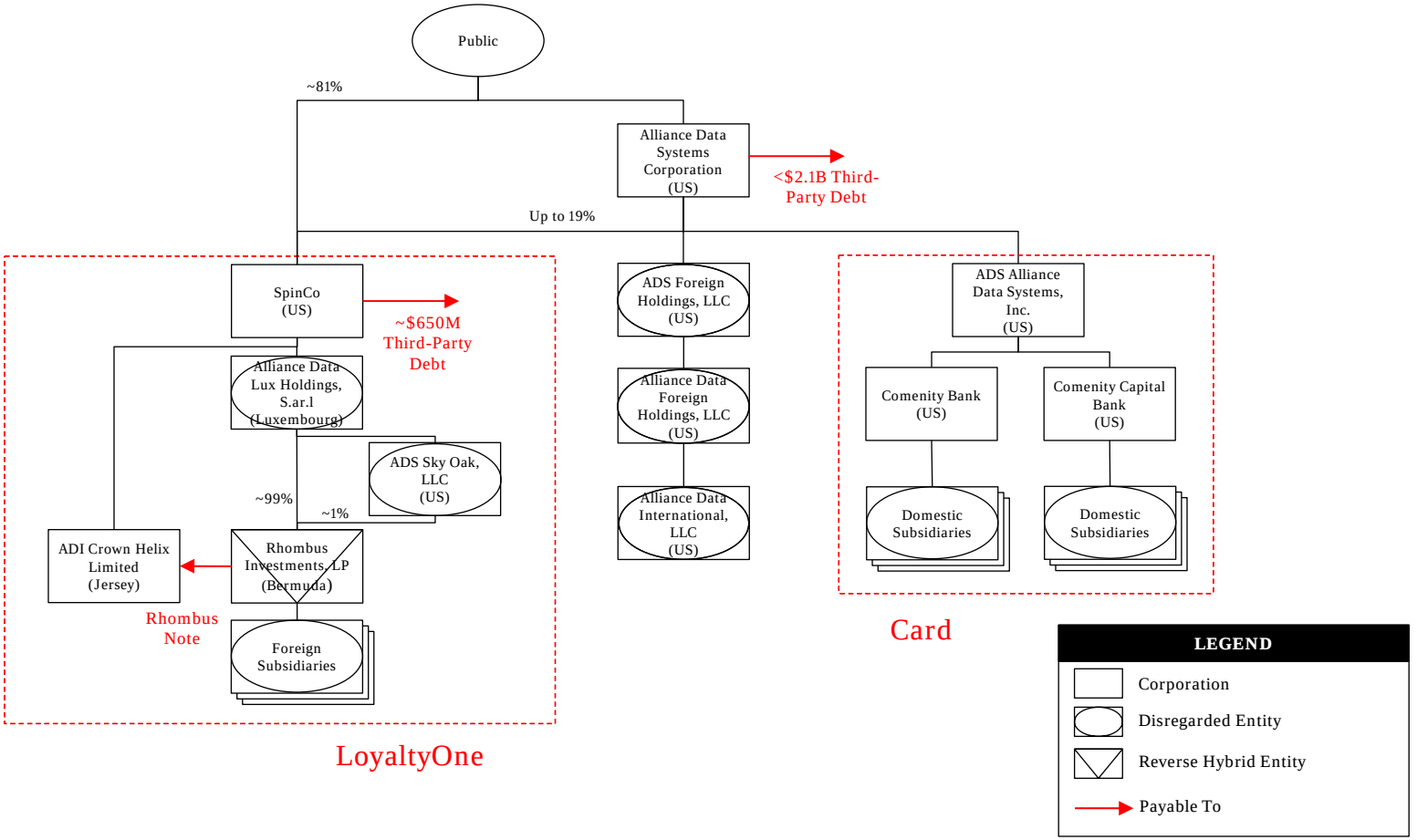
Step 7: ADILC distributes all of the issued and outstanding stock of SpinCo up the chain to ADS.



Step 8: ADS distributes at least 81 percent of the issued and outstanding stock of SpinCo to its public shareholders. ADS will retain up to 19 percent of the issued and outstanding stock of SpinCo. ADS may transfer some or all of the Retained SpinCo Stock and will transfer the SpinCo Cash to one or more of ADS's Eligible Creditors in connection with the Public Spin.



Condensed Concluding Structure



Caveats & Limitations

1. This document has been prepared pursuant to an engagement with PricewaterhouseCoopers LLP (“PwC”) and its client and is intended solely for the use and benefit of such client and is not intended or expected to be relied upon by third-parties, such as shareholders, investors, creditors, employees, partners, customers, suppliers, etc.
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3. This document relies upon facts, representations and information provided to PwC and which PwC has not independently verified. Should these facts change or become materially incorrect, the discussion of issues provided in this document may not apply as depicted and other U.S. federal income and other tax issues may be implicated.
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5. This document is limited to the issues specifically addressed herein. Although certain tax issues addressed herein may be relevant to parties other than you, this document is not meant to analyze the tax implications applicable to any other party.
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This is Exhibit “P” referred to in the Affidavit of Cynthia Hageman affirmed November 9, 2023.

Commissioner for Taking Affidavits (or as may be)

KIYAN JAMAL

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

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.

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

(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

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);

(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 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(ş)); 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;

(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. 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

AMENDMENT NO. 1 TO CREDIT AGREEMENT
(FINANCIAL COVENANT)

This AMENDMENT NO. 1 TO CREDIT AGREEMENT (FINANCIAL COVENANT) (this "Amendment"), dated as of July 29, 2022, is entered into by and 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 (together with the Company, the "Borrowers"), each Guarantor (as defined in the Existing Credit Agreement (as defined below)) party hereto, each Lender (as defined in the Existing Credit Agreement) party hereto, and BANK OF AMERICA, N.A., as Administrative Agent (in such capacity, the "~~Administrative Agent~~").

RECITALS

WHEREAS, the Borrowers, the Guarantors, the Administrative Agent and the Lenders are parties to that certain Credit Agreement, dated as of November 3, 2021 (as amended hereby and as further amended, restated, extended, supplemented or otherwise modified from time to time, the "Credit ~~Agreement~~" and the Credit Agreement prior to giving effect to this Amendment being referred to as the "~~Existing Credit Agreement~~"), pursuant to which the Lenders have extended certain revolving and term facilities to the Borrowers;

WHEREAS, the Company has requested that the Required Pro Rata Facilities Lenders agree to amend Section 7.11 of the Existing Credit Agreement (and certain defined terms and component defined terms used therein), as more particularly set forth below, and the Administrative Agent acknowledge such amendments, and the Required Pro Rata Facilities Lenders party to this Amendment and the Administrative Agent are each willing to effect such amendments and acknowledgements, as provided in, and on the terms and conditions contained in, this Amendment;

NOW, THEREFORE, for valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Defined Terms. Unless otherwise defined herein, capitalized terms used herein shall have the meanings, if any, assigned to such terms in the Existing Credit Agreement, as amended by this Amendment.

2. ~~Amendment to Credit Agreement~~. Subject to the terms and conditions hereof, and with effect from and after the Amendment No. 1 Effective Date (defined below), the Existing Credit Agreement is hereby amended (a) to delete red or green stricken text (indicated textually in the same manner as the following examples: ~~stricken text~~ and ~~stricken text~~) and (b) to add the blue or green double-underlined text (indicated textually in the same manner as the following examples: double-underlined text and double-underlined text), in each case, as set forth in the changed pages to the amended Credit Agreement attached hereto as Annex A hereto.

3. ~~Representations and Warranties~~. By its execution hereof, each Borrower and each Guarantor (together, the "Loan Parties") hereby represents and warrants to the Administrative Agent and the Lenders as follows:

(a) the execution, delivery and performance by each Loan Party of this Amendment have been duly authorized by all necessary corporate or other organizational action and do not and will not (i) contravene the terms of any of such Loan Party'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 Loan Party is a party or affecting such Loan Party or the properties of such Loan Party or any Subsidiary or (B) any material order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Loan Party or its property is subject; or (iii) violate any material Law;

(b) this Amendment (i) has been duly executed and delivered by each Loan Party that is party thereto, and (ii) constitutes a legal, valid and binding obligation of such Loan Party (and the Existing Credit Agreement as amended hereby constitutes the legal, valid and binding obligation of each Loan Party), in each case 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);

(c) after giving effect to transactions contemplated to occur on or prior to the Amendment No. 1 Effective Date, the representations and warranties of each Loan Party contained in this Amendment and in each other Loan Document (including in Article V of the Credit Agreement), are 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 Amendment No. 1 Effective 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 except that for purposes of this ~~clause (c)~~, the representations and warranties contained in ~~clauses (a)~~ and ~~(b)~~ of Section 5.05 of the Credit Agreement shall be deemed to refer to the most recent statements furnished pursuant to ~~clauses (a)~~ and ~~(b)~~, respectively, of Section 6.01 of the Credit Agreement;

(d) 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 Amendment (or the performance by, or enforcement against, any Loan Party of the Existing Credit Agreement as amended hereby) other than those that have already been obtained and are in full force and effect;

(e) no Default exists either before or immediately after the effectiveness of this Amendment on the Amendment No. 1 Effective Date.

The execution of this Amendment by each Loan Party shall constitute its affirmation as to the accuracy of the above representations and warranties as of the Amendment No. 1 Effective Date.

4. Amendment No. 1 Effective Date.

(a) This Amendment will become effective on the first date (the "Amendment No. 1 Effective Date") on which the following conditions precedent are satisfied:

(i) the Administrative Agent and the Lenders party hereto shall have received, in form and substance reasonably satisfactory to them, counterparts of this Amendment duly executed by each Loan Party and the Required Pro Rata Facilities Lenders, and acknowledged by the Administrative Agent;

(ii) the fact that immediately prior to and after giving effect to this Amendment, no Default has occurred and is continuing;

(iii) the accuracy of the representations and warranties of the Loan Parties contained in Section 3 above (as and to the extent set forth therein);

(iv) payment by the Company to the Administrative Agent for the account of each Revolving Lender and each Lender with outstanding Term A Loans, in each case, that executes and returns a signature page to this Amendment not later than 5:00 pm Eastern Time on Tuesday, July 26, 2022 of fees previously agreed to between the Company and the Administrative Agent and/or Bank of America Securities, Inc.;

(v) payment of all fees to the Administrative Agent and/or Bank of America Securities, Inc. required to be paid in connection with this Amendment pursuant to any separate agreement between the Company and the Administrative Agent and/or Bank of America Securities, Inc.;

(vi) all reasonable and documented out-of-pocket fees and expenses incurred by the Administrative Agent and/or its Affiliates (including the reasonable and documented out-of-pocket fees and expenses of counsel (subject to the limitations set forth in ~~Section 10.04(a)~~ of the Existing Credit Agreement)) shall have been paid to the extent invoiced at least three (3) Business Days prior to Amendment No. 1 Effective Date (without prejudice to any post-closing settlement of such fees and expenses to the extent not so invoiced).

(b) For purposes of determining compliance with the conditions specified in this Section 4, each Lender that has executed this Amendment and delivered it to the Administrative Agent shall be deemed to have consented to, approved or accepted, or to be satisfied with, each document or other matter required under this Section 4 to be consented to or approved by or acceptable or satisfactory to such Lender unless the Administrative Agent shall have received notice from such Lender prior to this Amendment being deemed effective by the Administrative Agent on the Amendment No. 1 Effective Date specifying its objection thereto.

(c) From and after the Amendment No. 1 Effective Date, the Existing Credit Agreement is amended as set forth herein.

(d) Except as expressly amended pursuant hereto, the Existing Credit Agreement and each other Loan Document shall remain unchanged and in full force and effect and each is hereby ratified and confirmed in all respects, and any waiver contained herein shall be limited to the express purpose set forth herein and shall not constitute a waiver of any other condition or circumstance under or with respect to the Credit Agreement or any of the other Loan Documents.

(e) The Administrative Agent will notify the Company and the relevant Lenders of the occurrence of the Amendment No. 1 Effective Date.

5. ~~No Novation; Reaffirmation~~. Neither the execution and delivery of this Amendment nor the consummation of any other transaction contemplated hereunder is intended to constitute a novation of the Existing Credit Agreement, the Credit Agreement or of any of the other Loan Documents or any obligations thereunder. Each Loan Party (a) acknowledges and consents to all of the terms and conditions of this Amendment, (b) confirms and affirms all of its obligations under the Loan Documents, as amended by this Amendment, (c) confirms and affirms that each of the Liens granted in or pursuant to the Loan Documents are valid and subsisting as security for the payment and performance of the Obligations outstanding on the Amendment No. 1 Effective Date immediately prior to the effectiveness of the amendments provided by this Agreement and any Obligations outstanding at any time under the Credit Agreement, and (d) agrees that this Amendment and all documents executed in connection herewith (i) do not operate to reduce (other than to

the extent of the amendments set forth in this Amendment) or discharge any Loan Party's obligations under the Loan Documents and (ii) in no manner impair or otherwise adversely affect any of the Liens granted in or pursuant to the Loan Documents.

6. Miscellaneous.

(a) Except as herein expressly amended, all terms, covenants and provisions of the Existing Credit Agreement and each other Loan Document are and shall remain in full force and effect. All references in any Loan Document to the "Credit Agreement" or "this Agreement" (or similar terms intended to reference the Credit Agreement) shall henceforth refer to the Existing Credit Agreement as amended by this Amendment. This Amendment shall be deemed incorporated into, and a part of, the Credit Agreement.

(b) This Amendment shall be binding upon and inure to the benefit of the parties hereto, each other Lender, and their respective successors and assigns.

(c) THIS AMENDMENT IS SUBJECT TO THE PROVISIONS OF SECTIONS 10.14 , 10.15 AND 10.16 OF THE CREDIT AGREEMENT RELATING TO GOVERNING LAW, JURISDICTION, SERVICE OF PROCESS, VENUE AND WAIVER OF RIGHT TO TRIAL BY JURY, THE PROVISIONS OF WHICH ARE BY THIS REFERENCE INCORPORATED HEREIN IN FULL.

(d) This Amendment may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Amendment, the Credit Agreement and the other Loan Documents 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, this Amendment shall become effective when it shall have been acknowledged 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 required to be a party hereto. This Amendment may be in the form of an Electronic Record and may be executed using Electronic Signatures (including, without limitation, facsimile and .pdf) and shall be considered an original, and shall have the same legal effect, validity and enforceability as a paper record. This Amendment may not be amended except in accordance with the provisions of Section 10.01 of the Credit Agreement.

(e) If any provision of this Amendment, the Credit Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (i) the legality, validity and enforceability of the remaining provisions of this Amendment, the Credit Agreement and the other Loan Documents shall not be affected or impaired thereby and (ii) 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.

(f) The Borrower agrees to pay in accordance with Section 10.04 of the Credit Agreement all reasonable out-of-pocket expenses incurred by the Administrative Agent and its Affiliates in connection with the preparation, execution, delivery and administration of this Amendment and the other instruments and documents to be delivered hereunder, including, without limitation, the reasonable and documented fees, charges and disbursements of counsel to the Administrative Agent with respect thereto and with respect to advising the Administrative Agent as to its rights and responsibilities hereunder and thereunder.

(g) For good and valuable consideration, the sufficiency of which is hereby acknowledged, as of the Amendment No. 1 Effective Date, each Loan Party hereby voluntarily

and knowingly releases and forever discharges (in each case, whether or not a party hereto) the Administrative Agent (and any sub-agent thereof), the Swing Line Lender, each Arranger, each Lender and each L/C Issuer, and each Related Party of any of the foregoing Persons (each, a "Lender Party Released Person"), from all possible claims, demands, actions, causes of action, damages, costs, expenses and liabilities whatsoever, known or unknown, anticipated or unanticipated, suspected or unsuspected, fixed, contingent or conditional, at law or in equity, originating and pertaining to facts, events or circumstances existing, at any time on or before the Amendment No. 1 Effective Date, that arise from this Amendment or any acts or omissions of any such Lender Party Released Person hereunder, which such Loan Party may have against any Lender Party Released Person and irrespective of whether or not any such claims arise out of contract, tort, violation of law or regulations, or otherwise, including the negotiation, execution or implementation of this Amendment. This release and agreement shall survive the termination of this Amendment, the Credit Agreement and the other Loan Documents.

(h) This Amendment shall constitute a "Loan Document" under and as defined in the Credit Agreement.

[*Signature Pages Follow.*]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment 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/ J. JEFFREY CHESNUT
Name: J. Jeffrey Chesnut
Title: Treasurer

LVI LUX HOLDINGS S.À.R.L.

By: /s/ Cynthia L. Hageman
Name: Cynthia L. 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: Authorised 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/ Spencer Hunter
Name: Spencer Hunter
Title: Vice President

PRO RATA LENDERS: **BANK OF AMERICA, N.A.**, as a pro rata Lender

By: /s/ Spencer Hunter
Name: Spencer Hunter
Title: Vice President

CITIZENS BANK, N.A., as a pro rata Lender

By: /s/ Doug Kennedy
Name: Doug Kennedy
Title: SVP

TEXAS CAPITAL BANK, as a pro rata Lender

By: /s/ Austin Tabor
Name: Austin Tabor
Title: Vice President

TRUIST BANK, as a pro rata Lender

By: /s/ Jim C. Wright
Name: Jim C. Wright
Title: Vice President

MORGAN STANLEY BANK N.A., as a pro rata Lender

By: /s/ Jack Kuhns
Name: Jack Kuhns
Title: Authorized Signatory

CITY NATIONAL BANK., as a pro rata Lender

By: /s/ Brian Myers
Name: Brian Myers
Title: Senior Vice President

JPMorgan Chase, N.A., as a pro rata Lender

By: /s/ David Tepper
Name: David Tepper
Title: Vice President

WELLS FARGO BANK, N.A., as a pro rata Lender

By: /s/ Sid Khanolkar
Name: Sid Khanolkar
Title: Managing Director

MIZUHO BANK, LTD., as a pro rata Lender

By: /s/ Donna DeMagistris
Name: Donna DeMagistris
Title: Executive Director

MUFG BANK, LTD., as a pro rata Lender

By: /s/ Matthew Antioco
Name: Matthew Antioco
Title: Director

REGIONS BANK, as a pro rata Lender

By: /s/ Jason Douglas
Name: Jason Douglas
Title: Director

FIFTH THIRD BANK, NATIONAL ASSOCIATION, as a pro rata Lender

By: /s/ Zach Femal
Name: Zach Femal
Title: Principal

Annex A
(Changed pages to Credit Agreement to be attached)

Execution Version

DEAL CUSIP: 54912FAA8
REVOLVER CUSIP: 54912FAB6
TERM A CUSIP: 54912FAC4
TERM B CUSIP: 54912FAD2

CREDIT AGREEMENT

Dated as of November 3, 2021
(as amended through Amendment No. 1 to Credit Agreement (Financial Covenant) dated as of July 29, 2022)

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

"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.

"Amendment No. 1" means that certain Amendment No. 1 to Credit Agreement (Financial Covenant) dated as of July 29, 2022.

"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.

(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".

Notwithstanding the foregoing, for purposes of computing the Consolidated Total Leverage Ratio for purposes of testing quarterly compliance with the covenant levels set forth in Section 7.11, for determining Pro Forma Compliance with the Pro Forma Compliance Table in Section 7.11 and for determining the Consolidated Total Leverage Ratio in Section 7.11(b)(i) and Section 7.11(b)(ii)(C) (and for no other purposes, including any other calculation of the Consolidated Total Leverage Ratio for any other purpose hereunder or the use of Consolidated EBITDA in any other provision hereof), the proviso to clause (a)(vii) of this definition of Consolidated EBITDA shall be computed utilizing "the greater of (A) $25,000,000 and (B) 15% of Consolidated EBITDA" in lieu of "the greater of (A) $10,000,000 and (B) 5% of Consolidated EBITDA" contained therein, and any document (including any Compliance Certificate) delivered in connection with any Loan Document that demonstrates the calculation of Consolidated EBITDA shall clearly identify whether such calculation is being made pursuant to this paragraph or pursuant to the calculation methodology set forth in the preceding paragraph without giving effect to this paragraph.

"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

(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.

(a) 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~~June 30, 2022	5.00:1.00
~~December 31~~September 30, 2022 through September 30, 2023 December 31, 2023	~~4.50:1.00~~ 5.75:1.00 5.50:1.00
March 31, 2024 through September 30, 2024	5.25:1.00
December 31, 2024 through March 31, 2025	5.00:1.00
~~December 31~~June 30, ~~2023~~2025 and each fiscal quarter thereafter	~~4.25:1.00~~4.75:1.00

~~In the event~~; provided that notwithstanding the foregoing, for purposes of any calculation of Pro Forma Compliance, the delivery of any Pro Forma Compliance Certificate or any other compliance with the Consolidated Total Leverage Ratio ~~is~~ required to be measured or satisfied ~~prior to the delivery of financial statements for~~under this Agreement other than (i) the quarterly maintenance compliance expressly required by this Section 7.11(a) and (ii) compliance required to be measured under Section 7.11(b)(i) and Section 7.11(b)(ii)(C), the required Consolidated Total Leverage Ratio level at such time shall be deemed to be the following (the "Pro Forma Compliance Table):

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

(b) In addition, in consideration of and in connection with the amendments to clause (a) of this Section 7.11 provided in Amendment No. 1:

(i) the Company and each other Borrower agree that simultaneously with each delivery of the Compliance Certificate pursuant to Section 6.02(a) for a fiscal quarter or fiscal year (or on the day that such Compliance Certificate is required to be delivered, if not so delivered on or prior to such date), beginning with the fiscal ~~year~~quarter ending ~~December 31~~September 30, ~~2021~~2022, the ~~required~~Aggregate Revolving Commitments shall be permanently reduced (such reduction to be applied ratably to the Revolving Commitment of each Revolving Lender) by $2,812,500, provided that if the Consolidated Total Leverage Ratio ~~level at such time shall be deemed to be 5.00:1.00~~as of the last day of the fiscal quarter or fiscal year for which such Compliance Certificate is delivered in a timely manner is less than or equal to 4.75:1.00, the reduction provided in this clause (b)(i) shall not be effectuated for such fiscal quarter or fiscal year; and

(ii) each Loan Party hereby covenants that no Loan Party shall, nor shall it permit any of its Subsidiaries to, directly or indirectly, do any of the following (notwithstanding any provision of any Loan Document otherwise permitting or not prohibiting such action), and acknowledges that doing any of the following shall constitute a violation of this Section 7.11 (and solely of this Section 7.11):

(A) create, incur, assume or suffer to exist any Indebtedness under an Incremental Facility pursuant to Section 2.16 unless (in addition to the relevant requirements and limitations contained in Section 2.16), after giving effect thereto and the application of the proceeds thereof on a Pro Forma Basis, the Consolidated Total Leverage Ratio shall be in compliance with the level at such time set forth in the Pro Forma Compliance Table;

(B) create, incur, assume or suffer to exist any Indebtedness pursuant to Section 7.03(z) unless (in addition to the relevant requirements and limitations contained in Section 7.03(z)), after giving effect thereto and the application of the proceeds thereof on a Pro Forma Basis, the Consolidated Total Leverage Ratio shall be in compliance with the level at such time set forth in the Pro Forma Compliance Table;

(C) create, incur, assume or suffer to exist any Indebtedness pursuant to Section 7.03(aa) to the extent such Indebtedness is to be secured on a senior or pari passu basis with the Obligations unless (in addition to the relevant requirements and limitations contained in Section 7.03(aa)), after giving effect thereto and the application of the proceeds thereof on a Pro Forma Basis, the Consolidated Total Leverage Ratio shall not be greater than 4.75:1.00; or

(D) make any Restricted Payment or Junior Payment that would otherwise be permitted at such time pursuant to Section 7.06(e)(i) unless both before and after giving effect to such Restricted Payment or Junior Payment, as applicable, and the application of the proceeds thereof on a Pro Forma Basis, the Consolidated Total Leverage Ratio shall be in compliance with the level at such time set forth in the Pro Form15a Compliance Table.

CONSENT

This CONSENT (this "Consent"), dated as of March 1, 2023, is entered into by and 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" and together with the Company, the "Borrowers"), each Guarantor (as defined in the Credit Agreement (as defined below)) party hereto, Lenders (as defined in the Credit Agreement) constituting Required Lenders under the Credit Agreement, and BANK OF AMERICA, N.A., as Administrative Agent (in such capacity, the "Administrative Agent").

RECITALS

WHEREAS, the Borrowers, the Guarantors, the Administrative Agent and the Lenders are parties to that certain Credit Agreement, dated as of November 3, 2021 (as amended by that certain Amendment No. 1 to Credit Agreement (Financial Covenant), dated as of July 29, 2022, as supplemented, amended and waived by this Consent, and as such may be amended, restated, extended, supplemented or otherwise modified from time to time, the "Credit Agreement"), pursuant to which the Lenders have extended certain revolving and term facilities to the Borrowers;

WHEREAS, the Company, through one of more of its Subsidiaries, desires to sell pursuant to the terms and subject to the conditions of that certain Sale and Purchase Agreement, by and between LVI Lux Financing S.a r.l (the "Seller") and Opportunity Partners B.V. (such entity or the Purchaser Nominee (as defined therein), the "BL Buyer") attached hereto as Exhibit A (including all schedules, exhibits and annexes thereto, collectively, the "Purchase Agreement" and, together with (i) the notary letter agreement confirming the terms and conditions upon which the civil-law notary will hold the funds relating to the BL Sale (as defined below) in its notary account and will execute the notarial deed of transfer of shares, entered into by and between the acting civil-law notary, the Seller, the BL Buyer and any other parties required to be a party thereto, the "Dutch Notarial Letter Agreement" and (ii) the notarial deed of transfer by way of which the shares in Apollo (as defined below) will be transferred to the BL Buyer, the "Dutch Notarial Deed of Transfer", the "BL Sale Documents" and such sale, the "BL Sale") all or substantially all of the assets and operations of the "BrandLoyalty" business segment (the "BL Business"), which is conducted by Apollo Holdings B.V. ("Apollo") and its Subsidiaries listed on Schedule I attached hereto (including Apollo, the "BL Entities");

WHEREAS, in order to provide funds to continue the operation of the BL Business until the date of closing of the BL Sale, the Company desires to cause Brand Loyalty International B.V. and Brand Loyalty Sourcing B.V. (together, the "BL Bridge Borrowers") to borrow from the BL Buyer (in such capacity, together with any permitted assignee, the "BL Bridge Lender"), pursuant to that certain Bridge Loan Agreement, by and among the BL Bridge Lender and the BL Bridge Borrowers attached hereto as Exhibit B (including all schedules, exhibits and annexes thereto, collectively, the "BL Bridge Loan Agreement"), Indebtedness in the aggregate principal amount at any one time outstanding of up to €25,000,000, which may be borrowed, repaid and reborrowed on a revolving basis (the "BL Bridge Loans"), and to secure the BL Bridge Loans with liens (the "BL Bridge Liens") on the "Collateral" as defined in that certain Intercreditor Agreement Including Inventory Pledge, by and among Brand Loyalty Sourcing B.V. as Pledgor (as defined therein, the "BL Bridge Pledgor"), the BL Bridge Lender, as Inventory Pledgee (as defined therein), and the Administrative Agent, as Existing Pledgee (as defined therein) attached hereto as Exhibit C (such collateral, the "BL Bridge Collateral" and such agreement, including all schedules, exhibits and annexes thereto, collectively, the "BL Bridge Loan Intercreditor Agreement" and together with the BL Bridge Loan Agreement and any other agreements, documents, instruments or writings

entered into, delivered, filed or recorded in connection with the BL Bridge Loan Agreement, the "BL Bridge Loan Documents"); and

WHEREAS, the Company has requested that the Required Lenders agree, in accordance with the terms, and subject to the conditions, set forth in this Consent, to certain consents, amendments and waivers as provided in this Consent, including that they: (i) subject to the terms and conditions of the BL Bridge Loan Documents, consent to the BL Bridge Loans and the BL Bridge Liens, (ii) subject to the terms and conditions of the BL Bridge Loan Intercreditor Agreement, consent to the subordination of the Liens granted to and/or held by the Administrative Agent in the BL Bridge Collateral pursuant to the terms of certain Collateral Documents to the BL Bridge Liens granted to and/or held by the BL Buyer in the BL Bridge Collateral pursuant to the BL Bridge Loan Intercreditor Agreement securing the BL Bridge Loans, (iii) subject to the terms and conditions of the BL Sale Documents, consent to the BL Sale and the Related Transactions (as defined below), (iv) agree to amend the Credit Agreement as set forth herein, (v) agree to a limited forbearance, as described below, from exercising remedies under the Loan Documents, (vi) consent to the release of their (a) Liens on solely the assets constituting the BL Business and the Equity Interests in the BL Entities, and (b) claims against the BL Entities in connection with the BL Sale and the Related Transactions, and (vii) consent to the release of Apollo and the other Guarantors that are BL Entities and Loan Parties under the Loan Documents in connection with the BL Sale.

NOW, THEREFORE, for valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Defined Terms. Unless otherwise defined herein, capitalized terms used herein shall have the meanings, if any, assigned to such terms in the Credit Agreement.

2. Consent.

(a) Subject to the terms and conditions hereof, and with effect from and after the BL Bridge Loan Consent Effective Date (as defined below), and notwithstanding any contrary provision in any Loan Document, the Administrative Agent and Lenders constituting Required Lenders hereby:

(i) consent to:

(x) the incurrence from time to time by the BL Bridge Borrowers of the BL Bridge Loans pursuant to the BL Bridge Loan Agreement;

(y) the grant by the BL Bridge Pledgor of Liens on the BL Bridge Collateral in order to secure the BL Bridge Loans; and

(z) the Seller entering into the Purchase Agreement;

(ii) consent to the subordination of the Liens on the BL Bridge Collateral granted to and/or held by the Administrative Agent pursuant to the terms of certain Collateral Documents to the BL Bridge Liens granted to and/or held by the BL Buyer in the BL Bridge Collateral pursuant to the BL Bridge Loan Intercreditor Agreement securing the BL Bridge Loans, on the terms and subject to the conditions set forth in the BL Bridge Loan Intercreditor Agreement, and authorize and direct the Administrative Agent to execute and deliver the BL Bridge Loan Intercreditor Agreement attached hereto and all other necessary BL Bridge Loan Documents in connection therewith (all of which other documentation shall be reasonably satisfactory to the Administrative Agent and, to the extent set forth in Section 3(b)(vi), the Required Lenders);

(iii) if Required Lenders but less than all Lenders have executed this Consent, solely with respect to the BL Sale to be consummated pursuant to the Purchase Agreement, amend Section 7.04 and Section 7.05 of the Credit Agreement to permit the following transactions (the "Related Transactions"): (A) the transfer of any assets forming part of the BL Business from a Netherlands Borrower to a BL Entity that is a Guarantor and (B) the merger, de-merger, amalgamation, dissolution, liquidation or consolidation of one or more of the Netherlands Borrowers with or into one or more Guarantors that are BL Entities (with the Guarantor being the surviving entity); provided that, prior to the BL Sale Release Effective Time (as defined below), in no event shall any assets or other property forming part of the BL Business be transferred outside of the BL Entities (other than transfers of assets or other property in the ordinary course of the BL Business that are expressly permitted by the Credit Agreement or the BL Bridge Loan Intercreditor Agreement); provided, further, that, from and after the date hereof, except with respect to Dispositions permitted pursuant to this clause (iii), neither the Company nor any of its Subsidiaries that is not a BL Entity shall sell, transfer, convey or otherwise dispose of any assets or other property of the Company or such Subsidiary to any BL Entity (including with respect to any such sale, transfer, conveyance or disposition that is permitted under the Credit Agreement); and

(iv) from the BL Bridge Loan Consent Effective Date until the earliest to occur of (A) the BL Sale Release Effective Time, (B) a Termination Event (as defined in the BL Bridge Loan Intercreditor Agreement) or (C) a bankruptcy or other insolvency event relating to the BL Bridge Pledgor, agree that the Administrative Agent shall not, and direct the Administrative Agent to not, and the Administrative Agent hereby agrees to not, exercise any remedies under the Loan Documents with respect to the BL Entities or the BL Bridge Loan Collateral, regardless of whether an Event of Default has occurred and is continuing.

(b) Subject to the terms and conditions hereof, and with effect from and after the BL Sale Release Effective Time, and notwithstanding any contrary provision in any Loan Document, the Administrative Agent and Lenders constituting Required Lenders hereby:

(i) consent to the consummation of the BL Sale in accordance with the terms of the BL Sale Documents;

(ii) release and terminate all Liens on (A) the assets of the BL Entities and (B) the Equity Interests in the BL Entities, in each case securing the Obligations that form any part of the BL Business which are sold or otherwise disposed of to the BL Buyer in connection with the BL Sale (it being agreed that for purposes of this Consent, the assets of the BL Entities (including Equity Interests owned in other BL Entities) shall be deemed "sold" to the BL Buyer upon the sale of the Equity Interests in Apollo by the Seller to the BL Buyer), and the Required Lenders authorize and direct (x) the Administrative Agent and, to the extent expressly provided for in such customary release and termination documentation, the BL Buyer to execute and deliver such releases and termination documentation (the "BL Sale Release Documents") all of which releases and termination documentation shall be reasonably satisfactory to the Administrative Agent and, to the extent such releases and termination documentation contain materially different releases, consents, agreements or forbearances than contemplated by this Consent, such documentation shall be satisfactory to the Administrative Agent and the Required Lenders)) as shall be reasonably requested by the Company or the BL Buyer in connection with the closing of the BL Sale, and (y) the Administrative Agent to take such actions as shall be necessary to effectuate the foregoing;

(iii) release all Guarantors that are BL Entities from all of their obligations under the Loan Documents;

(iv) if all Lenders have executed this Consent, release the Netherlands Borrowers from all of their obligations under the Loan Documents; and

(v) if Required Lenders but less than all Lenders have executed this Consent, (A) agree to permanently forbear, and hereby irrevocably direct the Administrative Agent to (and the Administrative Agent hereby agrees to) permanently forbear, from enforcing or exercising any rights or remedies under the Loan Documents against the BL Entities, including the Netherlands Borrowers, or any of the assets of the BL Entities that form any part of the BL Business which are sold or otherwise disposed of to the BL Buyer in connection with the BL Sale, and (B) agree that, from and after the BL Sale Release Effective Time, (1) none of the BL Entities, including the Netherlands Borrowers, and their direct and indirect assets are subject to the covenants set forth in the Loan Documents, (2) no representations or warranties are made with respect to the BL Entities, including the Netherlands Borrowers, or their direct or indirect assets, and (3) no action or omission by, and no fact or circumstance with respect to, the BL Entities, including the Netherlands Borrowers, or their direct or indirect assets shall give rise to a Default or Event of Default.

(c) The Borrowers and Guarantors represent and warrant that (i) the BL Bridge Collateral does not constitute substantially all of the Collateral, (ii) the BL Sale will not constitute a Disposition of substantially all of the assets of the Loan Parties, (iii) except as set forth on Schedule II attached hereto, there are no contracts or agreements between the BL Entities, on the one hand, and the Company and any of its affiliates (other than the BL Entities) on the other hand (collectively, "Intercompany Arrangements") and (iv) there are no payables, receivables, liabilities and other obligations between the BL Entities, on the one hand, and the Company and its Affiliates (other than the BL Entities) on the other that will not be released and discharged on or prior to the BL Sale Release Effective Time, (v) except as set forth on Schedule II attached hereto, none of the assets or other property owned or leased by any BL Entity are being used in whole or material part in connection with a business of the Company or any Subsidiary that is not a BL Entity. The Company covenants and agrees that it shall not permit any Intercompany Arrangements to arise or be entered into from the date hereof until the consummation of the BL Sale. The Borrowers and the Guarantors hereby agree and acknowledge that, effective upon the BL Bridge Loan Consent Effective Date, the Netherlands Borrowers shall not, and will no longer be authorized to, submit any Loan Notices requesting a Borrowing.

(d) The Company covenants and agrees that it shall cause the Seller to (i) comply with its obligations under the Purchase Agreement and the other BL Sale Documents and (ii) enforce its rights under the Purchase Agreement and the other BL Sale Documents, including seeking specific performance under Section 6 of the Purchase Agreement to cause the Completion (as defined in the Purchase Agreement) to occur in the event that all of the Conditions Precedent (as defined in the Purchase Agreement) have been met (other than any conditions that, by their nature, are to be completed or performed as of the Completion). In addition, the Company covenants and agrees that it shall cause all assets and other property (including the assets and other property set forth on Schedule II attached hereto) that are owned or leased by any BL Entity that are being used in whole or material part in connection with a business of the Company or any Subsidiary that is not a BL Entity and are not material to the BL Business to be turned over to the Company or such Subsidiary that is not a BL Entity on or prior to the BL Sale Release Effective Time. The Administrative Agent and the Required Lenders shall be entitled to specifically enforce the provisions of this Section 2(d).

(e) The Administrative Agent and the Lenders party to this Consent acknowledge and agree that the consents, waivers and amendments set forth in this Section 2 are intended to be effective as waivers or amendments of any contrary provisions of the Loan Documents, and that no Default or Event of Default shall arise from actions, omissions, events or circumstances to which the Administrative Agent and Lenders party to this Consent have consented in this Section 2.

(f) Other than with respect to actions, omissions, events and circumstances contemplated by this Consent, each Loan Party shall continue to comply with all limitations, restrictions and prohibitions that would otherwise be effective or applicable under the Credit Agreement or any other Loan Document. The consents and amendments set forth in this Section 2 are limited in nature and the execution and delivery of this Consent shall not: (i) constitute an extension, amendment, modification, or waiver of any aspect of any of the Loan Documents, except as expressly set forth herein; (ii) extend the maturity of the Obligations or the due date of any payment or performance of any Obligations or other obligations under the Loan Documents or payable in connection with the Loan Documents; or (iii) (A) give rise to any obligation on the part of the Lenders to extend, modify or waive any term or condition of the Loan Documents other than as expressly contemplated by this Consent; (B) establish any course of dealing with respect to the Loan Documents; or (C) give rise to any defenses or counterclaims to the right of the Lenders to compel payment of the Obligations or otherwise enforce their rights and remedies set forth in the Loan Documents (as amended, waived and otherwise modified by this Consent and subject in all respects to the BL Bridge Loan Intercreditor Agreement).

3. Consent and Release Effective Dates.

(a) Section 2(a) of this Consent will become effective on the first date (the "BL Bridge Loan Consent Effective Date") on which all of the following conditions precedent shall have been satisfied:

(i) the Administrative Agent and the Lenders party hereto shall have received, in form and substance reasonably satisfactory to them, counterparts of this Consent duly executed by each Loan Party and Lenders that constitute Required Lenders, and acknowledged by the Administrative Agent;

(ii) the Borrowers shall have provided the Administrative Agent and the Lenders party hereto with a copy of the executed Purchase Agreement attached hereto as Exhibit A, which is deemed satisfactory to the Administrative Agent and the Required Lenders and copies of all other BL Sale Documents agreed upon between the Seller and the BL Buyer on the date of the execution of the Purchase Agreement, all of which other BL Sale Documents shall be deemed satisfactory to the Administrative Agent and the Required Lenders;

(iii) (A) the Borrowers shall have provided the Administrative Agent and the Lenders party hereto with a copy of the executed BL Bridge Loan Agreement attached hereto as Exhibit B, which is deemed satisfactory to the Administrative Agent and the Required Lenders and (B) the closing and funding of the initial borrowing of the BL Bridge Loans in accordance with the BL Bridge Loan Agreement and the other BL Bridge Loan Documents shall have occurred substantially concurrently with the BL Bridge Loan Consent Effective Date;

(iv) the BL Buyer and the Administrative Agent shall have entered into the BL Bridge Loan Intercreditor Agreement attached hereto as Exhibit C, which is deemed satisfactory to the Administrative Agent and the Required Lenders; and

(v) the Loan Parties shall have paid all accrued out-of-pocket fees, costs and expenses incurred by the Administrative Agent and its Affiliates and the ad hoc group of certain holders of the Term B Loans represented by Gibson, Dunn & Crutcher LLP as counsel (the "Term B Group"), including without limitation, the documented fees, charges and disbursements of U.S. and non-U.S. counsel and financial advisors (including, without limitation, Piper Sandler) to the Administrative Agent and the Term B Group with respect to the BL Bridge Loan Documents, the Purchase Agreement, the other BL Sale Documents, the Credit Agreement, this Consent, or any

other Loan Documents or rights hereunder and thereunder, in each case that have been invoiced to the Company not less than one Business Day prior to the BL Bridge Loan Consent Effective Date.

(b) Section 2(b) of this Consent will become effective as of the moment immediately prior to the transfer in respect of the BL Sale becoming effective pursuant to the execution of the Dutch Notarial Deed of Transfer (the "BL Sale Release Effective Time"), subject to the following conditions precedent having been satisfied:

(i) the BL Bridge Loan Consent Effective Date shall have occurred;

(ii) (x) all of the Intercompany Arrangements set forth on Schedule II, shall have been fully unwound or terminated, as applicable, (y) no other Intercompany Arrangements exist that will survive the BL Sale Release Effective Time, and (z) no payables, receivables, liabilities and other obligations between the BL Entities, on the one hand, and the Company and its Affiliates (other than the BL Entities) on the other exist that will survive the BL Sale Release Effective Time;

(iii) the Borrowers shall have provided the Administrative Agent and the Lenders party hereto with a copy of the executed Dutch Notarial Letter Agreement and the form of the Dutch Notarial Deed of Transfer as such deed of transfer will be executed by the civil-law notary to consummate the BL Sale, each of which documents shall be in form and substance satisfactory to the Administrative Agent and the Required Lenders;

(iv) the BL Bridge Loan Intercreditor Agreement, the BL Bridge Loan Documents, and the BL Sale Documents shall be in full force and effect immediately prior to and concurrently with the BL Sale Release Effective Time;

(v) following the BL Bridge Loan Consent Effective Date, (i) there have been no amendments, supplements, variations, increases, extensions, additions, waivers or consents to the BL Bridge Loan Agreement, the BL Bridge Loan Intercreditor Agreement, the Purchase Agreement, the Dutch Notarial Letter Agreement, the Dutch Notarial Deed of Transfer, any other principal BL Bridge Loan Document or any other principal BL Sale Documents, as applicable, without the prior written approval of the Administrative Agent and the Required Lenders and (ii) no party to any of the documents listed in (i) hereof shall have entered into any new agreements, letters, documents or other writings or have taken any actions with respect to the BL Business and the BL Entities that alter, amend, waive, or supplement the transactions contemplated in this Consent, the BL Sale Documents or the BL Loan Documents in a manner adverse to the Administrative Agent or the Lenders (as determined by counsel for the Term B Group and the Administrative Agent, as applicable, in their reasonable discretion), without the prior written approval of the Administrative Agent and the Required Lenders;

(vi) following the BL Bridge Loan Consent Effective Date, there have been no amendments, supplements, variations, increases, extensions, additions, waivers or consents to any non-principal BL Bridge Loan Document or any non-principal BL Sale Document, as applicable, that could change the terms thereof in a manner adverse to the Lenders and/or the Administrative Agent (as determined by counsel for the Term B Group and the Administrative Agent, as applicable, in their reasonable discretion) without the prior written approval of the Administrative Agent and the Required Lenders (such approval of the Administrative Agent and the Required Lenders, as applicable, not to be unreasonably withheld or delayed);

(vii) there are no other agreements, documents or written understandings between or among (1) the BL Bridge Borrowers, the BL Bridge Pledgor and/or the BL Bridge Lender that would expand, modify or otherwise affect the terms of the BL Bridge Loan Agreement, the BL Bridge Loan Intercreditor Agreement, the Dutch Notarial Letter Agreement, the Dutch Notarial Deed of Transfer or any other principal BL Bridge Loan Document or the respective rights or obligations of the parties thereunder or (2) the BL Buyer and the Seller that would expand, modify or otherwise affect the terms of the BL Sale Documents or the respective rights or obligations of the parties thereunder, in the case of each of clauses (1) and (2), in a manner adverse to any of the Lenders and/or the Administrative Agent (as determined by counsel for the Term B Group and the Administrative Agent, as applicable, in their reasonable discretion), except as approved in writing by the Administrative Agent and the Required Lenders;

(viii) there are no outstanding or continuing material breaches, violations or defaults on the part of the BL Bridge Lender under the BL Bridge Loan Documents;

(ix) the Loan Parties shall have paid all accrued out-of-pocket fees, costs and expenses incurred by the Administrative Agent and its Affiliates and the Term B Group, including without limitation, the documented fees, charges and disbursements of U.S. and non-U.S. counsel and financial advisors (including, without limitation, Piper Sandler), which U.S. and non-U.S. counsel and financial advisors are set forth on Schedule III, to the Administrative Agent and the Term B Group with respect to the BL Bridge Loan Documents, the Purchase Agreement, the other BL Sale Documents, the Credit Agreement, this Consent, or any other Loan Documents or rights hereunder and thereunder, in each case that have been invoiced to the Company not less than three Business Days prior to the BL Sale Release Effective Time; and

(x) the Administrative Agent shall have received evidence of (A) the cancellation, surrender or return for cancellation of each of Letter of Credit No. 68178083 in the amount of $200,000 and Letter of Credit No. 68180626 in the amount of 7,500,000 euros, each issued by Bank of America, N.A. as L/C Issuer under the Credit Agreement, without any unreimbursed drawing having been made under either of them following the BL Bridge Loan Consent Effective Date or (B) other arrangements acceptable to the Administrative Agent with respect to such Letters of Credit.

(c) For purposes of determining compliance with the conditions specified in (i) Section 3(a), each Lender that has executed this Consent and delivered it to the Administrative Agent shall be deemed to have consented to, approved or accepted, or to be satisfied with, each document or other matter required under Section 3(a) to be consented to or approved by or acceptable or satisfactory to such Lender unless the Administrative Agent shall have received notice from such Lender prior to the occurrence of the BL Bridge Loan Consent Effective Date specifying its objection thereto, and (ii) Section 3(b), each Lender (and any transferee of any Commitments, Loans, or participations in L/C Obligations held by such Lender) that has executed this Consent and delivered it to the Administrative Agent shall be deemed to have consented to, approved or accepted, or to be satisfied with, each document or other matter required under Section 3(b) to be consented to or approved by or acceptable or satisfactory to such Lender unless the Administrative Agent shall have received notice from such Lender prior to the occurrence of the BL Sale Release Effective Time specifying its objection thereto (in the case of any document, after the Administrative Agent has delivered a copy of such document to such Lender or posted a copy of such document to the Platform).

(d) Except as expressly contemplated by this Consent, the BL Bridge Loan Intercreditor Agreement or the BL Sale Release Documents (collectively, the "BL Sale Consent Documents"), the Credit Agreement and each other Loan Document shall remain unchanged and in full force and effect and each is hereby ratified and confirmed in all respects, and each consent, waiver and amendment contained herein shall be limited to the express purpose set forth herein and shall not constitute

a consent or waiver of any other condition or circumstance under or with respect to the Credit Agreement or any of the other Loan Documents.

(e) The Administrative Agent will notify the Company and the relevant Lenders of the occurrence of the BL Bridge Loan Consent Effective Date and the BL Sale Release Effective Time, respectively.

4. No Novation; Reaffirmation. Neither the execution and delivery of this Consent nor the consummation of any other transaction contemplated hereunder is intended to constitute a novation of the Credit Agreement or of any of the other Loan Documents or any obligations thereunder. Each Loan Party acknowledges and consents to all of the terms and conditions of this Consent, and each Loan Party, subject to the terms of the BL Sale Consent Documents, confirms and affirms (i) all of its obligations under the Loan Documents and (ii) that each of the Liens granted in or pursuant to the Loan Documents are valid and subsisting as security for the payment and performance of the Obligations outstanding on the BL Bridge Loan Consent Effective Date and the BL Sale Release Effective Time, respectively, immediately prior to the effectiveness of the consents, waivers and agreements provided by this Consent and the BL Bridge Loan Intercreditor Agreement, and (c) agrees that the BL Sale Consent Documents, except to the extent set forth therein, (i) do not operate to reduce or discharge any Loan Party's obligations under the Loan Documents and (ii) in no manner impair or otherwise adversely affect any of the Liens granted in or pursuant to the Loan Documents.

5. Miscellaneous.

(a) Except as herein expressly contemplated by BL Sale Consent Documents, all terms, covenants and provisions of the Credit Agreement and each other Loan Document are and shall remain in full force and effect. All references in any Loan Document to the "Credit Agreement" or "this Agreement" (or similar terms intended to reference the Credit Agreement) shall henceforth refer to the Credit Agreement as consented to, waived and modified by this Consent. This Consent shall be deemed incorporated into, and a part of, the Credit Agreement.

(b) This Consent shall be binding upon and inure to the benefit of the parties hereto, each Lender (including any Lender that is not a party hereto), and their respective successors and assigns. The BL Buyer shall be provided with a copy of this Consent as fully executed and shall be entitled to rely upon it.

(c) THIS CONSENT IS SUBJECT TO THE PROVISIONS OF SECTIONS 10.14 , 10.15 AND 10.16 OF THE CREDIT AGREEMENT RELATING TO GOVERNING LAW, JURISDICTION, SERVICE OF PROCESS, VENUE AND WAIVER OF RIGHT TO TRIAL BY JURY, THE PROVISIONS OF WHICH ARE BY THIS REFERENCE INCORPORATED HEREIN IN FULL.

(d) This Consent may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. The BL Sale Consent Documents, the Credit Agreement and the other Loan Documents 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 3, this Consent shall become effective when it shall have been acknowledged by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of the Required Lenders and each of the other parties required to be a party hereto. This Consent may be in the form of an Electronic Record and may be executed using Electronic Signatures (including, without limitation, facsimile and .pdf) and shall be considered an original, and shall have the same legal effect, validity and enforceability as a paper record. This Consent may not be amended except in accordance with the provisions of Section 10.01 of the Credit Agreement and any such amendment that would be adverse to the interests of the BL Buyer shall be

subject to the review and approval of the BL Buyer, such approval not to be unreasonably withheld, conditioned or delayed.

(e) If any provision of this Consent, the Credit Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (i) the legality, validity and enforceability of the remaining provisions of this Consent, the Credit Agreement and the other Loan Documents shall not be affected or impaired thereby and (ii) 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.

(f) The Company agrees to pay in accordance with Section 10.04 of the Credit Agreement all out-of-pocket fees, costs and expenses incurred by the Administrative Agent and its Affiliates and the Term B Group in connection with the preparation, execution, delivery and administration of this Consent and the other instruments and documents to be delivered hereunder, including, without limitation, the documented fees, charges and disbursements of U.S. and non-U.S. counsel and financial advisors (including, without limitation, all such counsel and financial advisors set forth on Schedule II) to the Administrative Agent and the Term B Group with respect thereto and with respect to advising the Administrative Agent and the Term B Group as to its rights and responsibilities hereunder and thereunder.

(g) For good and valuable consideration, the sufficiency of which is hereby acknowledged, effective on each of the BL Bridge Loan Consent Effective Date and the BL Sale Release Effective Time, each Loan Party hereby voluntarily and knowingly releases and forever discharges (in each case, whether or not a party hereto) the Administrative Agent (and any sub-agent thereof), the Swing Line Lender, each Arranger, each Lender and each L/C Issuer, and each Related Party of any of the foregoing Persons (each, a "Lender Party Released Person"), from all possible claims, demands, actions, causes of action, damages, costs, expenses and liabilities whatsoever, known or unknown, anticipated or unanticipated, suspected or unsuspected, fixed, contingent or conditional, at law or in equity, originating and pertaining to facts, events or circumstances existing, at any time on or before the BL Bridge Loan Consent Effective Date or the BL Sale Release Effective Time, as applicable, in each case that arise from this Consent or any acts or omissions of any such Lender Party Released Person under this Consent, including the negotiation, execution or implementation of this Consent, which such Loan Party may have against any Lender Party Released Person, in each case irrespective of whether such claims arise out of contract, tort, violation of law or regulations, or other legal theory. This release and agreement shall survive the termination of this Consent, the Credit Agreement and the other Loan Documents.

(h) This Consent shall constitute a "Loan Document" under and as defined in the Credit Agreement.

(i) This Consent represents the final agreement between the parties with respect to the subject matter hereof and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties. There are no unwritten agreements between the parties. Each Loan Party acknowledges that none of the Administrative Agent, any Lender party hereto, or any of their respective officers, directors, agents, employees, assigns or representatives have made any statement, representation or promise to induce any Loan Party to enter into this Consent except as expressly set forth herein. Each Loan Party further acknowledges that it is not relying upon any statements, representations, or promises of the Administrative Agent, any Lender party hereto, or any of their respective officers, directors, agents, employees, assigns or representatives in entering into this Consent, except as expressly set forth herein. Each party relies exclusively upon its own judgment in entering into this Consent.

[*Signature Pages Follow.*]

IN WITNESS WHEREOF, the parties hereto have caused this Consent to be duly executed as of the date first above written.

BORROWERS:

LOYALTY VENTURES INC.

/s/ Charles L. Horn
By: Charles L. Horn
Title: President & Chief Executive Officer

BRAND LOYALTY GROUP B.V.

/s/ F.M.P. Bekkers
By: F.M.P. Bekkers
Title: Authorized pursuant to a power of attorney

BRAND LOYALTY HOLDING B.V.

/s/ F.M.P. Bekekrs
By: **Brand Loyalty Group B.V.**
Title: Director
By: F.M.P. Bekkers
Title: Authorized pursuant to a power of attorney

BRAND LOYALTY INTERNATIONAL B.V.

/s/ F.M.P. Bekkers
By: F.M.P. Bekkers
Title: Director

GUARANTORS:

LOYALTYONE, CO.

/s/ Jeffrey L. Fair
By: Jeffrey L. Fair
Title: Vice President, Tax

LVI LUX HOLDINGS S.À R.L.

/s/ J.L. Fair
By: J.L. Fair
Title: Class A Manager

LVI LUX FINANCING S.À R.L.

/s/ J.L. Fair
By: J.L. Fair
Title: Class A Manager

APOLLO HOLDINGS B.V.

/s/ J.L. Fair
By: J.L. Fair
Title: Director A

LVI LUX HOLDINGS S.À R.L.

/s/ S. Hepineuze
By: S. Hepineuze
Title: Class B Manager

LVI LUX FINANCING S.À R.L.

/s/ S. Hepineuze
By: S. Hepineuze
Title: Class B Manager

APOLLO HOLDINGS B.V.

/s/ F.M.P. Bekkers
By: F.M.P. Bekkers
Title: Director B

BRAND LOYALTY AMERICAS B.V.

/s/ F.M.P Bekkers
By: **Brand Loyalty International B.V.**
Title: Director
By: F.M.P. Bekkers
Title: Director

BRAND LOYALTY EUROPE B.V.

/s/ F.M.P. Bekkers
By: **Brand Loyalty International B.V.**
Title: Director
By: F.M.P. Bekkers
Title: Director

BRAND LOYALTY ASIA B.V.

/s/ F.M.P Bekkers
By: **Brand Loyalty International B.V.**
Title: Director
By: F.M.P. Bekkers
Title: Director

BRAND LOYALTY SOURCING B.V.

/s/ F.M.P Bekkers
By: **Brand Loyalty International B.V.**
Title: Director
By: F.M.P. Bekkers
Title: Director

BRAND LOYALTY B.V.

/s/ F.M.P Bekkers
By: **Brand Loyalty International B.V.**
Title: Director
By: F.M.P. Bekkers
Title: Director

WORLD LICENSES B.V.

/s/ F.M.P Bekkers

By: **Brand Loyalty Sourcing B.V.**
Title: Director
By: **Brand Loyalty International B.V.**
Title: Director
By: F.M.P. Bekkers
Title: Director

ICEMOBILE AGENCY B.V.

/s/ F.M.P Bekkers
By: **Brand Loyalty International B.V.**
Title: Director
By: F.M.P. Bekkers
Title: Director

BRAND LOYALTY DEVELOPMENT B.V.

/s/ F.M.P Bekkers
By: F.M.P. Bekkers
Title: Director

BRAND LOYALTY RUSSIA B.V.

/s/ F.M.P Bekkers
By: **Brand Loyalty Europe B.V.**
Title: Director
By: **Brand Loyalty International B.V.**
Title: Director
By: F.M.P. Bekkers
Title: Director

ADMINISTRATIVE AGENT: **BANK OF AMERICA, N.A.**, as Administrative Agent

/s/ Taelitha Bonds-Harris

By: Taelitha Bonds-Harris

Title: Assistant Vice President

This is Exhibit “Q” referred to in the Affidavit of Cynthia Hageman affirmed November 9, 2023.

Commissioner for Taking Affidavits (or as may be)

KIYAN JAMAL

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
FORM 10-K

(Mark One)

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the fiscal year ended December 31, 2022

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 001-15749

BREAD FINANCIAL HOLDINGS, INC.
(Exact name of registrant as specified in its charter)

Delaware		**31-1429215**
(State or other jurisdiction of incorporation or organization)		**(I.R.S. Employer Identification No.)**
3095 Loyalty Circle **Columbus, Ohio** **(Address of principal executive offices)**		**43219** **(Zip Code)**

(614) 729-4000
(Registrant's telephone number, including area code)

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

Title of each class	Trading symbol	Name of each exchange on which registered
Common stock, par value $0.01 per share	BFH	New York Stock Exchange

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

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 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. ☒

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements. ☐

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers during the relevant recovery period pursuant to §240.10D-1(b). ☐

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

As of June 30, 2022, the aggregate market value of the common stock held by non-affiliates of the registrant was approximately $1.8 billion, based upon the closing sale price $37.06 as reported on the New York Stock Exchange.

As of February 22, 2023, 50,115,421 shares of common stock of the registrant 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 2023 Annual Meeting of our stockholders, which will be filed with the Securities and Exchange Commission not later than 120 days after December 31, 2022.

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BREAD FINANCIAL HOLDINGS, INC.

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This report includes trademarks, such as Bread®, Bread Cashback™, Bread Pay™ and Bread Savings™, which are protected under applicable intellectual property laws and are the property of Bread Financial Holdings, Inc. or its subsidiaries. This report also contains trademarks, service marks, copyrights and trade names of other companies, which are the property of their respective owners. Solely for convenience, our trademarks and trade names referred to in this report may appear without the ® or ™ symbols, but such references are not intended to indicate, in any way, that we will not assert, to the fullest extent under applicable law, our rights or the right of the applicable licensor to these trademarks and trade names.

Effective March 23, 2022, we changed our corporate name to Bread Financial Holdings, Inc. from Alliance Data Systems Corporation, and on April 4, 2022, we changed our ticker to “BFH” from “ADS” on the New York Stock Exchange (NYSE). Neither the name change nor the NYSE ticker change affected our legal entity structure, nor did either change have an impact on our consolidated financial statements. On November 5, 2021, our former LoyaltyOne segment was spun off into an independent public company Loyalty Ventures Inc. (traded on The Nasdaq Stock Market LLC under the ticker “LYLT”) and therefore is reflected herein as Discontinued Operations.

Throughout this report, unless stated or the context implies otherwise, the terms “Bread Financial”, the “Company”, “we”, “our” or “us” refer to Bread Financial Holdings, Inc. and its subsidiaries on a consolidated basis. References to “Parent Company” refer to Bread Financial Holdings, Inc. on a parent-only standalone basis. In addition, in this report, we may refer to the retailers and other companies with whom we do business as our “partners”, “brand partners”, or “clients”, provided that the use of the term “partner”, “partnering” or any similar term does not mean or imply a formal legal partnership, and is not meant in any way to alter the terms of Bread Financial’s relationship with any third parties. We offer our credit products primarily through our insured depository institution subsidiaries, Comenity Bank and Comenity Capital Bank, which together are referred to herein as the “Banks”. Bread Financial is also used in this report to include references to transactions and arrangements occurring prior to the name change.

Cautionary Note Regarding Forward-Looking Statements

This 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. 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, future financial performance and outlook, future dividend declarations and future economic conditions.

We believe that our expectations are based on reasonable assumptions. Forward-looking statements, however, are subject to a number of risks and uncertainties that are difficult to predict and, in many cases, beyond our control. Accordingly, our actual results could differ materially from the projections, anticipated results or other expectations expressed in this report, and no assurances can be given that our expectations will prove to have been correct. Factors that could cause the outcomes to differ materially include, but are not limited to, the following:

- macroeconomic conditions, including market conditions, inflation, rising interest rates, unemployment levels and the increased probability of a recession or prolonged economic slowdown, and the related impact on consumer spending behavior, payments, debt levels, savings rates and other behavior;
- global political, market, public health and social events or conditions, including the ongoing war in Ukraine and the continuing effects of the COVID-19 pandemic;
- future credit performance of our customers, including the level of future delinquency and write-off rates;
- loss of, or reduction in demand for services from, significant brand partners or customers in the highly competitive markets in which we compete;
- the concentration of our business in U.S. consumer credit;
- increases or volatility in the Allowance for credit losses that may result from the application of the current expected credit loss (CECL) model;
- inaccuracies in the models and estimates on which we rely, including the amount of our Allowance for credit losses and our credit risk management models;
- increases in fraudulent activity;
- failure to identify, complete or successfully integrate or disaggregate business acquisitions, divestitures and other strategic initiatives, including failure to realize the intended benefits of the spinoff of our former LoyaltyOne segment;
- the extent to which our results are dependent upon our brand partners, including our brand partners’ financial performance and reputation, as well as the effective promotion and support of our products by brand partners;
- continued financial responsibility with respect to a divested business, including required equity ownership, guarantees, indemnities or other financial obligations;
- increases in the cost of doing business, including market interest rates;
- our level of indebtedness and inability to access financial or capital markets, including asset-backed securitization funding or deposits markets;
- restrictions that limit our Banks’ ability to pay dividends to us;
- pending and future litigation;
- pending and future legislation, regulation, supervisory guidance and regulatory and legal actions including, but not limited to, those related to financial regulatory reform and consumer financial services practices, as well as any such actions with respect to late fees, interchange fees or other charges;
- increases in regulatory capital requirements or other support for our Banks;
- impacts arising from or relating to the transition of our credit card processing services to third party service providers that we completed in 2022;
- failures or breaches in our operational or security systems, including as a result of cyberattacks, unanticipated impacts from technology modernization projects or otherwise;
- loss of consumer information due to compromised physical or cyber security;
- any tax liability, disputes or other adverse impacts arising out of the spinoff of our former LoyaltyOne segment; and
- those factors discussed in Item 1A of this Form 10-K, elsewhere in this Form 10-K and in the documents incorporated by reference in this Form 10-K.

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 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.

PART I

Item 1. Business.

We are a tech-forward financial services company that provides simple, personalized payment, lending and saving solutions. We create opportunities for our customers and partners through digitally enabled choices that offer ease, empowerment, financial flexibility and exceptional customer experiences. Driven by a digital-first approach, data insights and white-label technology, we deliver growth for our partners through a comprehensive product suite, including private label and co-brand credit cards and buy now, pay later products such as installment loans and our "split-pay" offerings. We also offer direct-to-consumer solutions that give customers more access, choice and freedom through our branded Bread Cashback™ American Express® Credit Card and Bread Savings™ products.

Our partner base consists of large consumer-based businesses, including well-known brands such as (alphabetically) AAA, Academy Sports + Outdoors, Caesars, Michaels, the NFL, Signet, Ulta and Victoria's Secret, as well as small- and medium-sized businesses (SMBs). Our partner base is also well diversified across a broad range of industries, including specialty apparel, sporting goods, health and beauty, jewelry, home goods and travel and entertainment. We believe our comprehensive suite of payment, lending and saving solutions, along with our related marketing and data and analytics, offers us a significant competitive advantage with products relevant across customer segments (Gen Z, Millennial, Gen X and Baby Boomers). The breadth and quality of our product and service offerings have enabled us to establish and maintain long-standing partner relationships.

On November 5, 2021, we completed the spinoff of our former LoyaltyOne® segment, consisting of the Canadian AIR MILES® Reward Program and Netherlands-based BrandLoyalty businesses, into an independent, publicly traded company, Loyalty Ventures Inc. (LVI), which is listed on Nasdaq under the symbol "LYLT". The spinoff was completed through the pro rata distribution of 81% of the outstanding shares of LVI common stock to holders of our common stock at the close of business on the record date of October 27, 2021, with Bread Financial Holdings, Inc. retaining the remaining 19% of the outstanding shares of LVI common stock. Our stockholders of record received one share of LVI common stock for every two and one-half shares of Bread Financial Holdings, Inc. common stock held on the record date.

Unless otherwise noted, all discussion below, including amounts and percentages for all periods, reflect the results of operations and financial condition of Bread Financial Holdings, Inc.'s continuing operations. As such, the LoyaltyOne segment, which was classified as discontinued operations as of November 5, 2021, has been excluded from all presentations below, unless otherwise noted. Prior to the spinoff of the LoyaltyOne segment, we had two reportable operating segments (Card Services and LoyaltyOne). We now operate as a single segment that includes all of our continuing operations.

Business Strategy & Transformation

Beginning in 2018, our Board of Directors undertook a series of strategic initiatives based on an evaluation of the portfolio of businesses that constituted our company at that time. Subsequently, we completed the sale of our former Epsilon business in July 2019, the sale of our Precima® business in January 2020, and the spinoff of our LoyaltyOne segment in November 2021. Through these transactions and other initiatives, we have simplified our business model as a leading tech-forward financial services company providing payment, lending and saving solutions, while also reducing debt and improving leverage and capital ratios. As we have transformed the business, we have made strategic investments in assets with the highest growth potential, focused on expanding our product suite and direct-to-consumer offerings, diversifying our customer base, developing key strategic relationships, enhancing our core technology, and digital capabilities, and increasing our emphasis on environmental, social and governance (ESG) initiatives. Below is a timeline of key milestones in our business transformation since 2020:

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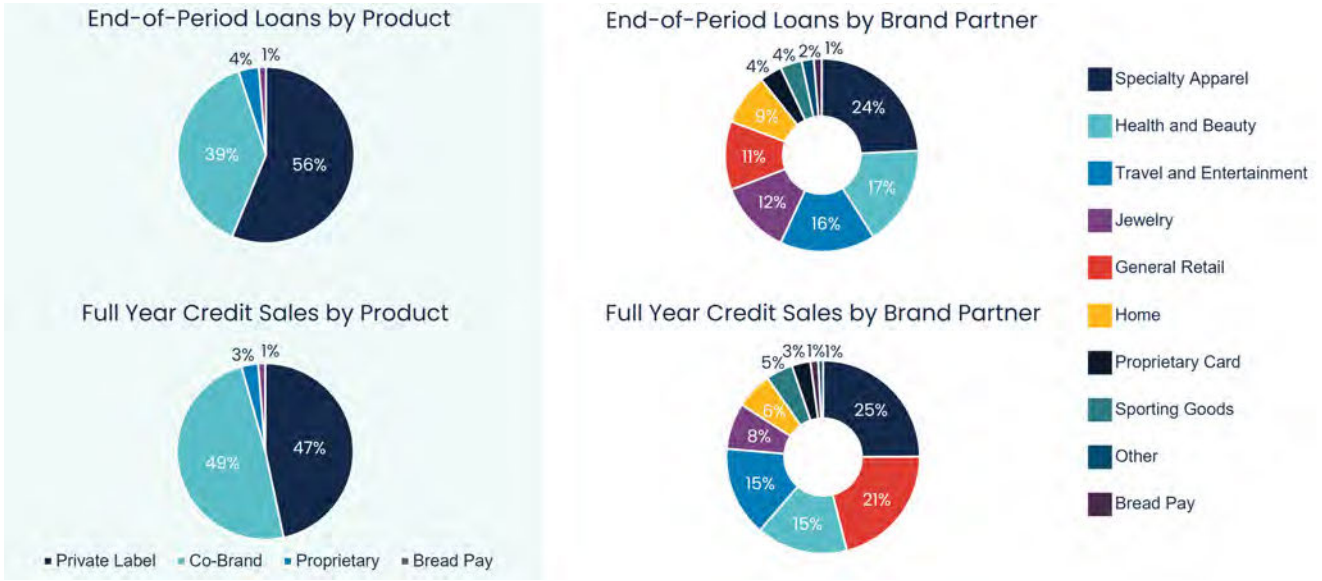
We continue to make strategic investments in technology, people, data management tools and digital capabilities to further improve our competitive position and drive future growth. These investments further our objective to grow sales through the origination of credit card and other loans, making it easier for consumers to finance purchases and make payments wherever they occur— online, in store and in-app. By offering consumer choice, we provide relevant products across consumer segments, including Gen Z and Millennials who we believe are more likely to be drawn to cash flow management products such as installment lending and split-pay, while Gen X and Baby Boomers generally gravitate towards rewards and the convenience of a private label or co-brand card. With our broad suite of products, including private label and co-brand credit cards, installment lending and split-pay, together with digital, analytical and servicing capabilities to support those products, we drive incremental sales for our partners' businesses. We also intend to continue rebalancing our portfolio, prioritizing and investing in profitable, strong performing partners, targeting core and new industries, and becoming a more cost-efficient provider of financial products and services. In addition, we continue to expand our direct-to-consumer lending and payment products for new and existing customers, including our proprietary credit cards (Bread Cashback™) for growth and value retention. As reflected below, during 2022 we continued to diversify both our product offerings and the industries in which our partners operate, which we believe will allow us to balance growth and expand the addressable market:



Our Primary Product Offerings

Our primary product offerings consist of our: (i) private label and co-brand credit card programs with retailers and other brand partners; (ii) Bread Cashback™ products; (iii) Bread Pay™ products; and (iv) Bread Savings™ products. These product offerings are not exclusive, and, where appropriate, we seek to introduce partners and customers to our other product offerings.

Private Label and Co-Brand Credit Card Lending

Our core business, historically, has been to assist many of the country's best-known brands and retailers in driving sales and loyalty through their private label and co-brand credit card programs. In these programs, we (through our Banks) are the credit card issuer and lender to our partner's customers, and we also service the loans and provide a variety of other related services, which are described in more detail below. Our partner base, with approximately 100 brands and numerous online merchants, consists of many large consumer-based businesses, including well-known brands such as (alphabetically) AAA, Academy Sports + Outdoors, Caesars, Michaels, the NFL, Signet, Ulta and Victoria's Secret. Our partners benefit from customer insights and analytics, with each of our credit card branded programs tailored to our partner's brand and their unique customers.

Specifically, private label credit cards are partner-branded credit cards that are used exclusively for the purchase of goods and services from that particular partner. Credit under a private label credit card typically is extended either on standard terms only, which means accounts are assessed periodic interest charges using an agreed non-promotional fixed and/or variable interest rate, or pursuant to a promotional financing offer, involving deferred interest, reduced interest or no interest during a set promotional period (typically between six and 60 months). We receive a merchant discount from our partners to compensate us for all or part of the foregone interest income associated with promotional financing. The terms of these promotions vary by partner, but generally the longer the deferred interest, reduced interest or interest-free period, the greater the partner's merchant discount. Some offers permit customers to pay for a purchase in equal monthly payments with no interest or at a reduced interest rate, rather than deferring or delaying interest charges. We typically do not charge interchange or other fees to our partners when a customer uses a private label credit card to purchase our partners' goods and services through our payment system. Our private label credit card loan balances are typically smaller (with an average customer balance of approximately $400); although, we offer "big ticket" financing with certain private label brand partners, which often involves larger amounts. Relative to our co-brand loan portfolio, our private label loan portfolio generally has higher revenue yields, and customers with lower credit lines and lower credit scores.

Our co-brand credit cards are general purpose credit cards that can be used to purchase goods and services from the applicable partner, as well as other retailers wherever cards from those card networks are accepted. We currently issue co-brand credit cards for use on the MasterCard and Visa networks. Credit extended under our co-branded credit cards typically is extended on standard terms only. Charges made using a co-branded credit card, particularly charges made outside of that co-brand partner, generate interchange income for us. Relative to our private label loan portfolio, our co-brand loan portfolio generally has lower revenue yields, and customers with higher credit lines and higher credit scores (with the majority of our co-brand customers having a Vantage score in excess of 660).

As a general matter, the financial terms and conditions governing our private label and co-brand credit card products vary by program and product type and change over time, although we seek to standardize the non-financial provisions consistently across all products. The terms and conditions of all of our credit card products are governed by a cardholder agreement and applicable laws and regulations. We assign each card account a credit limit when the account is initially opened. Thereafter, we may increase or decrease individual credit limits from time to time, at our sole discretion, based primarily on our evaluation of the customer's creditworthiness and ability to pay. For the vast majority of accounts, periodic interest charges are calculated using the daily balance method, which results in daily compounding of periodic interest charges. Cash advances are not subject to a grace period, and some credit card programs do not provide a grace period for promotional purchases. In addition to periodic interest charges, we may impose other charges and fees on credit card accounts, including, as applicable and provided in the cardholder agreement, late fees where a customer has not paid at least the minimum payment due by the required due date. Typically, each customer with an outstanding amount due on his or her credit card account must make a minimum payment each month. A customer may pay the total amount due at any time without penalty. We also may enter into arrangements with delinquent customers to extend or otherwise change payment schedules and to waive interest charges and/or fees. To help further the ease with which customers can make payments, we offer automatic payment functionality on all cardholder accounts.

Bread Cashback™

In April 2022, we launched our branded Bread Cashback™ American Express® Credit Card, which is a direct-to-consumer, general purpose cashback credit card. This open-network card is an important new product for us to capture incremental spend and build and retain customer relationships. We anticipate the Bread Cashback™ American Express® Credit Card will increase our total addressable market, including the Millennial and Gen Z populations. The Bread Cashback™ American Express® Credit Card offers unlimited 2% cashback, no annual fee, no foreign transaction fees, premium protection benefits, American Express® lifestyle benefits and instant mobile acquisition and wallet provisioning. Prior to launching our new Bread Cashback™ American Express® Credit Card, since 2020 we have offered our Comenity-branded general purpose cash-back credit card.

Bread Pay™

Bread Pay™ is our pay-over-time payment technology solution, which includes both our installment loan and "split-pay" offerings, as described in more detail below. Through Bread Pay™, we offer an omnichannel solution for over 700 SMB retailers and merchants, and platform capabilities to bank partners. The Bread Pay™ offerings and on-boarding capabilities enhance the growth prospects of our industries and increase the addressable market of SMBs. Bread Pay™ also offers our existing private label and co-brand credit card partners a broader digital product suite and additional white-label product solutions for those customers preferring a "closed-end" payment option (i.e. a non-revolving loan with fixed repayment terms). As part of our Bread Pay™ products, we offer a flexible platform and robust suite of application programming interfaces (APIs) that allow merchants and partners to seamlessly integrate online point-of-sale financing and other digital payment products. As Bread Pay™ has grown, it has expanded our ability to leverage our digital offerings to build both strategic technology platform partnerships and more traditional brand partnership sales and loans.

Our Bread Pay™ installment loans are closed-end credit accounts where the customer pays down the outstanding balance in monthly installments, typically over a 3 to 48 month period. The terms of our installment loans are governed by customer agreements and applicable laws and regulations. Installment loans are generally assessed interest charges using fixed interest rates. We do not currently impose other charges or fees on loan accounts, such as late fees where a customer has not made the required payment by the required due date or returned payment fees.

Our "split-pay" loans are short-term, interest-free financing, to be repaid by the customer in four equal installments, with the first payment due at the time of purchase and the remaining three payments due in subsequent two-week intervals. The terms of our split-pay loans are governed by customer agreements and applicable laws and regulations. We do not currently impose charges or fees on these split-pay loan accounts, such as late fees where a customer has not made the required payment by the required due date or returned payment fees.

We have also been working to grow revenue generated through various Bread Pay™ strategic partnerships. For example, since 2021 we have licensed our payments technology platform on a white-label basis to RBC (NYSE:RY), a premier global financial services provider. RBC uses our platform to operate its PayPlan by RBC solution, which allows Canadian customers to pay for big-ticket items over time. We do not originate the loans made through PayPlan, but instead earn transaction and servicing fees. We are also working to expand our partnership with Sezzle (ASX:SZL), which we announced in October 2021. We offer our installment or other loan products through Sezzle's merchant network.

Bread Savings™

Bread Savings™ refers to our direct-to-consumer, or retail, deposit products, primarily in the form of certificates of deposit and savings accounts. Our Bread Savings™ products support loan growth and improve our funding mix, making us less reliant on our securitization programs and other sources of wholesale funding. In recent years, retail deposits have become an increasingly important source of funds for us, growing 72% from $3.2 billion as of December 31, 2021 to $5.5 billion as of December 31, 2022. As of December 31, 2022, retail deposits represented 26% of our total funding sources.

Our online Bread Savings™ platform is scalable allowing us to expand without having to rely on a traditional "brick and mortar" branch network. We continue to focus on growing our Bread Savings™ operations and believe we are well-positioned to continue to benefit from the consumer-driven shift from branch banking to direct banking. We seek to differentiate our deposit product offerings from our competitors on the basis of rates we pay on deposits, the quality of our customer service and the competitiveness of our digital banking capabilities.

Services Supporting our Primary Product Offerings

Our primary product offerings, as described above, are supported and enhanced by numerous services and capabilities that we provide, including: (i) risk management, account origination and funding services; (ii) loan processing and servicing; (iii) marketing and data and analytics; and (iv) our Enhanced Digital Suite.

Risk Management, Account Origination and Funding Services. We provide risk management solutions, account origination and funding services for our private label and co-brand credit card programs, as well as our Bread Pay™ partnerships.

We process millions of credit card applications each year using automated proprietary scoring technology and verification procedures to make responsible risk-based underwriting and origination decisions when approving new accounts and establishing credit limits. Credit quality is monitored on a regular and consistent basis, utilizing internal algorithms and external credit bureau risk scores. This information helps us segment new and existing customers into narrower risk ranges, allowing us to better evaluate individual credit risk. As macroeconomic conditions have weakened over the last year, we have continued to enhance our credit risk management, including through stronger underwriting resulting from enhanced technology, monitoring, and data, prudent and proactive line management, well-established risk appetite metrics, and we are proactively using our recession readiness playbook. As of December 31, 2022 we had $20.1 billion in principal loans from approximately 43 million active accounts, with an average balance for the year ended December 31, 2022 of approximately $870 for accounts with outstanding balances.

Loan Processing and Servicing. We manage and service the loans we originate for our private label and co-brand credit card programs, as well as our Bread Cashback™ and Bread Pay™ products. In 2022, we completed the transition of our credit card processing services to Fiserv, a leading global provider of outsourced payments and financial services technology solutions; with the transition we expect to improve our speed to market, including the ability to quickly and seamlessly add new products and capabilities that benefit our partners and cardholders. This transition enables efficient integration of digital technology, while supporting our data and analytics capabilities and improving operational efficiencies.

Our customer care operations are influenced by our retail heritage and we view every customer touch point as an opportunity to provide an exceptional experience. Our customer care operations offer omnichannel servicing, including phone, mail, fax, email, text and web. We provide focused training programs in all areas to achieve the highest possible customer service standards and monitor our performance by conducting surveys with our partners and our customers. In 2022, for the seventeenth time since 2003, we were certified as a Center of Excellence for the quality of our operations, the most prestigious ranking attainable, by BenchmarkPortal. Founded by Purdue University in 1995, BenchmarkPortal is a global leader of best practices for customer care centers. We blend domestic and off-shore locations as an important part of our servicing strategy, to maintain service availability beyond normal work hours in the United States and to optimize our cost structure.

Marketing and Data & Analytics. Through our integrated marketing services, we design and implement strategies that assist our partners in acquiring, retaining and expanding customer engagement to drive a more loyal, frequent shopper that increases customer lifetime value. Our programs capture transaction data that we analyze to better understand consumer behavior and use to increase the effectiveness of our partners' marketing activities. Through our data and analytics capabilities, including machine learning and artificial intelligence, we focus on data insights that drive actionable strategies and enhance revenue growth and customer retention. We use multi-channel marketing communication tools, including in-store, web, permission-based email, permission-based mobile messaging and direct mail to engage customers in the channel of their choice.

Enhanced Digital Suite. Through our Enhanced Digital Suite, a group of marketing and credit application features, we help our brand partners capitalize on online trends by bringing through more qualified applicants, a higher credit sales conversion rate and a higher average purchase value. Enhanced Digital Suite includes a unified software development kit (SDK) that provides access to our broad suite of products; it also promotes credit payment options, relevant to the customer, earlier in the shopping experience. The credit application is simple and easy, offers prefilled fields and pre-screens customers in real-time, allowing for immediate credit approval without leaving the brand partner's site.

For additional information relating to our business, business strategy and products and services, see "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations – Year in Review – Business Environment".

Technology/Systems

We leverage information and technology to help achieve our business objectives and to develop and deliver products and services that satisfy our brand partners and customers' needs. A key part of our strategic focus is the development and use of efficient, flexible computer and operational systems, such as cloud technology, to support complex marketing and account management strategies, the servicing of our customers, and the development of new and diversified products. We believe the continued development and integration of these systems is an important part of our efforts to reduce costs, improve quality and security, and provide faster, more flexible technology services. Consequently, we continuously review capabilities and develop or acquire systems, processes and competencies to meet our unique business requirements.

As part of our continuous efforts to review and improve our technologies, we may either develop such capabilities internally or rely on third-party outsourcers who have the ability to deliver technology that is of higher quality, lower cost, or both. We continue to rely on third-party outsourcers to help us deliver systems and operational infrastructure; these relationships include (but are not limited to): Microsoft and Amazon Web Services, Inc. for our cloud infrastructure and Fiserv for credit card processing services.

We are committed to safeguarding our customers' and our own information and technology, implementing backup and recovery systems, and generally require the same of our third-party service providers. We take measures that mitigate against known attacks and use internal and external resources to scan for vulnerabilities in platforms, systems, and applications necessary for delivering our products and services. For a discussion of the risks associated with our use of technology systems, see "Part I—Item 1A. Risk Factors" under the heading "Cybersecurity, Technology and Vendor Risks".

Disaster and Contingency Planning

We operate, either internally or through third-party service providers, multiple data processing centers to store and otherwise process 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 partners' 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. For additional information, see "Item 1A. Risk Factors – Risk Management – Operational Risk".

Protection of Intellectual Property and Other Proprietary Rights

We rely on a combination of patents, copyright, trade secret and trademark laws, confidentiality procedures, contractual provisions and other similar measures to protect our proprietary information and technology used in 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, 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 business.

Competition

The markets for our products and services are highly competitive, continuously changing, highly innovative, and subject to regulatory scrutiny and oversight. We compete with a wide range of businesses, including major financial institutions and financial technology firms, or fintechs. Some of our current and potential competitors may be larger than we are, have larger customer bases, greater brand recognition, longer operating histories, a dominant or more secure position, broader geographic scope, volume, scale, resources, and market share than we do, or offer products and services that we do not offer. Other competitors are smaller or younger companies that may be more agile in responding quickly to regulatory and technological changes. Many of the areas in which we compete evolve rapidly with innovative and disruptive technologies, emerging competitors, business alliances, shifting consumer habits and user needs, price sensitivity on the part of merchants and consumers, and frequent introductions of new products and services. The consumer credit and payments industry is highly competitive and we face an increasingly dynamic industry as emerging technologies enter the marketplace.

In competing to acquire and retain the business of brand partners and customers, our primary competition is with other financial institutions whose marketing focus has been on developing credit card programs with attractive value propositions and consequentially large revolving balances. These competitors further drive their businesses by cross-selling their other financial products to their cardholders. We also compete for partners on the basis of a number of factors, including program financial and other terms, underwriting standards and capabilities, marketing expertise, service levels, the breadth of our product and service offerings, digital, technological and integration capabilities, brand recognition and reputation. Our focus is on retailers and other brand partners that understand the competitive advantage of developing loyal customers. As a result, we focus on analyzing transaction data we obtain through partner loyalty programs and managing our lending programs, including customer specific transaction data and overall consumer spending patterns, to develop and implement successful marketing strategies for our partners.

As a form of payment, our customers have numerous consumer credit and other payment options available to them, and our products compete with cash, checks, electronic bank transfers, debit cards, general purpose credit cards (including Visa, MasterCard, American Express and Discover Card), various forms of consumer installment loans and split-pay products, other private label card brands, prepaid cards, digital wallets and mobile payment solutions, and other tools that simplify and personalize shopping experiences for consumers and merchants. Among other factors, our products compete with these other forms of payment on the basis of interest rates and fees, credit limits, reward programs and other product features. As the payments industry continues to evolve, in the future we expect increasing competition with emerging payment technologies from financial technology firms and payment networks. Moreover, some of our competitors, including new and emerging competitors in the digital and mobile payments space, are not subject to the same regulatory requirements or legislative scrutiny to which we are subject, which could place us at a competitive disadvantage.

In our retail deposits business, we have acquisition and servicing capabilities similar to other direct-banking competitors. We compete for deposits with traditional banks, and in seeking to grow our Bread Savings™ platform, we compete with other banks that have direct-banking models similar to ours. Competition among direct banks is intense because online banking provides customers the ability to quickly and easily deposit and withdraw funds, and open and close accounts in favor of products and services offered by competitors.

Supervision and Regulation

We operate primarily through our insured depository institution subsidiaries, Comenity Bank (CB) and Comenity Capital Bank (CCB), which, as noted above, together are referred to herein as the “Banks”. Federal and state laws and regulations extensively regulate the operations of the Banks. This regulatory framework is intended to protect individual consumers, depositors, the Deposit Insurance Fund (DIF) of the Federal Deposit Insurance Corporation (FDIC) and the U.S. banking system as a whole, rather than for the protection of stockholders and creditors. Set forth below is a summary of the significant laws and regulations applicable to each of CB and CCB. The description that follows is qualified in its entirety by reference to the full text of the statutes, regulations, and policies that are described. Such statutes, regulations, and policies are subject to ongoing review by Congress, state legislatures, and federal and state regulatory agencies. A change in any of the statutes, regulations, or regulatory policies applicable to CB and/or CCB, or in the leadership or direction of our regulators, could have a material effect on the operations or financial condition of Bread Financial Holdings, Inc. Further, the scope of regulation and the intensity of supervision will likely remain high in the current regulatory environment.

CB is a Delaware-chartered bank operating as a credit card bank under a Competitive Equality Banking Act (CEBA) exemption from the definition of “bank” under the Bank Holding Company Act (BHC Act). To maintain its status as a CEBA credit card bank, CB must continue to comply with the following requirements:

- engage only in credit card operations;
- do not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties;
- do not accept any savings or time deposits of less than $100,000, except for deposits pledged as collateral for its extensions of credit;
- maintain only one office that accepts deposits; and
- do not engage in the business of making commercial loans (except credit card loans to certain small businesses).

CB is subject to prudential regulation, supervision and examination by the Delaware Office of the State Bank Commissioner, as its chartering authority, and the FDIC as its primary federal regulator. CB’s deposits are insured by the DIF of the FDIC up to the applicable deposit insurance limits in accordance with applicable law and FDIC regulations. CB is not a member of the Federal Reserve System.

CCB is a Utah-chartered industrial bank. As an industrial bank, CCB is exempt from the definition of "bank" under the BHC Act. CCB is subject to prudential regulation, supervision and examination by the Utah Department of Financial Institutions, as its chartering authority, and the FDIC as its primary federal regulator. CCB's deposits are insured by the DIF of the FDIC up to the applicable deposit insurance limits in accordance with applicable law and FDIC regulations. CCB is not a member of the Federal Reserve System.

The Consumer Financial Protection Bureau (CFPB) promulgates regulations for the federal consumer financial protection laws and supervises and examines large banks (those with more than $10 billion of total assets) with respect to those laws. Banks in a multi-bank organization, such as CB and CCB, are subject to supervision and examination by the CFPB with respect to the federal consumer financial protection laws if at least one bank reports total assets over $10 billion for four consecutive quarters. While the Banks were subject to supervision and examination by the CFPB with respect to the federal consumer financial protection laws between 2016 and 2021, this reverted to the FDIC in 2022. However, CCB's total assets then exceeded $10 billion for four consecutive quarters as of September 30, 2022, and both Banks are now again subject to supervision and examination by the CFPB with respect to federal consumer protection laws.

The CFPB has broad rulemaking authority that has impacted, and is expected to continue impacting, the Banks' operations, including with respect to credit card late fees and other amounts that we may charge. For example, the CFPB's rulemaking authority may allow it to change regulations adopted in the past by other regulators including regulations issued under the Truth in Lending Act by the Board of Governors of the Federal Reserve System (Federal Reserve Board). Most recently, in February 2023, the CFPB published a proposed rule with request for public comment that would: (i) decrease the safe harbor dollar amount for credit card late fees to $8 and eliminate a higher safe harbor dollar amount for subsequent late payments; (ii) eliminate the annual inflation adjustments that currently exist for the late fee safe harbor dollar amounts; and (iii) require that late fees not exceed 25% of the consumer's required minimum payment. The "safe harbor" dollar amounts referenced in the CFPB's proposed rulemaking refer to the amounts that credit card issuers may charge as late fees under the Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act). Under the CARD Act, as implemented, these safe harbor amounts have been subject to annual adjustment based on changes in the consumer price index, and the safe harbor amounts are currently set at $30 for an initial late fee and $41 for subsequent late fees in one of the next six billing cycles. Accordingly, the proposed $8 safe harbor amount on late fees (and proposed elimination of the annual inflation-based adjustment thereto) would represent a significant decrease from the current safe harbor amounts. In addition, the proposed rulemaking seeks comment on whether late fees should be prohibited if the applicable payment is made within 15 days of the due date and whether, as a condition to utilizing the safe harbor, credit card issuers should be required to offer automatic payment options and/or provide certain notifications of upcoming payment due dates. We are closely monitoring the content and timing of the CFPB's proposed rulemaking and its impact on our business.

More generally, the CFPB's ability to rescind, modify or interpret past regulatory guidance could reduce fee income, increase our compliance costs and litigation exposure. Further, the CFPB has broad authority to enforce the prohibitions of "unfair, deceptive or abusive" acts or practices regardless of which agency supervises the Banks. The CFPB has taken enforcement action against other credit card issuers and financial services companies. Evolution of these standards could result in changes to pricing, practices, procedures and other activities relating to our credit card accounts in ways that could reduce the associated return from those accounts and potentially impact business growth plans. While the CFPB has taken public positions on certain matters, it is unclear what additional changes may be promulgated by the CFPB and what effect, if any, such changes would have on our credit accounts.

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) authorizes certain state officials to enforce regulations issued by the CFPB and to enforce the Dodd- Frank Act's general prohibition against unfair, deceptive or abusive practices. To the extent that states enact requirements that differ from federal standards or courts adopt interpretations of federal consumer laws that differ from those adopted by the FDIC, the Federal Reserve Board and the Office of the Comptroller of the Currently (collectively, the Federal Banking Agencies), we may be required to alter products or services offered in some jurisdictions or cease offering products, which will increase compliance costs and reduce our ability to offer the same products and services to consumers nationwide.

Regulation of Bread Financial Holdings, Inc.

Because neither CB nor CCB is considered a "bank" within the meaning of the BHC Act, Bread Financial Holdings, Inc. is not a bank holding company (BHC) subject to regulation thereunder. If any of our entities became subject to regulation as a BHC, among other things, Bread Financial Holdings, Inc. and its non-bank subsidiaries would be subject to regulation, supervision and examination by the Federal Reserve Board and our operations would be limited to certain activities that are closely related to banking or financial services in nature.

However, under Section 616 of the Dodd-Frank Act, any company that directly or indirectly controls an insured depository institution is required to serve as a source of financial strength to its subsidiary institution and may not conduct its operations in an unsafe or unsound manner. This doctrine is commonly known as the "Source of Strength" doctrine. As such a company, this means that Bread Financial Holdings, Inc. must stand ready to use available resources to provide adequate capital funds to the Banks during periods of financial stress or adversity and should maintain the financial flexibility and capital-raising capacity to obtain additional resources to support the Banks. This support may be required at times when Bread Financial Holdings, Inc. might otherwise have determined not to provide it or when doing so is not otherwise in the interests of Bread Financial Holdings, Inc. or its stockholders or creditors. Bread Financial Holdings, Inc.'s failure to meet its obligation to serve as a source of strength to the Banks would generally be considered to be an unsafe and unsound banking practice.

Regulation of the Banks

Federal and state banking laws and regulations govern, among other things, the scope of a bank's business, the investments a bank may make, the reserves against deposits a bank must maintain, the loans a bank makes and collateral it takes, the activities of a bank with respect to mergers and acquisitions, management practices, and numerous other aspects of its operations.

Regulatory Capital Requirements

The Banks are subject to certain risk-based capital and leverage ratio requirements under the U.S. Basel III capital rules adopted by the FDIC. These rules implement the Basel III international regulatory capital standards in the United States, as well as certain provisions of the Dodd-Frank Act. These quantitative calculations are minimums, and the FDIC may determine that a bank, based on its size, complexity, or risk profile, must maintain a higher level of capital in order to operate in a safe and sound manner.

Under the U.S. Basel III capital rules, the Banks' assets, exposures, and certain off-balance sheet items are subject to risk weights used to determine an institution's risk-weighted assets, which then are used to determine the minimum capital that CB and CCB should keep as a reserve to reduce the risk of insolvency. These risk-weighted assets are used to calculate the following minimum capital ratios for the Banks:

- Common Equity Tier 1 (CET1) Risk-Based Capital Ratio - the ratio of CET1 capital to risk-weighted assets. CET1 capital primarily includes common stockholders' equity subject to certain regulatory adjustments and deductions, including goodwill, intangible assets, certain deferred tax assets, and Accumulated Other Comprehensive Income (AOCI).
- Tier 1 Risk-Based Capital Ratio - the ratio of Tier 1 capital to risk-weighted assets. Tier 1 capital is primarily comprised of CET1 capital, perpetual preferred stock, and certain qualifying capital instruments.
- Total Risk-Based Capital Ratio - the ratio of total capital, including CET1 capital, Tier 1 capital, and Tier 2 capital, to risk-weighted assets. Tier 2 capital primarily includes qualifying subordinated debt and qualifying Allowance for credit losses.

The Banks are also subject to the requirements of a fourth ratio, the Leverage ratio, which itself does not incorporate risk-weighted assets:

- Tier 1 Leverage Ratio - the ratio of Tier 1 capital to quarterly average assets (net of goodwill, certain other intangible assets, and certain other deductions).

Failure to be well-capitalized or to meet minimum capital requirements could result in certain mandatory and possible additional discretionary actions by regulators that, if undertaken, could have a material adverse effect on our operations or financial condition. Failure to be well-capitalized or to meet minimum capital requirements could also result in restrictions on the Banks' ability to pay dividends or otherwise distribute capital or to receive regulatory approval of applications.

The U.S. Basel III capital rules require a minimum CET1 Risk-Based Capital Ratio of 4.5%, a minimum Tier 1 Risk-Based Capital Ratio of 6.0%, and a minimum Total Risk-Based Capital Ratio of 8.0%. In addition to meeting the minimum capital requirements, under the U.S. Basel III capital rules, the Banks must also maintain the required 2.5% Capital Conservation Buffer to avoid becoming subject to restrictions on capital distributions and certain discretionary bonus payments to executive management. The Capital Conservation Buffer is calculated as a ratio of CET1 capital to risk-weighted assets, and it essentially increases the required minimum risk-based capital ratios. As a result, the Banks must maintain a CET1 Risk-Based Capital Ratio of at least 7%, a Tier 1 Risk-Based Capital Ratio of at least 8.5% and a Total Risk-Based Capital Ratio of at least 10.5% to avoid being subject to restrictions on capital distributions and discretionary

bonus payments to its executive management. The Tier 1 Leverage Ratio is not impacted by the Capital Conservation Buffer, and a bank may be considered well-capitalized while remaining out of compliance with the Capital Conservation Buffer. The required minimum Tier 1 Leverage Ratio for all banks and BHCs is 4%.

To be considered well-capitalized, the Banks must maintain the following capital ratios which are in excess of the minimums described above:

- CET1 Risk-Based Capital Ratio of 6.5% or greater;
- Tier 1 Risk-Based Capital Ratio of 8.0% or greater;
- Total Risk-Based Capital Ratio of 10.0% or greater; and
- Tier 1 Leverage Ratio of 5.0% or greater.

As of December 31, 2022, the Banks' regulatory capital ratios were above the well-capitalized standards and met the Capital Conservation Buffer. The Banks seek to maintain capital levels and ratios in excess of the minimum regulatory requirements inclusive of the 2.5% Capital Conservation Buffer.

Dividends

Bread Financial Holdings, Inc. is a legal entity separate and distinct from the Banks. Declaration and payment of cash dividends depends upon cash dividend payments to Bread Financial Holdings, Inc. by the Banks, which are our primary source of revenue and cash flow. As state-chartered banks, under Delaware or Utah law, as applicable, the Banks are subject to regulatory restrictions on the payment and amounts of dividends. Further, the ability of the Banks to pay dividends to Bread Financial Holdings, Inc. is also subject to their profitability, financial condition, capital expenditures and other cash flow requirements, and any such dividends are also subject to the approval of the Board of Directors of the applicable Bank.

The payment of dividends by the Banks and Bread Financial Holdings, Inc. may also be affected by other factors, such as the requirement to maintain adequate capital above regulatory requirements. The Federal Banking Agencies have indicated that paying dividends that deplete a bank's capital base to an inadequate level would be an unsafe and unsound banking practice; a bank may not pay any dividend if payment would cause it to become undercapitalized or if it already is undercapitalized. Moreover, the Federal Banking Agencies have issued policy statements that provide that banks should generally only pay dividends out of current operating earnings. The Federal Banking Agencies have the authority to prohibit banks from paying a dividend if it is deemed that such payment would be an unsafe or unsound practice.

Prompt Corrective Action and Safety and Soundness

Under applicable "prompt corrective action" (PCA) statutes and regulations, insured depository institutions, such as the Banks, are placed into one of five capital categories, ranging from "well capitalized" to "critically undercapitalized". The PCA statute and regulations provide for progressively more stringent supervisory measures as an institution's capital category declines. An institution that is not well capitalized is generally prohibited from accepting brokered deposits and offering interest rates on deposits higher than the prevailing rate in its market. An undercapitalized institution must submit an acceptable restoration plan to the appropriate Federal Banking Agency. One requisite element of such a plan is that the institution's parent holding company guarantee the institution's compliance with the plan, subject to certain limitations. As of December 31, 2022, the Banks qualified as "well capitalized" under applicable regulatory capital standards.

Insured depository institutions may also be subject to potential enforcement actions of varying levels of severity by the Federal Banking Agencies for unsafe or unsound practices in conducting their businesses, or for violation of any law, rule, regulation, condition imposed in writing by the agency, or term of a written agreement with the agency. In more serious cases, enforcement actions may include the issuance of directives to increase capital; the issuance of formal and informal agreements; the imposition of civil monetary penalties; the issuance of a cease and desist order that can be judicially enforced; the issuance of removal and prohibition orders against officers, directors, and other institution-affiliated parties; the termination of the institution's deposit insurance; the appointment of a conservator or receiver for the institution; and the enforcement of such actions through injunctions or restraining orders based upon a judicial determination that the FDIC, as receiver, would be harmed if such equitable relief was not granted.

Reserve Requirements

Federal Reserve Board regulations require insured depository institutions to maintain cash reserves against their transaction accounts, primarily interest-bearing and regular checking accounts. The required cash reserves can be in the form of vault

cash and, if vault cash does not fully satisfy the required cash reserves, in the form of a balance maintained with Federal Reserve Banks. The regulations authorize different ranges of reserve requirement ratios depending on the amount of transaction account balances held. A zero percent reserve requirement ratio is applied to transaction balances below the reserve requirement exemption amount. In addition, transaction account balances maintained over the reserve requirement exemption amount and up to a certain amount, known as the low reserve tranche, may be subject to a reserve requirement ratio of not more than 3 percent (and which may be zero), and transaction account balances over the low reserve tranche may be subject to a reserve requirement ratio of not more than 14 percent (and which may be zero). The reserve requirement exemption and the low reserve tranche are both subject to adjustment on an annual basis, as applicable, by the Federal Reserve Board. Effective March 26, 2020, in response to the COVID-19 pandemic, the reserve requirement ratios on all net transaction accounts were reduced to zero percent, thereby eliminating reserve requirements for all depository institutions. The annual indexation of the reserve requirement exemption amount and the low reserve tranche for 2021, 2022 and 2023 was required by statute, but did not affect depository institutions' reserve requirements, which remain at zero.

Federal Deposit Insurance

The deposits of the Banks are insured up to applicable limits by the DIF of the FDIC. The current standard maximum deposit insurance amount is $250,000 per depositor, per insured depository institution, per ownership category, in accordance with applicable FDIC regulations.

The FDIC uses a risk-based assessment system that imposes insurance premiums based on a risk matrix that takes into account an institution's capital level and supervisory rating. The base for insurance assessments is the average consolidated total assets less tangible equity capital of an institution. Assessment rates are calculated using formulas that take into account the risk of the institution being assessed.

Under the Federal Deposit Insurance Act (the FDIA), the FDIC may terminate an institution's deposit insurance upon a finding that the institution has engaged in unsafe and unsound practices, is in an unsafe and unsound condition or has violated any applicable law, regulation, order or condition imposed by the FDIC.

Depositor Preference

The FDIA provides that, in the event of the liquidation or other resolution of an insured depository institution, the claims of depositors of the institution, including the claims of the FDIC as subrogee of insured depositors, and certain claims for administrative expenses of the FDIC as a receiver, will have priority over other general unsecured claims against the institution. If an insured depository institution fails, insured and uninsured depositors, along with the FDIC, will have priority in payment ahead of unsecured, non-deposit creditors, including the parent company, with respect to any extensions of credit they have made to such insured depository institution.

Restrictions on Transactions with Affiliates and Insiders

Sections 23A and 23B of the Federal Reserve Act limit the extent to which we can borrow or otherwise obtain credit from, or engage in other covered transactions with either of the Banks, which may have the effect of limiting the extent to which either Bank can finance or otherwise supply funds to us. "Covered transactions" include loans or extensions of credit, purchases of or investments in securities, purchases of assets, including assets subject to an agreement to repurchase, acceptance of securities as collateral for a loan or extension of credit, or the issuance of a guarantee, acceptance, or letter of credit. Although the applicable rules do not serve as an outright bar on engaging in covered transactions, they do require that we engage in "covered transactions" with either Bank only on terms and under circumstances that are substantially the same, or at least as favorable to the Bank, as those prevailing at the time for comparable transactions with nonaffiliated companies. Furthermore, with certain exceptions, each loan or extension of credit by either Bank to us or our non-bank subsidiaries must be secured by collateral with a market value ranging from 100% to 130% of the amount of the loan or extension of credit, depending on the type of collateral.

The Banks are also subject to Sections 22(g) and 22(h) of the Federal Reserve Act, and the implementing Regulation O as applied to the Banks. These provisions impose limitations on loans and extensions of credit by the Banks to their executive officers, directors and principal stockholders and their related interests, as well as those of the Banks' affiliates. The limitations restrict the terms and aggregate amount of such transactions. Regulation O also imposes certain recordkeeping and reporting requirements.

Restrictions on transactions with affiliates and insiders under Federal Reserve Act Sections 23A, 23B, 22(g) and 22(h), as well as the requirements of Regulation O, are monitored for compliance by our internal audit department.

Volcker Rule

Section 619 of the Dodd-Frank Act, commonly known as the Volcker Rule, restricts the ability of banking entities, such as Bread Financial Holdings, Inc. and the Banks, from (i) engaging in proprietary trading and (ii) investing in or sponsoring covered funds, subject to certain limited exceptions. Under the Volcker Rule, the term covered funds is defined as any issuer that would be an investment company under the Investment Company Act but for the exemption in section 3(c)(1) or 3(c)(7) of that Act, which includes collateralized loan obligation securities (CLO) and collateralized debt obligation securities. There are also several exemptions from the definition of covered funds, including, among other things, loan securitization, joint ventures, certain types of foreign funds, entities issuing asset-backed commercial paper, and registered investment companies. We do not engage in these restricted activities, including in proprietary trading.

Incentive Compensation

The Dodd-Frank Act requires the Federal Banking Agencies and the Securities and Exchange Commission (SEC) to establish joint regulations or guidelines prohibiting incentive-based payment arrangements at specified regulated entities, including the Banks, that encourage inappropriate risks by providing an executive officer, employee, director or principal stockholder with excessive compensation, fees, or benefits resulting from inappropriate risk taking, as these actions could lead to material financial loss to the entity. The Federal Banking Agencies and the SEC most recently proposed such regulations in 2016, but the regulations have not yet been finalized. If the regulations are adopted in the form initially proposed, the manner in which executive compensation is structured will be restricted.

The Dodd-Frank Act also requires publicly traded companies to give stockholders a non-binding vote on executive compensation at least every three years and on so-called “golden parachute” payments in connection with approvals of mergers and acquisitions. Bread Financial Holdings, Inc. has held its “say-on-pay” vote annually.

USA PATRIOT Act

Under Title III of the USA PATRIOT Act, all financial institutions are required to take certain measures to identify their customers, prevent money laundering, monitor customer transactions, and report suspicious activity to U.S. law enforcement agencies. Financial institutions also are required to respond to requests for information from Federal Banking Agencies and law enforcement agencies. Information sharing among financial institutions for the above purposes is encouraged by an exemption granted to complying financial institutions from the privacy provisions of the Gramm-Leach-Bliley Act (GLBA) and other privacy laws. Financial institutions that hold correspondent accounts for foreign banks or provide private banking services to foreign individuals are required to take measures to avoid dealing with certain foreign individuals or entities, including foreign banks with profiles that raise money laundering concerns, and are prohibited from dealing with foreign “shell banks” and persons from jurisdictions of particular concern. The Federal Banking Agencies and the Secretary of the Treasury have adopted regulations to implement several of these provisions. All financial institutions also are required to establish internal anti-money laundering programs. The effectiveness of a financial institution in combating money laundering activities is a factor to be considered in any application submitted by a financial institution to engage in a merger transaction under the Bank Merger Act. The Banks have in place a Bank Secrecy Act and USA PATRIOT Act compliance program and engage in very few transactions of any kind with foreign financial institutions or foreign persons.

Office of Foreign Assets Control Regulations

The United States government has imposed economic sanctions that affect transactions with designated foreign countries, nationals, and others. These are typically known as the “OFAC” rules based on their administration by the U.S. Treasury Department Office of Foreign Assets Control. The Office of Foreign Assets Control-administered sanctions targeting countries take many different forms. Generally, OFAC sanctions contain one or more of the following elements: (i) restrictions on trade with or investment in a sanctioned country, including prohibitions against direct or indirect imports from and exports to a sanctioned country and prohibitions on U.S. persons engaging in financial transactions relating to making investments in, or providing investment-related advice or assistance to, a sanctioned country; and (ii) a blocking of assets in which the government or specially designated nationals of the sanctioned country have an interest, by prohibiting transfers of property subject to U.S. jurisdiction (including property in the possession or control of U.S. persons). Blocked assets (e.g., property and bank deposits) cannot be paid out, withdrawn, set off, or transferred in any manner without a

license from the Office of Foreign Assets Control. Failure to comply with these sanctions could have serious legal and reputational consequences.

Identity Theft

The SEC and the Commodity Futures Trading Commission (CFTC) jointly issued final rules and guidelines implementing the provisions of the Fair Credit Reporting Act (FCRA), as amended by the Dodd-Frank Act, which require certain regulated entities to establish programs to address risks of identity theft. The rules require financial institutions and creditors to develop and implement a written identity theft prevention program that is designed to detect, prevent, and mitigate identity theft in connection with certain existing accounts or the opening of new accounts. The rules include guidelines to assist entities in the formulation and maintenance of programs that would satisfy these requirements. In addition, the rules establish special requirements for any credit and debit card issuers that are subject to the jurisdiction of the SEC or the CFTC to assess the validity of notifications of changes of address under certain circumstances. The Banks implemented an ID Theft Prevention Program, approved by their Boards of Directors, in compliance with these requirements.

Community Reinvestment Act

The Community Reinvestment Act of 1977 (CRA) is intended to encourage banks to help meet the credit needs of their service areas, including low- and moderate-income neighborhoods, consistent with safe and sound business practices. The relevant Federal Banking Agency, the FDIC in the Banks' case, examines each bank and assigns it a public CRA rating. A bank's record of fair lending compliance is part of the resulting CRA examination report. CRA performance evaluations are based on a four-tiered rating system: Outstanding, Satisfactory, Needs to Improve and Substantial Noncompliance. CRA performance evaluations are considered in evaluating applications for such things as mergers, acquisitions and applications to open branches. The Banks each received a CRA rating of "Outstanding" at their most recent CRA examinations.

Consumer Protection Regulation and Supervision

We are subject to the federal consumer financial protection laws implemented by the CFPB. We are also subject to certain state consumer protection laws and state attorneys general and other state officials are empowered to enforce certain federal consumer protection laws and regulations. State authorities have increased their focus on and enforcement of consumer protection rules. These federal and state consumer protection laws apply to a broad range of our activities and to various aspects of our business, and include laws relating to interest rates, fair lending, disclosures of credit terms and estimated transaction costs to consumer borrowers, debt collection practices, the use and provision of information to consumer reporting agencies, and the prohibition of unfair, deceptive, or abusive acts or practices in connection with the offer, sale, or provision of consumer financial products and services. Each Bank has in place an effective compliance management system to comply with these laws and regulations.

Privacy, Information Security and Data Protection

We are subject to various privacy, information security and data protection laws, including requirements concerning security breach notification. For example, in the United States, we are subject to the GLBA and implementing regulations and guidance. Among other things, the GLBA: (i) imposes certain limitations on the ability of financial institutions to share consumers' nonpublic personal information with nonaffiliated third parties; (ii) requires that financial institutions provide certain disclosures to consumers about their information collection, sharing and security practices and affords consumers the right to "opt out" of the institution's disclosure of their personal financial information to nonaffiliated third parties (with certain exceptions); and (iii) requires financial institutions to develop, implement and maintain a written comprehensive information security program containing safeguards that are appropriate to the financial institution's size and complexity, the nature and scope of the financial institution's activities, the sensitivity of consumer information processed by the financial institution as well as plans for responding to data security breaches.

Federal and state laws also require us to respond appropriately to data security breaches. A final rule issued by the Federal Reserve, OCC, and FDIC, which became effective in May 2022, requires banking organizations to notify their primary federal regulator of significant computer security incidents within 36 hours of determining that such an incident has occurred.

In 2018, the State of California enacted the California Consumer Privacy Act (CCPA). The CCPA requires covered businesses to comply with requirements that give consumers the right to know what information is being collected from them and whether such information is sold or disclosed to third parties. The statute also allows consumers to access, delete, and prevent the sale of personal information that has been collected by covered businesses in certain circumstances. The CCPA does not apply to personal information collected, processed, sold, or disclosed pursuant to the GLBA or the California Financial Information Privacy Act. We are a covered business under the CCPA, which became effective on January 1, 2020. In 2020, the State of California amended the CCPA by passing a ballot initiative known as the California Privacy Rights Act. This initiative added a number of requirements to the CCPA with which we are finalizing our compliance.

We continue to monitor, and have a program in place to comply with, applicable privacy, information security and data protection requirements imposed by federal, state, and foreign laws. However, if we experience a significant cybersecurity incident or our regulators deemed our information security controls to be inadequate, we could be subject to supervisory criticism or penalties, and/or suffer reputational harm. For further discussion of privacy, data protection and cybersecurity, and related risks for our business, see "Part I—Item 1A. Risk Factors" under the headings *"Regulation in the areas of privacy, data protection, data governance, account access and information and cyber security could increase our costs and affect or limit our business opportunities and how we collect and/or use personal information", "Failure to safeguard our data and consumer privacy could affect our reputation among our partners and their customers, and may expose us to legal claims",* and *"Business interruptions, including loss of data center 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 partners and customers and harm our business".*

Human Capital

As of December 31, 2022, we employed approximately 7,500 associates worldwide, with the majority concentrated in the United States. Attracting, developing and retaining top talent is critical to our business. As a core component of our broader Environmental, Social and Corporate Governance (ESG) and sustainability efforts, our key human capital management objective is to promote an inclusive, engaged culture that empowers associates through opportunities to grow, develop and lead. Our associates have been, and will remain, the backbone of our business, and we take a holistic approach to our associates' experiences, recognizing that an engaged workforce drives our long-term growth and sustainability. Our Board of Directors and Compensation & Human Capital Committee provide the important oversight of our human capital management strategy, including diversity, equity and inclusion (DE&I) efforts, which are led by our Head of Diversity and Inclusion and our Chief Diversity Officer. Our Compensation & Human Capital Committee and our full Board of Directors receive regular updates from senior management and third-party consultants on human capital trends and developments, and other key human capital matters that drive our ongoing success and performance.

Associate Health and Wellbeing

Associate health and wellbeing remains a top human capital priority, and we are committed to providing our associates with competitive total compensation, benefits and wellness resources. Our associates continue to express enthusiasm for the flexible remote work policies that we adopted during the COVID-19 pandemic, and approximately 95% of our total workforce continues to successfully work from home, either on a fully-remote or hybrid basis. We intend to continue these flexible work arrangements, seeking to take advantage of the engagement and productivity benefits associated with increased flexibility, as well as opportunities for connectedness and social interaction. Other associate wellbeing resources include mental health awareness and counselling support, financial education and wellness courses, a variety of fitness and meditation classes, a wellbeing cost reimbursement program and other benefits to promote mental and physical health supportive of holistic wellbeing.

Additionally, during 2022 we further improved the competitiveness of our associate benefit offerings, including: (i) enhancements to our medical benefits, such as the removal of a 30-day waiting period for new hires to enroll and the addition of travel benefits for reproductive and other fertility services; (ii) improvements to our paid time off and flex time off policies; (iii) the addition of two new paid holidays (bringing the total to 11); and (iv) expanded mental health services, including increased access to free therapy sessions, dedicated care navigators and mental health medication management services.

Associate Experience and Engagement

Delivering an exceptional experience for our customers relies on our ability to cultivate an engaging and rewarding experience for our associates. We maintained high levels of associate engagement and retention in 2022 and were successful with talent acquisition, hiring several top industry leaders in key positions that further supported our transformation initiatives and business priorities. As discussed further below, in 2022 we continued to focus on developing our internal talent to increase lateral movement across the organization, with 34% of the 592 new jobs posted in 2022 being ultimately filled by internal candidates. We continue to listen to and act on feedback from our associates, including through our annual Associate Survey and other more frequent surveys and communications. Each year after the results of the annual Associate Survey have been tabulated, our senior management presents those results to our Compensation & Human Capital Committee and our Board of Directors, including discussion regarding trends observed and actions to be taken in response to the results. Input from our Board helps inform our human capital strategies and objectives going forward; our global themes for 2023 include promoting career opportunities for our associates, further optimizing our future work environment and ensuring associates have the appropriate tools, resources and technology to work effectively, whether in-office or remote.

Workforce Readiness, Growth and Advancement

As part of our broader multi-year business transformation, our “future workforce” steering committee, comprised of senior human resources, technology and operations management, continued to develop and execute human capital-intensive strategies to ensure our workforce readiness, growth and advancement. During the year we completed our second-annual, six-month apprenticeship program, which created a feeder pipeline from roles in our Care Centers to other non-Care Center opportunities across the organization, with 22 U.S. associates (or 96% of program participants) transitioning to new roles at the conclusion of their apprenticeships. Robust training and development remains central to our human capital strategy, and in 2022 we expanded our training programs to include a more advanced mentorship program that matches associates with an internal mentor who will help further their unique career journey and development needs. In addition to career-oriented training and development, we require annual associate training to ensure ongoing adherence to responsible business practices and ethical conduct, and all associates must certify annually that they have read and will adhere to our Code of Ethics. We believe these efforts resonated with our associates, as we saw a 3% improvement in associates’ perceptions of the professional growth and development initiatives taken by us, reflected in our 2022 annual Associate Survey.

Diversity, Equity and Inclusion

We are committed to creating an inclusive culture that attracts and values diversity - of thought, experience, background, skills and ideas. Over the past few years, we have renewed and accelerated our actions and activities in support of DE&I. In 2021, we appointed a Chief Diversity Officer (CDO), hired a Vice President of DE&I and appointed an associate-led DE&I Council. Together, these actions resulted in establishing a Diversity, Equity and Inclusion Office, solidifying our focus on these efforts. Additionally our eight Business Resource Groups, made up of over 700 associate members, act as a catalyst for ensuring a fully inclusive and engaging work environment.

Our DE&I strategy is embedded into our overall governance process and business model, demonstrating our elevated commitment and accountability to this imperative. The strategy describes what we seek to accomplish and how we will measure progress across four focus areas: (i) Workforce - creating pathways for hiring and promotions that map to market availability; (ii) Workplace - promoting an inclusive, engaged culture that empowers associates through opportunities to grow, develop and lead; (iii) Marketplace - infusing DE&I into our growth strategy, product delivery, customer experience and supply chain; and (iv) Community – building strategic partnerships that empower our communities and advance business priorities.

As of December 31, 2022, approximately 67% of our total work force and 44% of our senior leaders were female, while approximately 47% of our total work force and 15% of our senior leaders were minorities.

ESG Strategy

We are committed to sustainability, including integrating ESG principles into our business strategy in ways that optimize opportunities to make positive impacts while advancing long-term financial and reputational goals. As part of our business transformation, in 2021, our Board approved an enhanced and modernized ESG strategy intended to drive additional progress on initiatives that promote sustainability, diversity, equity and inclusion, and increased transparency in our disclosures. We continue to advance the integration of ESG into our overall governance and risk management practices.

Additional information regarding our ESG strategy and initiatives can be found in our annual ESG reports, which are published on our corporate website at: https://investor.breadfinancial.com/sustainability/. No information from this website is incorporated by reference herein. Please also see “Human Capital” above.

Other Information

Our corporate headquarters are located at 3095 Loyalty Circle, Columbus, Ohio 43219, where our telephone number is 614-729-4000.

We file or furnish annual, quarterly and current reports, proxy statements and other information with the 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.BreadFinancial.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, Risk Committee, Compensation & Human Capital Committee and Nominating and Corporate Governance 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.

RISK FACTORS

This section should be carefully reviewed, in addition to the other information appearing in this Form 10-K, including the sections entitled "Risk Management" and "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our consolidated financial statements and related notes, for important information regarding risks and uncertainties that affect us. The risks and uncertainties described below are not the only ones we face. Additional risks and uncertainties that we are unaware of, or that we currently believe are not material, may also become important factors that adversely affect our business. If any of the following risks actually occur, our business, financial condition, results of operations, and future prospects could be materially and adversely affected.

Summary

This risk factor summary is qualified in its entirety by reference to the complete description of our risk factors set forth immediately below.

Risks related to our macroeconomic, global, strategic, business and competitive environment include:

- Market conditions, inflation, rising interest rates, unemployment levels and the increased probability of a recession or prolonged economic slowdown, and the related impact on consumer spending behavior, payments, debt levels, savings rates and other behavior, could have a material adverse effect on our business.
- Global political, market, public health and social events or conditions, including the ongoing war in Ukraine and the continuing effects of the COVID-19 pandemic, may harm our business.
- Our unsecured loans make us reliant on the future credit performance of our customers, and if customers are unable to repay our loans, our level of future delinquency and write-off rates will increase.
- A significant percentage of our revenue is generated through relationships with a limited number of partners, and a decrease in business from, or the loss of, any of these partners, could have an adverse effect on our business.
- Our business is heavily concentrated in U.S. consumer credit, and therefore our results are more susceptible to fluctuations in the U.S. consumer credit market than a more diversified company.
- The amount of our Allowance for credit losses could adversely affect our business and may be insufficient to cover actual losses on our loans.
- We may be unable to successfully identify, complete or successfully integrate or disaggregate business acquisitions, divestitures and other strategic initiatives, including failure to realize the intended benefits of the spinoff of our former LoyaltyOne segment.
- Competition in our industry is intense.
- Our results of operations and growth depend on our ability to retain existing partners and attract new partners, and our results are impacted, to a significant extent, on the active and effective promotion and support of our products by our partners and on the financial performance of our partners.
- We rely extensively on models in managing many aspects of our business, and if they are not accurate or are misinterpreted, such factors could have a material adverse effect on our business and results of operations.
- Underwriting performance of acquired or new lending programs may not be consistent with existing experience.

Risks related to our liquidity, market and credit risk include:

- Adverse financial market conditions or our inability to effectively manage our funding and liquidity risk could have a material adverse effect on our business, liquidity and ability to meet our debt service requirements and other obligations.
- Our inability to effectively access the securitization or other capital markets could limit our funding opportunities for loans and other business opportunities.
- Competition for deposits and regulatory restrictions on deposit products can impact availability and cost of funds.
- Our level of indebtedness may restrict our ability to compete and grow our business.
- Our market valuation has been, and may continue to be, volatile, and returns to stockholders may be limited.
- We are a holding company and depend on dividends and other payments from our Banks, which are subject to various legal and regulatory restrictions.

Risks related to our legal, regulatory and compliance environment include:

- We face various risks related to the extensive government regulation and supervision of our business, including by the FDIC, CFPB and other federal and state authorities. These risks include pending and future laws and

regulations that may adversely impact our business, such as the CFPB's recent proposed rulemaking with respect to late fees, as well as supervisory and other actions that may be taken against us by our regulators.
- Pending and future litigation could subject us to significant fines, penalties, judgments and/or requirements.
- Regulations relating to privacy, information security and data protection could increase our costs, affect or limit how we collect and use personal information and adversely affect our business opportunities.
- Financial institution capital requirements may limit cash available for business operations, growth and returns to stockholders.

Risks related to cybersecurity, technology and third-party vendors include:

- We rely on third-party vendors, and we could be adversely impacted if such vendors fail to fulfill their obligations.
- Impacts arising from or relating to the transition of our credit card processing services to strategic outsourcing providers that we completed in 2022 have, and may continue, to adversely affect our business.
- Failures in data protection, cybersecurity and information security, as well as business interruptions to our data centers and other systems, could critically impair our products, services and ability to conduct business.
- Our industry is subject to rapid and significant technological changes, and we may be unable to successfully develop and commercialize new or enhanced products and services.

Risks related to the spinoff of our former LoyaltyOne segment include potential tax liability, disputes or other adverse impacts.

Macroeconomic, Strategic, Business and Competitive Risks

Weakness and instability in the macroeconomic environment could have a material adverse effect on our business, results of operations and financial condition.

Macroeconomic conditions historically have affected our business, results of operations and financial condition and will continue to affect them in the future. We offer an array of payment, lending and saving solutions to consumers, and a prolonged period of economic weakness, including a recession or economic slowdown, economic and market volatility, and other adverse economic conditions, including inflation, increased interest rates and high levels of unemployment, could have a material adverse effect on our business, results of operations and financial condition, as these macroeconomic conditions may reduce consumer confidence and negatively impact customers' payment and spending behavior. Some of the specific risks we face as a result of these conditions include the following:

- Adverse impacts on our customers' ability and willingness to pay amounts owed to us, increasing delinquencies, defaults, bankruptcies, charge-offs and Allowances for credit losses, and decreasing recoveries;
- Decreased consumer spending, changes in payment patterns, lower demand for credit and shifts in consumer payment behavior towards avoiding late fees, finance charges and other fees;
- Decreased reliability of the process and models we use to estimate our Allowance for credit losses, particularly if unexpected variations in key inputs and assumptions cause actual losses to diverge from the projections of our models and our estimates become increasingly subject to management's judgment; and
- Limitations on our ability to replace maturing liabilities and to access the capital markets to meet liquidity needs.

As an illustration of the potential impact of an economic downturn on our business, our Delinquency and Net loss rates peaked in 2009 during the financial crisis at 6.2% and 10.0%, respectively. As of December 31, 2022 our Delinquency rate was 5.5% and our full-year Net loss rate was 5.4% for the year ended December 31, 2022.

We continue to closely monitor economic conditions and indicators, including inflation, interest rates, housing values, consumer wages, consumer saving rates and debt levels, including student loan debt, unemployment, concerns about the level of U.S. government debt, as well as economic and political conditions in the U.S. and global markets, but the outcome of any of these conditions and indicators remains difficult to predict. During 2022, our Provision for credit losses increased relative to 2021 due to, in part, the economic scenario weightings in our credit reserve modeling reflecting an increasing probability of a recession, high inflation, and the increased cost of overall consumer debt. A recession or prolonged period of economic weakness would likely, among other things, adversely affect consumer discretionary spending levels and the ability and willingness of customers to pay amounts owed to us, and could have a material adverse effect on our business, key credit trends, results of operations and financial condition.

Global economic, political, market, health and social events or conditions, including the war in Ukraine and the ongoing effects of the COVID-19 pandemic, may harm our business.

Our revenues are largely dependent on the number and volume of credit transactions by consumers, whose spending patterns may be affected by economic, political, market, health and social events or conditions. As described above, adverse macroeconomic conditions within the U.S. or internationally, including but not limited to recessions, inflation, rising interest rates, high unemployment, currency fluctuations, actual or anticipated large-scale defaults or failures, volatility in energy prices, a slowdown of global trade, and reduced consumer and business spending, have a direct impact on our loan volumes and revenues. Furthermore, in efforts to deal with adverse macroeconomic conditions, governments may introduce new or additional initiatives or requests to reduce or eliminate late fees or other charges, which could result in additional financial pressures on our business.

In addition, outbreaks of illnesses, pandemics like COVID-19, or other local or global health issues, political uncertainties, international hostilities, armed conflict, war (such as the ongoing war in Ukraine), civil unrest, climate-related events, including the increasing frequency of extreme weather events, impacts to the power grid, and natural disasters have, to varying degrees, negatively impacted our operations, brand partners, service providers, activities, and consumer spending.

The ongoing effects of the COVID-19 pandemic remain difficult to predict due to numerous uncertainties, including the transmissibility, severity, duration and resurgence of the virus; the emergence of new variants of the virus; the uptake and effectiveness of health and safety measures or actions that are voluntarily adopted by the public or required by governments or public health authorities; the availability, effectiveness and consumer acceptance of vaccines and treatments; the indirect impact of the pandemic on global economic activity; the impact of the reopening of borders and the resumption of international travel; increased logistics costs; a continued competitive labor market; and the impact of the global COVID-19 pandemic on our employees, our operations, and the business of our brand partners and suppliers.

The Russia-Ukraine conflict has had, and could continue to have, significant negative effects on regional and global economic and financial markets, including increased volatility, reduced liquidity, supply chain concerns and overall uncertainty. Russia may take additional counter measures or retaliatory actions (including cyberattacks), which could exacerbate negative consequences on global financial markets and stability. The duration of ongoing hostilities and corresponding sanctions and related events cannot be predicted.

A decline in economic, political, market, health and social conditions could impact our brand partners as well, and their decisions could reduce the number of cards, accounts, and credit lines of their customers, which would ultimately impact our revenues. Our brand partners may implement cost-reduction initiatives that reduce or eliminate marketing budgets, and decrease spending on optional or enhanced value added services from us. Any events or conditions that impair the functioning of the financial markets, tighten the credit market, or lead to a downgrade of any present or future credit rating of ours could increase our future borrowing costs and impair our ability to access the capital and credit markets on favorable terms, which could affect our liquidity and capital resources, or significantly increase our cost of capital.

Finally, as governments, investors and other stakeholders face additional pressures to accelerate actions to address climate change and other environmental, social and governance topics, governments are implementing regulations and investors and other stakeholders, whether by stockholder proposals, public campaigns, proxy solicitations or otherwise, are imposing new expectations on, or focusing investments in ways that may cause significant shifts in, disclosure, commerce and consumption behaviors. Any of these developments may increase our operating costs and otherwise negatively impact our business. In addition, our inability to timely address these new and evolving requirements or pressures may result in regulatory enforcement actions or stockholder litigation, and otherwise damage our reputation. See "-*Damage to our reputation could damage our business*."

The loans we make are unsecured, and we may not be able to ultimately collect from customers that default on their loans.

The primary risk associated with unsecured consumer lending is the risk of default or bankruptcy of the borrower, resulting in the borrower's balance being written-off as uncollectible. We rely principally on the borrower's creditworthiness for repayment of the loan and therefore have no other recourse for collection. We may not be able to successfully identify and evaluate the creditworthiness of borrowers to minimize delinquencies and losses. The models and approaches we use to manage our credit risk, including our automated proprietary scoring technology and verification procedures for new account holders, establishing or adjusting their credit limits and applying our risk-based pricing, may not accurately predict future write-offs for various reasons discussed elsewhere in these Risk Factors, including see "*Our risk management*

policies and procedures may not be effective, and the models we rely on may not be accurate or may be misinterpreted." below. While we monitor credit quality on a regular and consistent basis, utilizing internal algorithms and external credit bureau risk scores and other data, these algorithms and data sources may be inaccurate or incomplete, including as a result of certain customers' credit profiles not fully reflecting their credit risk due to the less-regulated reporting requirements for many fintechs. An increase in defaults or net principal losses could result in a reduction in Net income. General economic conditions, including a recession or prolonged economic slowdown, inflation, rising interest rates, high unemployment or volatility in energy prices, may result in greater delinquencies that lead to greater credit losses. In addition to being affected by general economic conditions and the success of our collection and recovery efforts, the stability of our Delinquency and Net loss rates are affected by the credit risk inherent in our Credit card and other loans portfolio, and the vintage of the accounts in our various credit card portfolios. Further, our pricing strategy may not offset the negative impact on profitability caused by increases in delinquencies and losses, thus any material increases in delinquencies and losses beyond our current estimates could have a material adverse impact on us. For 2022, our Net principal loss rate was 5.4%, compared with 4.6% and 6.6% for 2021 and 2020, respectively. Our Delinquency rates were 5.5% of Credit card and other loans as of December 31, 2022, compared with 3.9% and 4.4% as of December 31, 2021 and 2020, respectively.

A significant percentage of our Total net interest and non-interest income, or revenue, is generated through our relationships with a limited number of partners, and a decrease in business from, or the loss of, any of these partners could cause a significant drop in our revenue.

We depend on a limited number of large partner relationships for a significant portion of our revenue. As of and for the year ended December 31, 2022, our five largest credit card programs accounted for approximately 47% of our Total net interest and non-interest income and 41% of our End-of-period credit card and other loans. In particular, our programs with (alphabetically) Ulta Beauty and Victoria's Secret & Co. and its retail affiliates each accounted for more than 10% of our Total net interest and non-interest income for the year ended December 31, 2022. A decrease in business from, or the loss of, any of our significant partners for any reason, could have a material adverse effect on our business. We previously announced the non-renewal of our contract with BJ's Wholesale Club (BJ's) and the sale of the BJ's portfolio, which closed in late February 2023. For the year ended December 31, 2022, BJ's branded co-brand accounts generated approximately 10% of our Total net interest and non-interest income. As of December 31, 2022, BJ's branded co-brand accounts were responsible for approximately 11% of our Total credit card and other loans.

Our business is heavily concentrated in U.S. consumer credit, and therefore our results are more susceptible to fluctuations in that market than a more diversified company.

Our business is heavily concentrated in U.S. consumer credit. As a result, we are more susceptible to fluctuations and risks particular to U.S. consumer credit than a more diversified company. For example, our business is particularly sensitive to macroeconomic conditions that affect the U.S. economy, consumer spending and consumer credit. We are also more susceptible to the risks of increased regulations and legal and other regulatory actions that are targeted at consumer credit or the specific consumer credit products that we offer (including promotional financing). Our business concentration could have an adverse effect on our results of operations.

We expect growth to result, in part, from new and acquired credit card and buy now, pay later (BNPL) programs whose credit card and other loans performance could result in increased portfolio losses and negatively impact our profitability.

We expect an important source of our growth to come from the acquisition of existing credit card programs and initiating credit card and BNPL programs with retailers and other merchants who either do not currently offer a private label or co-brand credit card or are initiating or transitioning from another BNPL platform. We believe that our pricing and models for determining credit risk are designed to effectively evaluate the credit risk of existing programs and ascertain the credit risk that we are willing to assume for acquired programs as well as those we initiate. We cannot be assured that the loss experience on acquired and initiated programs will be consistent with our more established programs, or that the cost to provide service to these new programs will not be higher than anticipated. The failure to successfully underwrite these acquired and initiated credit card or BNPL programs may result in defaults greater than our expectations and could have a material adverse impact on us and our profitability. See "*Our risk management policies and procedures may not be effective, and the models we rely on may not be accurate or may be misinterpreted.*". Moreover, under the CECL accounting rules, the acquisition of an existing credit card or BNPL portfolio typically has a negative impact on certain key financial metrics in the near-term, including net income and earnings per share, because we are required to include a reserve build in our Provision for credit losses for the estimated credit losses to be experienced over the life of the acquired portfolio. The amount of this reserve build (which is included in the reporting period in which the portfolio is obtained) is

often large relative to the amount of revenue generated through such date by the newly-acquired portfolio. See also "*–The amount of our Allowance for credit losses could adversely affect our business and may prove to be insufficient to cover actual losses on our loans.*" below.

Our risk management policies and procedures may not be effective, and the models we rely on may not be accurate or may be misinterpreted.

Our risk management framework that seeks to identify and mitigate current or future risks and appropriately balance risk and return may not be comprehensive or fully effective. As regulations and competition continue to evolve, our risk management framework may not always keep sufficient pace with those changes. If our risk management framework does not effectively identify or mitigate our risks, we could suffer unexpected losses and could be materially adversely affected.

We rely extensively on models in managing many aspects of our business, including liquidity and capital planning (including stress testing), customer selection, credit and other risk management, pricing, reserving and collections management. The models may prove in practice to be less predictive than we expect for a variety of reasons, including as a result of errors in constructing, interpreting or using the models or the use of inaccurate assumptions (including, models being calibrated on historical cycles and correlations which may not be predictive of the future, or failures to update assumptions appropriately or in a timely manner). Our assumptions may be inaccurate for many reasons including that they often involve matters that are inherently difficult to predict and beyond our control (e.g., macroeconomic conditions, including continued elevated inflation, low unemployment, increasing consumer debt levels and weakening in macroeconomic indicators, and their impact on partner and customer behaviors) and they often involve complex interactions between a number of dependent and independent variables, factors and other assumptions. The errors or inaccuracies in our models may be material, and could lead us to make poor or sub-optimal decisions in managing our business, and this could have a material adverse effect on our business, results of operations and financial condition.

Fraudulent activity associated with our products and services could negatively impact our operating results, brand and reputation and cause the use of our products and services to decrease and our fraud losses to increase.

We are subject to the risk of fraudulent activity associated with retailers, partners, other merchant parties or third-party service providers handling consumer information. Our fraud-related operational losses were $73 million, $71 million and $141 million for the years ended December 31, 2022, 2021 and 2020, respectively. Our products are susceptible to application fraud, because among other things, we provide immediate access to credit at the time of approval. In addition, digital sales on the internet and through mobile channels are becoming a larger part of our business and fraudulent activity is higher as a percentage of sales in those channels than in stores. The different financial products that we offer, including deposit products, are susceptible to different types of fraud, and, depending on our product mix and channel mix, we may continue to experience variations in, or levels of, fraud-related expense that are different from or higher than those experienced by some of our competitors or the industry generally. The risk of fraud continues to increase for the financial services industry, and credit card and deposit fraud, identity theft and related crimes are likely to continue to be prevalent, with increasingly sophisticated perpetrators. Our resources, technologies and fraud prevention tools may be insufficient to accurately detect and prevent fraud. High profile fraudulent activity could also negatively impact our brand and reputation, which could negatively impact the use of our services, leading to a material adverse effect on our results of operations. In addition, significant increases in fraudulent activity could lead to regulatory intervention, including, but not limited to, additional consumer notification requirements, increasing our costs and negatively impacting our operating results, net income and profitability.

The amount of our Allowance for credit losses could adversely affect our business and may prove to be insufficient to cover actual losses on our loans.

The Financial Accounting Standards Board's CECL accounting standard became effective for us on January 1, 2020 and requires us to determine periodic estimates of the lifetime expected credit losses on loans, and reserve for those expected credit losses through an allowance for credit losses against the loans. In addition, as mentioned above, for portfolios we may acquire when we enter into new partner program agreements, we are required to establish at the time of acquisition such an allowance. Any subsequent deterioration in the performance of a purchased portfolio after acquisition results in incremental credit loss reserves. Growth in our loan portfolio generally would also lead to an increase in our Allowance for credit losses.

The process for establishing an Allowance for credit losses is critical to our results of operations and financial condition, and requires complex models and judgments, including forecasts of economic conditions. The ongoing impact of CECL will be significantly influenced by the composition, characteristics and quality of our Credit card and other loans, as well as the prevailing economic conditions and forecasts utilized. For additional information regarding the adoption of CECL and its impact, see Note 3, "Allowance for Credit Losses" to our Consolidated Financial Statements included as part of this Annual Report on Form 10-K.

The CECL model may create more volatility in the level of our Allowance for credit losses. If we are required (as a result of any review, update, regulatory guidance or otherwise) to materially increase our level of Allowance for credit losses, such increase could adversely affect our business, financial condition, results of operations and opportunity to pursue new business. Moreover, we may underestimate our expected credit losses, and we cannot assure that our credit loss reserves will be sufficient to cover actual losses.

We may not be successful in realizing the benefits associated with our acquisitions, dispositions and strategic investments, and our business and reputation could be materially adversely affected.

Historically, we have acquired a number of businesses, as well as made strategic investments in businesses, products, technologies, platforms or other ventures, and we expect to continue to evaluate potential acquisitions, investments and other transactions in the future. There is no assurance that we will be able to successfully identify suitable candidates for any such opportunities, value any such opportunities accurately, negotiate favorable terms for any such opportunities, or successfully complete any such proposed transactions. If we are unable to identify attractive acquisition candidates or accretive new business opportunities, our growth could be limited.

Similarly, we may evaluate the potential disposition of, or elect to divest, assets or portfolios that no longer complement our long-term strategic objectives, as we did in November 2021, when we completed the spinoff of our LoyaltyOne segment. When a determination is made to divest assets or portfolios, we may encounter difficulty attaining buyers or effecting desired exit strategies in a timely manner or on acceptable terms and may be subject to market forces leading to a divestiture on less than optimal price or other terms.

In addition, there are numerous risks associated with acquisitions, dispositions and the implementation of new business opportunities, including, but not limited to:

- the difficulty and expense that we incur in connection with the acquisition, disposition or new business opportunity;
- the inability to satisfy pre-closing conditions preventing consummation of the acquisition, disposition 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, disposition or new business implementation or the failure of the acquired or new business to meet operating expectations;
- continued financial responsibility with respect to a divested business, including required equity ownership, guarantees, indemnities or other financial obligations;
- the assumption of unknown liabilities of the acquired company;
- the uncertainty of achieving expected benefits of an acquisition or disposition, including revenue, human resources, technological or other cost savings, operating efficiencies or synergies;
- the inability to integrate systems, personnel or technologies from our acquisitions and strategic investments;
- unforeseen legal, regulatory or other challenges that we may not be able to manage effectively;
- the reduction of cash available for operations, stock repurchase programs or other uses and potentially dilutive issuances of equity securities or incurrence of additional debt;
- the requirement to provide transition services in connection with a disposition resulting in the diversion of resources and focus; and
- the difficulty retaining and motivating key personnel from acquisitions or in connection with dispositions.

For example, upon the disposition of Epsilon in July 2019, we agreed to indemnify Publicis Groupe S.A. for the matter included in Note 15, "Commitments and Contingencies" to the Consolidated Financial Statements, which has resulted in a $150.0 million charge associated with Epsilon's deferred prosecution agreement with the United States Department of Justice requiring two $75.0 million payments in January 2021 and January 2022, respectively. In connection with the spinoff of our former LoyaltyOne segment into a standalone company, LVI, we retained a 19% ownership stake in LVI.

During 2022, LVI's stock price decreased significantly, and, as a result, we wrote down the value of our 19% shareholding in LVI from $50 million as of December 31, 2021 to $6 million as of December 31, 2022, and there can be no assurance that we will not experience further write-downs or other adverse impacts going forward. See "*Risks Related to the LoyaltyOne Spinoff.*" below.

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.

The markets for the services that we offer may contract or fail to expand and competition in our industry is intense, each of which could negatively impact our growth and profitability.

The markets for our products and services are highly competitive, and we expect this competition to intensify. Our growth and continued profitability depend on continued acceptance or adoption of the products and services we offer. We compete with a wide range of businesses, and some of our current competitors have longer operating histories, stronger brand names and greater financial, technical, marketing and other resources than we do. Moreover, the consumer credit and payments industry is highly competitive and we face an increasingly dynamic industry as emerging technologies enter the marketplace. For a more detailed discussion regarding the manner in which we compete with respect to each of our product categories, see "Item 1. Business—Competition" of this Form 10-K above. Additionally, downturns in the economy or the performance of our retail or other partners, including as a result of macroeconomic conditions, geopolitical events or global health events such as the COVID-19 pandemic, may result in a decrease in the demand for our products and services. Our ability to generate significant revenue from partners and consumers will depend on our ability to differentiate ourselves through the products and services we provide and the attractiveness of our programs to consumers. If we are not able to differentiate our products and services from those of our competitors, drive value for our partners and their customers, or effectively and efficiently align our resources with our goals and objectives, we may not be able to compete effectively in the market. Any decrease in the demand for our products and services for the reasons discussed above or any other reasons could have a material adverse effect on our growth, revenue and operating results.

Our results of operations and growth depend on our ability to retain existing partners and attract new partners.

Following the disposition of our Epsilon business and the spinoff of our LoyaltyOne segment, the majority of our revenue is generated from the credit products we provide to customers of our partners pursuant to program agreements that we enter into with our partners. As a result, our results of operations and growth depend on our ability to retain existing partners and attract new partners. Historically, there has been turnover in our partners, and we expect this will continue in the future. See also, "*A significant percentage of our Total net interest and non-interest income, or revenue, is generated through our relationships with a limited number of partners, and a decrease in business from, or the loss of, any of these partners could cause a significant drop in our revenue.*".

Credit card program agreements with our brand partners typically are for multi-year terms. These program agreements generally provide each party with certain early termination rights, i.e., events or circumstances that would permit the party to terminate the agreement prior to its scheduled termination date in accordance with the conditions specified in the applicable agreement. For example, in some cases, a brand partner may have the right to terminate if we fail to meet certain service levels as set forth in the applicable brand partner agreement. Generally, a brand partner would not have the right to terminate until providing us formal notice and an opportunity to cure the service level failure. As a result of the transition of our credit card processing services to our strategic outsourcing providers in late June 2022, we failed to meet certain service levels in a number of our credit card program agreements due to periods of unavailability of our customer support and account servicing functions, which could, in certain circumstances, have given rise to a termination right by an impacted brand partner. To date, no brand partner has sought to exercise any such termination right, and many other such rights have either been formally waived or lapsed pursuant to the terms of the applicable brand partner agreement. We cannot provide assurance that a brand partner from which we did not receive such a waiver will not attempt to terminate its program agreement or that future service level failures will not occur.

There is significant competition for our existing partners, and our failure to retain our existing larger partner relationships upon the expiration of a contractual arrangement or our earlier loss of a relationship upon the exercise of a partner's early termination rights, or the expiration or termination of a substantial number of smaller partner contracts or relationships, could have a material adverse effect on our results of operations (including growth rates) and financial condition to the extent we do not acquire new partners of similar size and profitability or otherwise grow our business. In addition, existing relationships may be renewed with less favorable terms to us in response to increased competition for such relationships.

The competition for new partners is also significant, and our failure to attract new partners could adversely affect our ability to grow.

Our results depend, to a significant extent, on the active and effective promotion and support of our products by our brand partners.

Our partners generally accept most major credit cards and various other forms of payment; therefore our success depends, in part, on their active and effective promotion of our products to their customers. We depend on our partners to integrate the use of our credit products into their operations, including into their in-store and online shopping experiences and loyalty programs. We rely on our partners to train their sales and call center associates about our products and to have their associates encourage customers to apply for, and use, our products and otherwise effectively market our products. If our partners do not effectively promote and support our products, or if they make changes in their business models that negatively impact card usage, these actions could have a material adverse effect on our business and results of operations. Partners may also implement or fail to implement changes in their systems and technologies that may disrupt the integration between their systems and technologies and ours, any of which could disrupt the use of our products. In addition, if our partners engage in improper business practices, do not adhere to the terms of our program agreements or other contractual arrangements or standards, or otherwise diminish the value of our brand, we may suffer reputational damage and customers may be less likely to use our products, which could have a material adverse effect on our business and results of operations.

Our results are impacted, to a significant extent, by the financial performance of our partners.

Our ability to originate new credit card accounts, generate new loans, and earn interest and fees and other income is dependent, in part, upon sales of merchandise and services by our partners. The retail and other industries in which our partners operate are intensely competitive. Our partners' sales may decrease or may not increase as we anticipate for various reasons, some of which are in the partners' control and some of which are not. For example, partner sales have been, and in the future may be adversely affected by the COVID-19 pandemic or other macroeconomic conditions having a national, regional or more local effect on consumer spending, business conditions affecting the general retail environment, such as supply chain distributions or the ability to maintain sufficient staffing levels, or a particular partner or industry, or natural disasters or other catastrophes affecting broad or more discrete geographic areas. If our partners' sales decline for any reason, it generally results in lower credit sales, and therefore lower loan volume and associated interest and fees and other income for us from our customers. In addition, if a partner closes some or all of its stores or becomes subject to a voluntary or involuntary bankruptcy proceeding (or if there is a perception that such an event may occur), its customers who have used our financing products may have less incentive to pay their outstanding balances to us, which could result in higher charge-off rates than anticipated and our costs for servicing its customers' accounts may increase. This risk is particularly acute with respect to our largest partners that account for a significant amount of our interest and fees on loans. See "*A significant percentage of our Total net interest and non-interest income, or revenue, is generated through our relationships with a limited number of partners, and a decrease in business from, or the loss of, any of these partners could cause a significant drop in our revenue.*". Moreover, if the financial condition of a partner deteriorates significantly or a partner becomes subject to a bankruptcy proceeding, we may not be able to recover customer returns, customer payments made in partner stores or other amounts due to us from the partner. A decrease in sales by our partners for any reason or a bankruptcy proceeding involving any of them could have a material adverse impact on our business and results of operations.

We may not be successful in our efforts to promote usage of our proprietary cards, or to effectively control the costs associated with such promotion, both of which may materially impact our profitability.

We have been investing in promoting the usage of our proprietary cards, including our Bread Cashback™ American Express® Credit Card that we launched in 2022, but there can be no assurance that our investments to acquire cardholders, provide differentiated features and services and increase usage of our proprietary cards will be effective, particularly with increasing competition from other card issuers and fintechs, as well as changing consumer and business behaviors. In addition, if we develop new products or offers that attract customers looking for short-term incentives rather than incentivizing long-term loyalty, cardholder attrition and costs could increase. Moreover, we may not be able to cost-effectively manage and expand cardholder benefits, including controlling the growth of marketing, promotion, rewards and cardholder services expenses in the future.

Reductions in interchange fees may reduce the competitive advantages our private label credit card products currently have by virtue of not charging interchange fees and would reduce our income earned from those fees on co-brand and general purpose credit card transactions.

Interchange is a fee merchants pay to the interchange network in exchange for the use of the network's infrastructure and payment facilitation, and which are paid to credit card issuers to compensate them for the risk they bear in lending money to customers. We earn interchange fees on co-brand and general purpose credit card transactions, but we typically do not charge or earn interchange fees from our partners or customers on our private label credit card products.

Merchants, trying to decrease their operating expenses, have sought to, and have had some success at, lowering interchange rates. Several recent events and actions indicate a continuing increase in focus on interchange by both regulators and merchants. In 2022, for example, legislation was introduced in the U.S. House of Representatives and Senate, which, among other things, would require large issuing banks to offer a choice of at least two unaffiliated networks over which electronic transactions may be processed. Furthermore, beyond pursuing litigation, legislation and regulation, merchants are also pursuing alternate payment platforms as a means to lower payment processing costs. To the extent interchange fees are reduced, one of our current competitive advantages with our partners—that we typically do not charge interchange fees when our private label credit card products are used to purchase our partners' goods and services—may be reduced. Moreover, to the extent interchange fees are reduced, our income from those fees will be lower on co-brand and general purpose credit card transactions. As a result, a reduction in interchange fees could have a material adverse effect on our business and results of operations. In addition, for our co-brand and general purpose credit cards, we are subject to the operating regulations and procedures set forth by the interchange network, and our failure to comply with these operating regulations, which may change from time to time, could subject us to various penalties or fees, or the termination of our license to use the interchange network, all of which could have a material adverse effect on our business and results of operations

We may not be able to retain and/or attract and hire a highly qualified and diverse workforce or maintain our corporate culture, and having a large segment of our workforce working from home may exacerbate these risks and cause new risks.

Our performance largely depends on the talents and efforts of our employees, particularly our key personnel and senior management. We may be unable to retain or to attract highly qualified employees. The market for key personnel is highly competitive, particularly in technology and other skill areas significant to our business. Failure to attract, hire, develop, motivate and retain highly qualified and diverse employee talent, or to maintain a corporate culture that fosters innovation, creativity and teamwork could harm our overall business and results of operations. We rely on key personnel to lead with integrity and decency. To the extent our leaders behave in a manner that is not consistent with our values, we could experience significant impact to our brand and reputation, as well as to our corporate culture.

Moreover, in connection with the COVID-19 pandemic, we transitioned nearly all of our workforce to work remotely, and a significant portion of our workforce continues to work in a mostly remote environment. Remote work by a majority of our employee population may impact our culture, and employee engagement with our company, which could affect productivity and our ability to retain employees who are critical to our operations and may increase our costs and impact our financial results of operations. In addition, an increase in work from home by other companies may create more job opportunities for employees and make it more difficult for us to attract and retain key talent, especially in light of changing worker expectations and talent marketplace variability regarding flexible work models. In addition, employees who work from home rely on residential communication networks and internet providers that may not be as resilient as commercial networks and providers and may be more susceptible to service interruptions and cyberattacks than commercial systems. Our business continuity and disaster recovery plans, which have been historically developed and tested with a focus on centralized delivery locations, may not work as effectively in a distributed work from home model, where weather impacts, network and power grid downtime may be difficult to manage. In addition, we may not be effective in timely updating our existing operating and administrative controls nor implementing new controls tailored to the work from home environment. If we are unable to manage the work from home environment effectively to address these and other risks, our reputation and results of operations may be impacted.

Damage to our reputation could damage our business.

In recent years, financial services companies have experienced increased reputational risk as consumers protest and regulators scrutinize business and compliance practices of such companies. Maintaining a positive reputation is critical to attracting and retaining partners, customers, investors and employees. Damage to our reputation can therefore cause

significant harm to our business and prospects. Harm to our reputation can arise from numerous sources, including, among others, employee misconduct; a breach of our, or our service providers' cybersecurity defenses; service outages, such as those many of our customers experienced in 2022 in connection with the transition of our credit card processing services to strategic outsourcing providers, or otherwise; litigation or regulatory outcomes; stockholder activism; failing to deliver minimum standards of service and quality; compliance failures; the use of our, or our partners' products to facilitate legal, but controversial, products and services, including adult content, cryptocurrencies, firearms and gambling activity; and the activities of customers, business partners and counterparties. Social media also can cause harm to our reputation. By its very nature, social media can reach a wide audience in a very short amount of time, which presents unique challenges for corporate communications. Negative or otherwise undesirable publicity generated through unexpected social media coverage can damage our reputation and brand. Negative publicity regarding us, whether or not true, may result in customer attrition and other harm to our business prospects. There has also been increased focus on topics related to environmental, social and governance policies, and criticism of our policies in these areas could also harm our reputation and/or potentially limit our access to some forms of capital or liquidity.

Liquidity, Market and Credit Risks

Adverse financial market conditions or our inability to effectively manage our funding and liquidity risk could have a material adverse effect on our business, liquidity and ability to meet our debt service requirements and other obligations.

We need to effectively manage our funding and liquidity in order to meet our cash requirements such as day-to-day operating expenses, extensions of credit to our customers, investments to grow our business, payments of principal and interest on our borrowings and payments on our other obligations. Our primary sources of funding and liquidity are collections from our customers, deposits, funds from securitized financings and proceeds from unsecured borrowings, including our credit facility and outstanding senior notes. If we do not have sufficient liquidity, we may not be able to meet our debt service requirements and other obligations, particularly during a liquidity stress event. If we maintain or are required to maintain too much liquidity, it could be costly and reduce our financial flexibility.

We will need additional financing in the future to repay or refinance our existing debt at maturity or otherwise and to fund our growth. As of December 31, 2022, we had $556 million of terms loans outstanding under our parent credit agreement, which matures in July 2024, as well as $850 million of 4.750% senior notes due in December 2024 and $500 million of 7.000% senior notes due in January 2026. The availability of additional financing will depend on a variety of factors such as financial market conditions generally, including the availability of credit to the financial services industry and our lender counterparties' willingness to lend to us, consumers' willingness to place money on deposit with us, our performance and credit ratings and the performance of our securitized portfolios. Disruptions, uncertainty or volatility in the capital, credit or deposit markets, such as the uncertainty and volatility experienced in the capital and credit markets during recessions and periods of financial stress, inflation, rising interest rates, high levels of unemployment, other economic and political conditions in the global markets and concern over the level of U.S. government debt and fiscal measures that may be taken over the longer term to address these matters, may limit our ability to obtain additional financing or refinance maturing liabilities on desired terms (including funding costs) in a timely manner, or at all. As a result, we may be forced to delay obtaining funding or be forced to issue or raise funding on undesirable terms, which could significantly reduce our financial flexibility and cause us to contract or not grow our business, all of which could have a material adverse effect on our results of operations and financial condition.

Given the current rising interest rate environment and other recessionary pressures, the debt markets are volatile, and there can be no assurance that significant disruptions, uncertainties and volatility will not occur in the future. Specifically, availability of capital from the non-investment grade debt markets is currently subject to significant volatility, and there can be no assurance that we will be able to access those markets at attractive rates, or at all. Given the maturities of our current outstanding debt and the current macroeconomic conditions, it is possible that we will be required to repay or refinance some or all of our maturing debt in volatile and/or unfavorable markets. If we are unable to continue to fund our business operations, access capital markets for debt refinancings and otherwise, and attract deposits on favorable terms and in a timely manner, or if we experience an increase in our borrowing costs or otherwise fail to manage our liquidity effectively, our results of operations and financial condition may be materially adversely affected.

If we are unable to securitize our credit card loans due to changes in the market or other circumstances or events, we may not be able to fund new credit card loans, which would have a material adverse effect on our operations and profitability.

A significant source of funding is our securitization of credit card loans, which involves the transfer of credit card loans to a trust, and the issuance by the trust of notes to third-party investors collateralized by the beneficial interest in the transferred credit card loans. A number of factors affect our ability to fund our credit card loans in the securitization market, some of which are beyond our control, including:

- conditions in the securities markets in general and the asset-backed securitization market in particular;
- availability of loans for securitization;
- conformity in the quality of our credit card loans to rating agency requirements and changes in that quality or those requirements;
- costs of securitizing our credit card loans;
- ability to fund required over-collateralization or credit enhancements, which are routinely utilized in order to achieve better credit ratings to lower borrowing cost; and
- the legal, regulatory, accounting or tax rules affecting securitization transactions and asset-backed securities, generally.

Moreover, as a result of Basel III, which refers generally to a set of regulatory reforms adopted in the U.S. and internationally that are meant to address issues that arose in the banking sector during the 2008-2010 financial crisis, banks have become subject to more stringent capital, liquidity and leverage requirements. In response to Basel III, certain lenders of private placement commitments within our securitization trusts have sought and obtained amendments to their respective transaction documents permitting them to delay disbursement of funding increases by up to 35 days. Although funding may be requested from other lenders who have not delayed their funding, access to financing could be disrupted if all of the lenders implement such delays or if the lending capacities of those who did not do so were insufficient to make up the shortfall. In addition, excess spread may be affected if the issuing entity's borrowing costs increase as a result of Basel III. Such cost increases may result, for example, because the investors are entitled to indemnification for increased costs resulting from such regulatory changes.

The inability to securitize credit card loans due to changes in the market, regulatory proposals, the unavailability of credit enhancements, or any other circumstance or event would have a material adverse effect on our operations, cost of funds and overall financial condition.

The occurrence of events that result in the early amortization of our existing credit card securitization transactions or an inability to delay the accumulation of principal collections for our existing credit card securitization transactions would materially adversely affect our liquidity.

Our liquidity and cost of funds would be materially adversely affected by the occurrence of events that could result in the early amortization of our existing credit card securitization transactions. Early amortization events may occur as a result of certain adverse events specified for each asset-backed securitization transaction, including, among others, deteriorating asset performance or material servicing defaults. In addition, certain series of funding securities issued by our securitization trusts are subject to early amortization based on triggers relating to the bankruptcy of one or more retailers or other partners. Deteriorating economic conditions and increased competition in the retail industry, among other factors, may lead to an increase in bankruptcies among retailers who have entered into credit card programs with us. The bankruptcy of one or more retailers or other partners could lead to a decline in the amount of new loans and could lead to increased delinquencies and defaults on the associated loans. Any of these effects of a partner bankruptcy could result in the commencement of an early amortization for one or more series of such funding securities, particularly if such an event were to occur with respect to a retailer or other partner relating to a large percentage of such securitization trust's assets. The occurrence of an early amortization event may significantly limit our ability to securitize additional loans and materially adversely affect our liquidity.

Lower payment rates on our securitized credit card loans could materially adversely affect our liquidity and financial condition.

Certain collections from our securitized credit card loans come back to us through our subsidiaries, and we use these collections to fund our purchase of newly originated loans to collateralize our securitized financings. If payment rates on our securitized credit card loans are lower than they have historically been, fewer collections will be remitted to us on an ongoing basis. Further, certain series of our asset-backed securities include a requirement that we accumulate principal

collections in a restricted account for a specified number of months prior to the applicable security's maturity date. We are required under the program documents to lengthen this accumulation period to the extent we expect the payment rates to be low enough that the current length of the accumulation period is inadequate to fully fund the restricted account by the applicable security's maturity date. Lower payment rates, and in particular payment rates that are low enough that we are required to lengthen our accumulation periods, could materially adversely affect our liquidity and financial condition.

Inability to grow or maintain our deposit levels in the future could have a material adverse effect on our liquidity, ability to grow our business and profitability.

A significant source of our funds is customer deposits, primarily in the form of certificates of deposit and other savings products. We obtain deposits directly from retail and commercial customers or through brokerage firms that offer our deposit products to their customers. In recent years, deposits have become an increasingly important source of funds for us, with, for example, our retail deposits growing 72% from $3.2 billion as of December 31, 2021 to $5.5 billion as of December 31, 2022, accounting for 26% of our funding base. Our funding strategy includes continued growth of our liquidity through deposits. The deposit business continues to experience intense competition in attracting and retaining deposits. We compete on the basis of the rates we pay on deposits, the quality of our customer service and the competitiveness of our digital banking capabilities. Our ability to attract and maintain retail deposits remains highly dependent on the products we offer, the strength of our Banks, the reputability of our business practices and our financial health. Adverse perceptions regarding our lending practices, regulatory compliance, protection of customer information or sales and marketing practices, or actions taken by regulators or others with respect to our Banks, could impede our competitive position in the deposits market.

The demand for the deposit products we offer may also be reduced due to a variety of factors, including macroeconomic events, changes in interest rates, changes in consumers' preferences, demographics or discretionary income, regulatory actions that decrease consumer access to particular products or the development or availability of competing products. Competition from other financial services firms and others that use deposit funding products may affect deposit renewal rates, costs or availability. Conversely, any adjustments we make to the rates offered on our deposit products to remain competitive may adversely affect our liquidity or our profitability.

The FDIA prohibits an insured bank from offering interest rates on any deposits that significantly exceed rates in its prevailing market, unless it is "well capitalized". A bank that is less than "well capitalized" may not pay an interest rate on any deposit in excess of 75 basis points over certain prevailing market rates. There are no such restrictions under the FDIA on a bank that is "well capitalized" and as of December 31, 2022, each of our Banks met or exceeded all applicable requirements to be deemed "well capitalized" for purposes of the FDIA. However, there can be no assurance that our Banks will continue to meet those requirements. Any limitation on the interest rates our Banks can pay on deposits may competitively disadvantage us in attracting and retaining deposits, resulting in a material adverse effect on our business.

The FDIA also prohibits an insured bank from accepting brokered deposits, unless it is "well capitalized" or it is "adequately capitalized" and receives a waiver from the FDIC. Limitations on our Banks' ability to accept brokered deposits for any reason (including regulatory limitations on the amount of brokered deposits in total or as a percentage of total assets) in the future could materially adversely impact our liquidity, funding costs and profitability. In December 2020, the FDIC updated its regulations that implement Section 29 of the FDIA to establish a new framework for analyzing whether certain deposit arrangements qualify as brokered deposits. This brokered deposit rule establishes bright-line standards for determining whether an entity meets the statutory definition of "deposit broker" and a consistent process for application of the primary purpose exception. All deposits on the Consolidated Balance Sheets of our Banks categorized as non-brokered in accordance with the updated regulations mentioned above comply with all application requirements of those regulations. Any limitation on the ability of our Banks to participate in the gathering of brokered deposits may competitively disadvantage us in meeting our funding goals and result in a material adverse effect on our business.

As of December 31, 2022, we had $13.8 billion in deposits, with approximately $6.7 billion in non-maturity savings deposits and approximately $7.1 billion in certificates of deposit. If, for whatever reason, we are unable to grow or maintain our deposit levels, our liquidity, ability to grow our business and profitability could be materially adversely affected.

Our level of indebtedness could materially adversely affect our ability to generate sufficient cash to repay our outstanding debt, and our ability to react to changes in our business and our incurrence of additional indebtedness to fund future needs could exacerbate these risks.

Our level of indebtedness requires a high level of interest and principal payments. Subject to the limits contained in our credit agreement, the indentures governing our senior notes and our other 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 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 our credit agreement, the indentures governing our senior notes and the agreements governing our other 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 or to pay, when due, the principal of, interest on or other amounts due in respect of our indebtedness;
- limit our flexibility in planning for, or reacting to, changes in our business and the industries in which we and our brand partners 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 or abandon 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
- prevent us from raising the funds necessary to repurchase all senior notes tendered to us upon the occurrence of certain changes of control.

Restrictions imposed by the indentures governing our senior notes, our credit agreement and our other 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 indentures governing our senior notes, our credit agreement and agreements governing our other debt instruments 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 that we will be able to maintain compliance with these covenants in the future. If we fail to comply with such covenants, we may not be able to obtain waivers of non-compliance from the lenders and/or amend the covenants so that we are in compliance therewith.

Changes in market interest rates could negatively affect our profitability.

Changes in market interest rates cause our finance charges, net and our interest expense, net to increase or decrease, as certain of our assets and liabilities carry interest rates that fluctuate with market benchmarks. We fund credit card and other

loans with a combination of fixed rate and floating rate funding sources that include deposits and securitized financings. We also have unsecured term debt that is subject to variable interest rates, and we may in the future incur additional debt or issue preferred equity that rely on variable interest rates. Beginning in March 2022, the Federal Reserve Board began raising the federal funds rate in an effort to curb inflation, and we expect further interest rate increases by the Federal Reserve in 2023.

The interest rate benchmark for most of our floating rate assets is the Prime rate, and the interest rate benchmark for our floating rate liabilities is generally either the Secured Overnight Financing Rate (SOFR) or the Federal funds rate. The Prime rate and SOFR or the Federal funds rate could reset at different times or could diverge, leading to mismatches in the interest rates on our floating rate assets and floating rate liabilities. Interest rates are highly sensitive to many factors that are beyond our control, including general economic conditions, the competitive environment within our markets, consumer preferences for specific loan and deposit products, and policies of various governmental and regulatory agencies, in particular the Federal Reserve. Changes in monetary policy, including changes in interest rate controls being applied by the Federal Reserve, could influence the amount of interest we receive on our Credit card and other loans and the amount of interest we pay on deposits and borrowings. Further, we have only recently begun indexing our variable rate debt to SOFR as a result of the discontinuation of the London Interbank Offered Rate (LIBOR) beginning in 2021. SOFR is a relatively new reference rate, has a very limited history and is based on short-term repurchase agreements, backed by Treasury securities. Changes in SOFR can be volatile and difficult to predict, and there can be no assurance that SOFR will perform similarly to the way LIBOR would have performed at any time. As a result, the amount of interest we may pay on our credit facilities is difficult to predict.

If the interest we pay on deposits and other borrowings increases at a faster rate than the interest we receive on our Credit card and other loans, our profitability would be adversely affected. Conversely, our profitability could also be adversely affected if the interest we receive on our Credit card and other loans falls more quickly than the interest we pay on deposits and other borrowings. While the interest rate increases to date have resulted in a nominal benefit on our results, there can be no assurance that future rate increases will not impact us negatively. We recognize that a customers' ability and willingness to repay us can be negatively impacted by factors such as inflation, which may result in greater delinquencies that lead to greater credit losses, as reflected in our increased Allowance for credit losses. If the efforts to control inflation in the U.S. and globally are not successful and inflationary pressures persist, they could magnify the slowdown in the domestic and global economies and increase the risk of a recession or prolonged economic slowdown, which may adversely impact our business, results of operations and financial condition.

Future sales of our common stock, or the perception that future sales could occur, may adversely affect our common stock price.

As of February 22, 2023, we had an aggregate of 144,986,708 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. We have reserved 5,329,044 shares of our common stock for issuance under our employee stock purchase plan and our long-term incentive plans, of which 672,776 shares have been issued and 1,927,320 shares are issuable upon vesting of restricted stock awards and restricted stock units. We have reserved for issuance 1,500,000 shares of our common stock, 241,603 of which remain issuable, under our 401(k) and Retirement Savings Plan as of December 31, 2022. In addition, we may issue shares of our common stock in connection with acquisitions. Sales or issuances of a substantial number of shares of common stock, or the perception that such transactions 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.

The market price and trading volume of our common stock may be volatile and our stock price could decline.

The trading price of shares of our common stock has from time to time fluctuated widely and in the future may be subject to similar fluctuations. The trading price of our common stock may be affected by a number of factors, including our operating results, changes in our earnings estimates, additions or departures of key personnel, our financial condition, legislative and regulatory changes, general conditions in the industries in which we and our brand partners operate, general economic conditions, and general conditions in the securities markets. Other risks described in this Annual Report on Form 10-K could also materially adversely affect our share price.

There is no guarantee that we will pay future dividends or repurchase shares at a level anticipated by stockholders, which could reduce returns to our stockholders. Decisions to declare future dividends on, or repurchase, our common stock will be at the discretion of our Board of Directors based upon a review of relevant considerations.

Since October 2016, our Board of Directors has declared quarterly cash dividend payments on our outstanding common stock. Future declarations of quarterly dividends and the establishment of future record and payment dates are subject to approval by our Board of Directors. The Board's determination to declare dividends on, or repurchase shares of, our common stock will depend upon our profitability and financial condition, contractual restrictions, restrictions imposed by applicable laws and regulations, including those governing our Banks' ability to pay dividends and make distributions or other payments to us, and other factors that the Board of Directors deems relevant. For example, beginning with the second quarter of 2020, our Board of Directors reduced our quarterly dividend payment by 67% from $0.63 to $0.21 per quarter. Based on an evaluation of these factors, the Board of Directors may determine in the future not to declare dividends at all, to declare dividends at a reduced amount, not to repurchase shares or to repurchase shares at reduced levels compared to historical levels, any or all of which could reduce returns to our stockholders.

We are a holding company and depend on payments from our subsidiaries.

Bread Financial Holdings, Inc., our parent holding company, depends on dividends, distributions and other payments from subsidiaries, particularly our Banks, to fund dividend payments, any potential share repurchases, payment obligations, including debt obligations, and to provide funding and capital, as needed, to our other operating subsidiaries. Banking laws and regulations and our banking regulators may limit or prohibit our transfer of funds freely, either to or from our subsidiaries, at any time. These laws, regulations and rules may hinder our ability to access funds that we may need to make payments on our obligations or otherwise achieve strategic objectives. For more information, see "Business — Supervision and Regulation".

In preparing our financial statements we make certain assumptions, judgments and estimates that affect amounts reported in our consolidated financial statements, which, if not accurate, may significantly impact our financial results.

We make assumptions, judgments and estimates in determining the allowance for credit losses, accruals for employee-related liabilities, accruals for uncertain tax positions, valuation allowances on deferred tax assets and legal contingencies. We also make assumptions, judgments and estimates for items such as the fair value of financial instruments, goodwill, long-lived assets and other intangible assets, impairment, the fair value of stock awards, as well as the recognition of revenue. These assumptions, judgments and estimates are drawn from historical experience and various other factors that we believe are reasonable under the circumstances as of the date of the Consolidated Financial Statements. Actual results could differ materially from our estimates, and such differences could significantly impact our financial results.

Legal, Regulatory and Compliance Risks

Our business is subject to extensive government regulation and supervision, which could materially adversely affect our results of operations and financial condition.

We, primarily through our Banks and certain non-bank subsidiaries, are subject to extensive federal and state regulation and supervision. Banking and consumer financial protection regulations are intended to protect consumers, depositors' funds, the DIF, and the safety and soundness of the banking system as a whole, not stockholders. These regulations affect our lending practices, capital structure, investment practices, dividend policy and growth, among other things. Federal and state legislative bodies and regulatory agencies continually review banking laws, regulations and policies for possible changes. Compliance with laws and regulations can be difficult and costly, and changes to laws and regulations, as well as increased intensity in supervision, often impose additional compliance costs. The scope of the laws and regulations and the intensity of the supervision to which we are subject have increased in recent years, initially in response to the financial crisis, and more recently in light of other factors such as technological and market changes. Regulatory enforcement and fines have also increased across the banking and financial services sector. Further, the scope of regulation and the intensity of supervision will likely remain high in the current regulatory environment, including with respect to late fees, interchange fees and other matters. Such changes could subject us to additional costs, limit the types of financial services and products we may offer, and/or limit what we may charge for certain banking services, among other things. Most recently, in February 2023, the CFPB published a proposed rule with request for public comment that would: (i) decrease the safe harbor dollar amount for credit card late fees to $8 and eliminate a higher safe harbor dollar amount for subsequent late payments; (ii) eliminate the annual inflation adjustments that currently exist for the late fee safe harbor dollar amounts; and (iii) require that late fees not exceed 25% of the consumer's required minimum payment. The "safe harbor" dollar amounts

referenced in the CFPB's proposed rulemaking refer to the amounts that credit card issuers may charge as late fees under the CARD Act. Under the CARD Act, as implemented, these safe harbor amounts have been subject to annual adjustment based on changes in the consumer price index, and the safe harbor amounts are currently set at $30 for an initial late fee and $41 for subsequent late fees in one of the next six billing cycles. Accordingly, the proposed $8 safe harbor amount on late fees (and proposed elimination of the annual inflation-based adjustment thereto) would represent a significant decrease from the current safe harbor amounts. In addition, the proposed rulemaking seeks comment on whether late fees should be prohibited if the applicable payment is made within 15 days of the due date and whether, as a condition to utilizing the safe harbor, credit card issuers should be required to offer automatic payment options and/or provide certain notifications of upcoming payment due dates. We are closely monitoring the content and timing of the CFPB's proposed rulemaking and its impact on our business.

We expect that we, like the rest of the banking sector, will remain subject to increased regulation and supervision of our industry by bank regulatory agencies and that there may be additional and changing requirements and conditions imposed on us, any of which could increase our costs, require increased management attention, and adversely impact our results of operations.

In connection with their continuous supervision and examinations of us, the FDIC, CFPB and/or other regulatory agencies may require changes in our business or operations, and any such changes may be judicially enforceable or impractical for us to contest. We may also become subject to formal or informal enforcement and other supervisory actions, including memoranda of understanding, written agreements, cease-and-desist orders, and prompt-corrective-action or safety-and-soundness directives. Supervisory actions could entail significant restrictions on our existing business, our ability to develop new business, our flexibility in conducting operations, and our ability to pay dividends or utilize capital. Enforcement and other supervisory actions also can result in the imposition of civil monetary penalties or injunctions, related litigation by private plaintiffs, damage to our reputation, and a loss of customer or investor confidence. We could be required, as well, to dispose of specified assets and liabilities within a prescribed period of time. As a result, any enforcement or other supervisory action could have an adverse effect on our business, results of operations, financial condition and prospects.

In addition, changes in the regulatory and supervisory environments could adversely affect us in substantial and unpredictable ways, including by limiting the types of financial services and products we may offer, enhancing the ability of others to offer more competitive financial services and products, restricting our ability to make acquisitions or pursue other profitable opportunities, and negatively impacting our results of operations and financial condition. Changes in the prevailing interpretations of federal or state laws and related regulations could also invalidate or call into question the legality of certain of our services and business practices.

Our failure to comply with the laws, regulations, and supervisory actions to which we are subject, even if the failure is inadvertent or reflects a difference in interpretation, could subject us to fines, other penalties, and restrictions on our business activities, any of which could adversely affect our business, results of operations, financial condition, cash flows, capital base, and/or the price of our securities.

See "Business — Supervision and Regulation" for more information about certain laws and regulations to which we are subject and their impact on us.

Litigation and other actions and disputes could subject us to significant fines, penalties, judgments and/or requirements resulting in significantly increased expenses, damage to our reputation and/or a material adverse effect on our business.

Businesses in the financial services and payments industry has historically been, and continue to be, subject to significant legal actions, including class action lawsuits. Many of these actions have included claims for substantial compensatory or punitive damages. While we have historically relied on our arbitration clause (which includes a class action waiver) in agreements with customers to limit our exposure to class action litigation, there can be no assurance that we will always be successful in enforcing our arbitration clause in the future. There may also be legislative, regulatory or other efforts to limit or eliminate the use of arbitration clauses or class action waivers, and if our arbitration provisions are found to be unenforceable or are otherwise limited or eliminated, our exposure to class action litigation could increase significantly. Further, even if our arbitration clause remains enforceable, we may be subject to mass arbitrations in which large groups of consumers bring arbitrations against us simultaneously. The continued focus of merchants on issues relating to the acceptance of various forms of payment may lead to additional litigation and other legal actions. Given the inherent uncertainties involved in litigation, and the very large or indeterminate damages sought in some matters asserted against us, there is significant uncertainty as to the ultimate liability we may incur from litigation.

In addition to litigation and regulatory matters, from time to time, through our operational and compliance controls, we identify compliance issues that require us to make operational changes and, depending on the nature of the issue, result in financial remediation to impacted cardholders. These self-identified issues and voluntary remediation payments could be significant depending on the issue and the number of cardholders impacted. They also could generate litigation or regulatory investigations that subject us to additional adverse effects on our business, results of operations and financial condition.

Our Banks are subject to extensive federal and state regulation that may restrict their ability to make cash available to us and may require us to make capital contributions to them.

Federal and state laws and regulations extensively regulate the operations of our Banks, including to limit the ability of the Banks to pay dividends or make other distributions to us. Many of these laws and regulations are intended to maintain the safety and soundness of our Banks, and they impose significant restraints on them to which other non-regulated entities are not subject.

Our Banks must maintain minimum amounts of regulatory capital. If the Banks do not meet these capital requirements, their respective regulators have broad discretion to institute a number of corrective actions that could have a direct material effect on our liquidity, ability to grow our business and financial condition. To pay any dividend, the Banks must each maintain adequate capital above regulatory guidelines. Accordingly, neither CB nor CCB may be able to make any of their cash or other assets available to us, including to service our indebtedness. If either of our Banks were to fail to meet any of the capital requirements to which it is subject, we may be required to provide them with additional capital, which could also impair our ability to service our indebtedness.

In addition, under the "source of strength" requirement, we are required to serve as a source of financial strength to our Banks and may not conduct our operations in an unsafe or unsound manner. Under these requirements, in the future, we could be required to provide financial assistance to our Banks if the Banks experience financial distress. This support may be required at times when we might otherwise have determined not to provide it or when doing so is not otherwise in our interests or the interests of our stockholders or creditors.

If legislative attempts to amend the BHC Act to eliminate the exclusion of credit card banks or industrial loan companies from the definition of "bank" are successful, or if we voluntarily take such action that results in the Parent Company becoming a federally-regulated BHC, we would become subject to additional regulation applicable to BHCs, which could increase our compliance and regulatory costs and have other effects that could be materially adverse to our business.

The Dodd-Frank Act mandates multiple studies, which could result in future legislative or regulatory action. In particular, the Government Accountability Office issued its study on whether it is necessary, in order to strengthen the safety and soundness of institutions or the stability of the financial system of the United States, to eliminate the exemptions to the definition of "bank" under the BHC Act for certain institutions including limited purpose credit card banks and industrial loan companies. The study did not recommend the elimination of these exemptions. However, legislation is periodically introduced that would eliminate this exception for industrial loan companies and other "non-bank banks". If such legislation were enacted without any grandfathering of or accommodations for existing institutions, we could be required to become a BHC.

As a BHC, we and our non-bank subsidiaries would be subject to supervision, regulation and examination by the Federal Reserve Board. We would be required to provide annual reports and such additional information as the Federal Reserve Board may require pursuant to the BHC Act, and applicable regulations. In addition, we would be subject to consolidated regulatory capital requirements.

Pursuant to provisions of the BHC Act and regulations promulgated by the Federal Reserve Board thereunder, a BHC may only engage in, or own companies that engage in, activities deemed by the Federal Reserve Board to be permissible for BHCs or financial holding companies. Activities permissible for BHCs are those that are so closely related to the business of banking or managing or controlling banks as to be a proper incident thereto. Permissible activities for financial holding companies include those "so closely related to banking as to be a proper incident thereto" as well as certain additional activities deemed "financial in nature or incidental to such financial activity" or complementary to a financial activity and that do not pose a substantial risk to the safety and soundness of the depository institution or the financial system. If we were required to become a BHC, we may be required to modify or discontinue certain of our business activities, which may materially adversely affect our results of operations and financial condition.

Increases in FDIC insurance premiums may have a material adverse effect on our results of operations.

We are generally unable to control the amount of premiums that are required to be paid for FDIC insurance. If there are bank or financial institution failures, we may be required to pay significantly higher premiums than the levels currently imposed or additional special assessments or taxes that could adversely affect our earnings. Any future increases or required prepayments in FDIC insurance premiums may materially adversely affect our results of operations.

Noncompliance with the Bank Secrecy Act and other anti-money laundering statutes and regulations could cause us material financial loss.

The Bank Secrecy Act and the PATRIOT Act contain anti-money laundering and financial transparency provisions intended to detect and prevent the use of the U.S. financial system for money laundering and terrorist financing activities. The Bank Secrecy Act, as amended by the PATRIOT Act, requires depository institutions and their holding companies to undertake activities including maintaining an anti-money laundering program, verifying the identity of partners and customers, monitoring for and reporting suspicious transactions, reporting on cash transactions exceeding specified thresholds, and responding to requests for information by regulatory authorities and law enforcement agencies. The Financial Crimes Enforcement Network (FinCEN), a unit of the Treasury Department that administers the Bank Secrecy Act, is authorized to impose significant civil money penalties for violations of those requirements and has recently engaged in coordinated enforcement efforts with the Federal Banking Agencies, as well as the U.S. Department of Justice, Drug Enforcement Administration, and Internal Revenue Service (IRS).

Regulation in the areas of privacy, data protection, data governance, account access and information and cyber security could increase our costs and affect or limit our business opportunities and how we collect and/or use personal information.

Legislators and regulators in the United States and other countries are increasingly adopting or revising privacy, data protection, data governance, account access, and information and cyber security laws, including data localization, authentication and notification laws. As such laws are interpreted and applied (in some cases, with significant differences or conflicting requirements across jurisdictions), compliance and technology costs will continue to increase, particularly in the context of ensuring that adequate data governance, data protection, data transfer and account access mechanisms are in place.

Compliance with current or future privacy, data protection, data governance, account access, and information and cyber security laws could significantly impact our collection, use, sharing, retention and safeguarding of consumer and/or employee information and could restrict our ability to provide certain products and services, which could materially and adversely affect our profitability. Our failure to comply with such laws could result in potentially significant regulatory and/or governmental investigations and/or actions, litigation, fines, sanctions, ongoing regulatory monitoring, customer attrition, decreases in the use or acceptance of our cards and damage to our reputation and our brand.

For more information on regulatory and legislative activity in this area, see “Privacy and Data Protection Regulation” above.

We may not be able to effectively manage the operational and compliance risks to which we are exposed.

Operational risk is the risk arising from inadequate or failed internal processes or systems, human errors or misconduct, or adverse external events. Operational losses result from internal fraud; external fraud; inadequate or inappropriate employment practices and workplace safety; failure to meet professional obligations involving partners, products, and business practices; damage to physical assets; business disruption and systems failures; and/or failures in execution, delivery, and process management. As processes or organizations are changed, or new products and services are introduced, we may not fully appreciate or identify new operational risks that may arise from such changes. Through human error, fraud or malfeasance, conduct risk can result in harm to customers, broader markets and the company and its employees.

Compliance risk arises from the failure to adhere to applicable laws, rules, regulations and internal policies and procedures. We need to continually update and enhance our control environment to address operational and compliance risks. Operational and compliance failures or deficiencies in our control environment can expose us to reputational and legal risks as well as fines, civil money penalties or payment of damages and can lead to diminished business opportunities and diminished ability to expand key operations.

Our failure to protect our intellectual property rights and use of open source software may harm our competitive position, and litigation to protect our intellectual property rights or defend against third party allegations of infringement 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, operating results or financial condition. 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 infringement claims 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.

Aspects of our platform include software covered by open source licenses. United States courts have not interpreted the terms of various open source licenses, but could interpret them in a manner that imposes unanticipated conditions or restrictions on our platform. If portions of our proprietary software are determined to be subject to an open source license, we could also be required to, under certain circumstances, publicly release or license, at no cost, our products that incorporate the open source software or the affected portions of our source code. In addition to risks related to license requirements, usage of open source software can lead to greater risks than use of third-party commercial software because open source licensors generally do not provide warranties or other contractual protections regarding infringement, misappropriation, security vulnerabilities, defects or errors in the code or other violations, any of which could result in liability to us and negatively impact our business, results of operations, profitability and financial condition.

We have international operations that subject us to various international risks as well as increased compliance and regulatory risks and costs.

We have international operations, primarily in India, and some of our third-party service providers provide services to us from other countries, all of which subject us to a number of international risks, including, among other things, sovereign volatility and socio-political instability. Any future social or political instability in the countries in which we operate could have a material adverse effect on our business. U.S. regulations also govern various aspects of the international activities of domestic corporations and increase our compliance and regulatory risks and costs. Any failure on our part or the part of our service providers to comply with applicable U.S. regulations, as well as the regulations in the countries and markets in which we or they operate, could result in fines, penalties, injunctions or other similar restrictions, any of which could have a material adverse effect on our business, results of operations and financial condition.

Tax legislation initiatives or challenges to our tax positions could adversely affect our results of operations and financial condition.

We are subject to tax laws and regulations in U.S. federal, state, local and foreign jurisdictions. From time to time legislative initiatives may be proposed, which, if enacted, may impact our effective tax rate and could adversely affect our deferred tax assets, tax positions and/or our tax liabilities. In addition, U.S. federal, state, local, and foreign tax laws and regulations are extremely complex and subject to varying interpretations. There can be no assurance that our historical tax positions will not be challenged by the relevant taxing authorities, or that we would be successful in defending our positions in connection with any such challenge.

Anti-takeover provisions in our organizational documents and Delaware law may discourage or prevent a change of control, even if an acquisition would be beneficial to our stockholders, which could affect our stock price adversely and prevent or delay change of control transactions or attempts by our stockholders to replace or remove our current management.

Delaware law, as well as provisions of our certificate of incorporation, including those relating to our Board's authority to issue series of preferred stock without further stockholder approval, our bylaws and our existing and future debt

instruments, could discourage unsolicited proposals to acquire us, even though such proposals may be beneficial to our stockholders.

In addition, we are subject to the provisions of Section 203 of the Delaware General Corporation Law, which may prohibit certain business combinations with stockholders owning 15% or more of our outstanding voting stock. These and other provisions in our certificate of incorporation, bylaws and Delaware law could make it more difficult for stockholders or potential acquirers to obtain control of our Board of Directors or initiate actions that are opposed by our then-current Board of Directors, including a merger, tender offer or proxy contest involving us. Any delay or prevention of a change of control transaction or changes in our Board of Directors could cause the market price of our common stock to decline or delay or prevent our stockholders from receiving a premium over the market price of our common stock that they might otherwise receive.

Cybersecurity, Technology and Vendor Risks

We rely on third-party vendors to provide various products and services that are important to our operations, and our business could be adversely impacted if our vendors fail to fulfill their obligations.

Some services important to our business are outsourced to third-party vendors, and we contract with numerous other third-party vendors for a range of products and services. The inability or failure of these vendors to deliver products and services at contracted service levels or standards and in a timely manner could adversely affect our business. In addition, if a third-party vendor fails to meet other contractual requirements, such as compliance with applicable laws and regulations, or suffers a cyberattack or other security breach, our business operations could suffer economic or reputational harm that could have a material adverse impact on our business and results of operations. Further, if our significant vendors are unable or unwilling to fulfill or renew our existing contracts on current terms, we might not be able to replace the related product or service at the same cost, in a timely fashion, or at all, any of which could negatively impact our profitability, business and operations, in some cases materially.

We recently completed the transition of our credit card processing services to strategic outsourcing partners. The transition was a significant and complex undertaking, which resulted in unanticipated platform stability issues and related impacts that have adversely impacted, and may continue to adversely impact, our business, results of operations, reputation and brand.

In late June 2022, we completed the transition of our credit card processing services to strategic outsourcing partners, including Fiserv for our core processing services and Microsoft for related cloud infrastructure services. As we described in our 2021 Annual Report on Form 10-K, transitioning these services from our legacy platforms to strategic partners with established systems and functionality presented significant risks, including, but not limited to, potential losses or corruption of data, changes in security processes, implementation delays and cost overruns, resistance from current partners and account holders, disruption to operations, loss of customization or functionality, reliability issues with legacy systems prior to cutover and incurrence of outsized consulting costs to complete the transition. In addition, as previously disclosed, the pursuit of multiple new product integrations and outsourcing transitions simultaneously increased the complexity and risk, as well as magnified the potential for the unintended consequences, including an inability to retain or replace key personnel during the transition as well as the incurrence of unexpected expenses as we adopted new processes for managing these service providers and established controls and procedures to ensure regulatory compliance. In connection with the transition, we experienced unanticipated issues with platform stability, which resulted in outages and interruptions in our call center operations and online customer service platforms. These outages and interruptions resulted in a number of adverse impacts, including customer complaints, negative social media postings, reputational damage, regulatory scrutiny, lost potential revenue, remediation costs, timing-related impacts to our Delinquency rate and Net loss rate data, and increased consulting and professional fees. These challenges associated with the transition have adversely impacted, and may continue to adversely impact, our business, results of operations, financial condition, and result in damage to our reputation and our brand. Moreover, now that we have completed this transition, it would be difficult and disruptive for us to replace certain of these third-party vendors, particularly Fiserv, in a timely or seamless manner if they were unwilling or unable to continue to provide us with these services in the future (as a result of their financial or business conditions or otherwise), which could materially impact our business and operations.

Failure to safeguard our data and consumer privacy could affect our reputation among our partners and their customers, and may expose us to legal claims.

Although we have extensive physical and cyber security controls and associated procedures, our data has in the past been and in the future may be subject to unauthorized access. In such instances of unauthorized access, we may have data loss

that could harm our customers and brand partners. This in turn could lead to reputational risk as concerns with security and privacy of data may result in consumers not wanting to participate in our product offerings. We also have arrangements in place with our partners and other third parties through which we share and receive information about their customers who are or may become our customers, which magnifies certain information security issues. Information security risks for large financial institutions have increased with the adoption of new technologies, including those used on mobile devices, to conduct financial and other business transactions, and the increased sophistication and activity level of threat actors. The use of our products and services could decline if any compromise of physical or cyber security occurred. In addition, any unauthorized release of customer information or any public perception that we released customer information without authorization, could subject us to legal claims from our partners or their customers, consumers or regulatory enforcement actions, which may adversely affect our partner relationships and result in damage to our reputation and our brand. We cannot be certain that our cybersecurity insurance coverage will be adequate for cybersecurity liabilities actually incurred, that insurance will continue to be available to us on economically reasonable terms, or at all, or that our insurer will not deny coverage as to any future claim.

Business interruptions, including loss of data center 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 partners and customers and harm our business.

Our ability, and that of our third-party service providers and brand partners, to protect our data centers and other facilities and systems against damage, loss or performance degradation from power loss, network failure, cyber-attacks, including ransomware or denial of service attacks, insider threats, hardware and software defects or malfunctions, human error, computer viruses or other malware, public health crises, disruptions in telecommunications services, fraud, fires and other disasters and other events 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 other facilities and systems, or those of our third-party service providers or brand partners, 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 partners' and customers' needs and their confidence in utilizing us for future services. In addition, any failure to successfully implement new information systems and technologies, or improvements or upgrades to existing information systems and technologies in a timely manner could have an adverse impact on our business if we are not able to be competitive with other financial services companies, and could also adversely impact our internal controls (including internal controls over financial reporting), results of operations, and financial condition.

If we are not able to invest successfully in, and compete at the leading edge of, technological developments in our industry, our revenue and profitability could be materially adversely affected.

Our industry is subject to rapid and significant technological changes. In order to compete in our industry, we need to continue to invest in technology across all areas of our business, including in access management, vulnerability management, transaction processing, data management and analytics, machine learning and artificial intelligence, customer interactions and communications, alternative payment and financing mechanisms, authentication technologies and digital identification, tokenization, real-time settlement, and risk management and compliance systems. Incorporating new technologies into our products and services, including developing the appropriate governance and controls consistent with regulatory expectations, requires substantial expenditures and takes considerable time, and ultimately may not be successful. We expect that new technologies in the payments industry will continue to emerge, and these new technologies may be superior to, or render obsolete, our existing technology.

The process of developing new products and services, enhancing existing products and services and adapting to technological changes and evolving industry standards is complex, costly and uncertain, and any failure by us to anticipate partners' and customers' changing needs and emerging technological trends accurately could significantly impede our ability to compete effectively. Partner and customer adoption is a key competitive factor and our competitors may develop products, platforms or technologies that become more widely adopted than ours. In addition, we may underestimate the time and expense we must invest in new products and services before they generate significant revenues, if at all. Our use of artificial intelligence and machine learning is subject to risks related to flaws in our algorithms and datasets that may be insufficient or contain biased information. These deficiencies could undermine the decisions based on impact to data quality, predictions or analysis such technologies produce, subjecting us to competitive harm, legal liability, and harm to our reputation or brand.

Our ability to develop, acquire or access competitive technologies or business processes on acceptable terms may also be limited by intellectual property rights that third parties, including those that current and potential competitors, may assert. In addition, our ability to adopt new technologies may be inhibited by the emergence of industry-wide standards, a changing legislative and regulatory environment, an inability to develop appropriate governance and controls, a lack of internal product and engineering expertise, resistance to change from partners or consumers, lack of appropriate change management processes or the complexity of our systems.

Risks Related to the LoyaltyOne Spinoff

The LoyaltyOne spinoff could result in substantial tax liability to us and our stockholders, and more generally we could be adversely affected by the performance of, or disputes involving, LVI.

In November 2021, we completed the spinoff of our former LoyaltyOne segment, consisting of the Canadian AIR MILES® Reward Program and the Netherlands-based BrandLoyalty businesses, into an independent, publicly traded company, LVI. As part of the spinoff, we retained 19% of the outstanding shares of common stock of LVI.

We received a private letter ruling, or PLR, from the IRS and an opinion from our tax advisor to the effect that the spinoff of our former LoyaltyOne segment qualified as tax-free for U.S. federal income tax purposes for us and our stockholders (except for cash received in lieu of fractional shares). However, if the factual assumptions or representations made by us in connection with the delivery of the PLR opinion are inaccurate or incomplete in any material respect, including those relating to the past and future conduct of our business, we may not be able to rely on the PLR opinion. Furthermore, the PLR does not address all the issues that are relevant to determining whether the spinoff qualified for tax-free treatment, and the opinion from our tax advisor is not binding on the IRS or the courts. If, notwithstanding receipt of the PLR and the opinion from our tax advisor, the spinoff transaction and certain related transactions are determined to be taxable, we would be subject to a substantial tax liability. In addition, if the spinoff transaction is taxable, each holder of our common stock who received shares of LVI in connection with the spinoff would generally be treated as receiving a taxable distribution of property in an amount equal to the fair market value of the shares received.

Even if the spinoff otherwise qualifies as a tax-free transaction, the distribution would be taxable to us (but not to our stockholders) in certain circumstances if future significant acquisitions of our stock or the stock of LVI are deemed to be part of a plan or series of related transactions that included the spinoff. In this event, the resulting tax liability could be substantial, and could discourage, delay or prevent a change of control of us. In connection with the spinoff, we entered into a tax matters agreement with LVI, pursuant to which LVI agreed to not enter into any transaction that could cause any portion of the spinoff to be taxable to us without our consent and to indemnify us for any tax liability resulting from any such transaction. Subsequently, we agreed to accommodate LVI's potential disposition of certain assets. While we believe that such disposition should not affect the qualification of the spinoff as a tax-free transaction, it is possible the IRS could disagree and successfully assert that the spinoff should be taxable to us and our shareholders that received LVI shares in the spinoff. In addition, it is possible that the IRS could view this disposition as inconsistent with the PLR and, as a result, the IRS could take the position that we cannot rely on the PLR.

More generally, we could continue to be adversely affected by the performance of LVI. During 2022, LVI's stock price decreased significantly and, as a result, we wrote down the value of our 19% shareholding in LVI from $50 million as of December 31, 2021 to $6 million as of December 31, 2022. While we had intended to divest our ownership position in LVI in a tax-efficient manner within 12 months of the spinoff, market conditions and other factors prevented us from doing so. As such, we may be unable to divest our ownership position in LVI a timely manner and may be required to write down further the value of our position. Also, our post-spinoff arrangements and relationships with LVI may be impacted by the performance of LVI.

Moreover, though we believe that our process and decision-making with respect to the spinoff transaction were entirely appropriate, we could become involved in disputes with LVI or other third parties relating to the spinoff. Any dispute relating to the spinoff could distract management, result in legal and other costs, and otherwise adversely impact our financial position, results of operations and financial condition.

RISK MANAGEMENT

Our Enterprise Risk Management (ERM) program is designed to ensure that all significant risks are identified, measured, monitored and addressed. Our ERM program reflects our risk appetite, governance, culture and reporting. We manage enterprise risk using our Board-approved Enterprise Risk Management Framework, which includes Board-level oversight, risk management committees, and a dedicated risk management team led by our Chief Risk Officer (CRO). Our Board and executive management determine the level of risk the Company is willing to accept in pursuit of its objectives through the ERM program and the well-defined risk appetite statements developed thereunder. We utilize the "three lines of defense" risk management model to assign roles, responsibilities and accountabilities in the Company for taking and managing risk.

Governance and Accountability

Board and Board Committees

Our Board of Directors, as a whole and through its committees, maintains responsibilities for the oversight of risk management, including monitoring the "tone at the top," and our risk culture and overseeing emerging and strategic risks. While our Board's Risk Committee has primary responsibility for oversight of enterprise risk management, the Audit, Compensation & Human Capital and Nominating & Corporate Governance Committees also oversee risks within their respective areas of responsibilities. Each of these Board Committees consists entirely of independent directors and provides regular reports to the full Board regarding matters reviewed at their Committee meetings.

Risk Management Roles and Responsibilities

In addition to our Board and Board Committees, responsibility for risk management also flows to other individuals and entities throughout the Company, including various management committees and executive management. Our ERM Framework defines our "three lines of defense" risk management model, which includes the following:

- The "first line of defense" is comprised of the business areas that engage in activities that generate revenue or provide operational support or services that introduce risk to the Company. As the business owner, the first line of defense is responsible for, among other things, identifying, owning, managing and controlling key risks associated with their activities, timely addressing issues and remediation, and implementing processes and procedures to strengthen the risk and control environment. The first line of defense identifies and manages key risk indicators and risks and controls consistent with the Company's risk appetite. The executive officers who serve as leaders in the "first line of defense," are responsible for ensuring that their respective functions operate within established risk limits, in accordance with our risk appetite. These leaders are also responsible for identifying risks, considering risk when developing strategic plans, budgets and new products, and implementing appropriate risk controls when pursuing business strategies and objectives. In addition, these leaders are responsible for deploying sufficient financial resources and qualified personnel to manage the risks inherent in our business activities.
- The "second line of defense" consists of an independent risk management team charged with oversight and monitoring of risk within the business. The second line of defense is responsible for, among other things, formulating our ERM Framework and related policies and procedures, challenging the first line of defense and identifying, monitoring and reporting on aggregate risks of the business and support functions.

  Our risk management team, which is led by our CRO and includes compliance, provides oversight of our risk profile and is responsible for maintaining a compliance program that includes compliance risk assessment, policy development, testing and reporting activities.

  The CRO manages our risk management team and is responsible for establishing and implementing standards for the identification, management, measurement, monitoring and reporting of risk on an Enterprise-wide basis. The CRO is responsible for developing an appropriate risk appetite with corresponding limits that aligns with supervisory expectations, and proposing our risk appetite to the Board of Directors. The CRO regularly reports to the Risk Committee as well as the Banks' Risk and Compliance Committees on risk management matters.
- The "third line of defense" is comprised of the Global Audit organization. The third line of defense provides an independent review and objective assessment of the design and operating effectiveness of the first and second lines of defense, governance, policies, procedures, processes and internal controls, and reports its findings to executive management and the Board, through the Audit Committee. Global Audit is responsible for performing periodic, independent reviews and testing compliance with

the Company's and the Banks' risk management policies and standards, as well as with regulatory guidance and industry best practices. Global Audit also assesses

the design of the Company'' and the Banks' policies and standards and validates the effectiveness of risk management controls, and reports the results of such reviews to the Audit Committee.

Management Committees

The Company operates several internal management committees, including at each of our Banks a Bank Risk Management Committee (BRMC) and, effective January 2023, an IT Governance Committee (ITGC). The BRMCs and ITGCs are the highest-level management committees at the Banks to oversee risks and are responsible for risk governance, risk oversight and making recommendations on the Banks' risk appetite. The BRMCs and ITGC's monitor compliance with limits and related escalation requirements, and oversee implementation of risk policies.

In addition to the BRMCs, we maintain the following risk management committees at each of our Banks to oversee the risks listed below: the Credit Risk Management Committee; Compliance Risk Management Committee; Operational Risk Management Committee; Model Risk Management Committee; and the Asset & Liability Management Committee. Each of these Committees is responsible for one or more of the Banks' eight risk categories, which are described in greater detail below under the heading "Risk Categories". For its risk category(ies) of responsibility, each Committee provides risk governance, risk oversight and monitoring. Each Committee reviews key risk exposures, trends and significant compliance matters, and provides guidance on steps to monitor, control and escalate significant risks. We include the risk information provided by the BRMCs and the ITGC, and these management risk committees, along with additional risk information that is identified at the Parent Company level in our determination and assessment of the risks that are presented to and discussed with our Board and Board Committees.

Risk Categories

We have divided risk into the following eight categories: credit, market, liquidity, operational, compliance, model, strategic and reputational risk. We evaluate the potential impact of a risk event on us (including our subsidiaries) by assessing the customer, partner, financial, reputational, and legal and regulatory impacts.

Credit Risk

Credit Risk is the risk arising from an obligor's failure to meet the terms of any contract or otherwise perform as agreed. Credit Risk is found in all activities in which settlement or repayment depends on counterparty, issuer, or borrower performance.
We are exposed to credit risk relating to the credit card, installment or other loans we make to our customers. Our credit risk relates to the risk that consumers using the private label, co-brand, general purpose or business credit cards or installment or other loans that we issue will not repay their loan balances. To minimize our risk of credit card, installment or other loan write-offs, we have developed automated proprietary scoring technology and verification procedures to make risk-based origination decisions when approving new accountholders, establishing or adjusting accountholder credit limits and applying our risk-based pricing. The credit risk on our credit card, installment or other loans is quantified through our Allowance for credit losses which is recorded net with Credit card and other loans on our Consolidated Balance Sheets. Credit risk is overseen and monitored by the Credit Risk Management Committee.

Market Risk

Market Risk includes interest rate risk which is the risk arising from movements in interest rates. Interest rate risk results from:

- differences between the timing of rate changes and the timing of cash flows (repricing risk);
- changing rate relationships among different yield curves affecting an organization's activities (basis risk);
- hanging rate relationships across the spectrum of maturities (yield curve risk); and
- interest-related options embedded in certain products (options risk).

Our principal market risk exposures arise from volatility in interest rates and their impact on economic value, capitalization levels and earnings. We use various market risk measurement techniques and analyses to measure, assess and manage the impact of changes in interest rates on our Net interest income. 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 Net interest income from an instantaneous and sustained 100 basis point increase or decrease in interest rates. Due to the mix of fixed and floating rate assets and liabilities on our Consolidated Balance Sheet as of December 31, 2022, this

hypothetical instantaneous 100 basis point increase or decrease in interest rates would have an insignificant impact on our annual Net interest income. Actual changes in our Net interest income will depend on many factors, and therefore may differ from our estimated risk to changes in interest rates. The Asset & Liability Management Committee assists the Banks' Board of Directors and Bank Management in overseeing, reviewing, and monitoring market risk.

Liquidity Risk

Liquidity Risk is the risk arising from an inability to meet obligations when they come due. Liquidity Risk includes the inability to access funding sources or manage fluctuations in funding levels. Liquidity Risk also results from an organization's failure to recognize or address changes in market conditions. The primary liquidity objective is to maintain a liquidity profile that will enable us, even in times of stress or market disruption, to fund our existing assets and meet liabilities in a timely manner and at an acceptable cost. Policy and risk appetite limits require the Company and the Banks to ensure that sufficient liquid assets are available to survive liquidity stresses over a specified time period. The Asset & Liability Management Committee assists the Banks Board of Directors and Bank Management in overseeing, reviewing, and monitoring liquidity risk.

Operational Risk

Operational Risk is the risk arising from inadequate or failed internal processes or systems, human errors or misconduct, or adverse external events. Operational losses result from internal fraud; external fraud; inadequate or inappropriate employment practices and workplace safety; failure to meet obligations involving customers, partners, products, and business practices; damage to physical assets; business disruption and systems failures; and/or failures in execution, delivery, and process management.

Operational risk is inherent in all business activities and can impact us through direct or indirect financial loss, brand damage, customer dissatisfaction, and legal and regulatory penalties. The Company has implemented a comprehensive operational risk framework that is defined in the Operational Risk Management Policy. The Operational Risk Management Committee, chaired by our Chief Operational Risk Officer, oversees and monitors operational risk exposures, including escalating issues and recommending policies, procedures and practices to manage operational risks.

As part of our Operational Risk Program, we maintain an information and cyber security program, which is led by our Chief Information Security Officer and is designed to protect the confidentiality, integrity, and availability of information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction. The Program is built upon a foundation of advanced security technology, a well-staffed and highly trained team of experts, and robust operations based on the National Institute of Standards and Technology Cybersecurity Framework. This consists of controls designed to identify, protect, detect, respond and recover from information and cyber security incidents. We continue to invest in enhancements to cyber security capabilities and engage in industry and government forums to promote advancements to the broader financial services cyber security ecosystem.

Compliance Risk

Compliance Risk is the risk arising from violations of laws or regulations, or from nonconformance with prescribed practices, internal policies and procedures, or ethical standards. This risk exposes organizations to fines, payment of damages, and the voiding of contracts. Our Compliance organization is responsible for establishing and maintaining our Compliance Risk Management Program. Pursuant to this Program, we seek to manage and mitigate compliance risk by assessing, controlling, monitoring, measuring and reporting the legal and regulatory risks to which we are exposed. The Compliance Risk Management Committee, chaired by the Chief Compliance Officer, oversees the implementation and execution of the Compliance Management System and monitors compliance exposures to manage compliance risks.

Model Risk

Model Risk is the risk arising from decisions based on incorrect or misused model outputs and reports. Model risk occurs primarily for three reasons: (1) a model may have fundamental errors and produce inaccurate outputs when viewed against its design objective and intended business uses; (2) a model may be used incorrectly or inappropriately, or there may be a misunderstanding about its limitations and assumptions; or (3) the model produces results that are not compliant with fair lending or other laws and regulations.

We manage model risk through a comprehensive model governance framework, including policies and procedures for model development, maintenance and performance monitoring activities, independent model validation and change management capabilities. We also assess model performance on an ongoing basis. Model Risk oversight and monitoring is conducted by the Model Risk Management Committee.

Strategic Risk

Strategic Risk is the risk arising from adverse business decisions, poor implementation of business decisions, or lack of responsiveness to changes in the industry and operating environment. This risk is a function of an organization's strategic goals, business strategies, resources, and quality of implementation. Strategic decisions are reviewed and approved by business leaders and various committees and must be aligned with our Company policies. We seek to manage strategic and business risks through risk controls embedded in these processes, as well as overall risk management oversight over business goals. Existing product performance is reviewed periodically by various of our Committees and executive management.

Reputational Risk

Reputational Risk is the risk arising from negative public opinion. This risk may impair our competitiveness by affecting our ability to establish new relationships or services, or continue servicing existing relationships. Reputational Risk is inherent in all activities and requires us to exercise caution in dealing with stakeholders, such as customers, counterparties, correspondents, investors, regulators, employees, and the community. Executive management is responsible for considering the reputational risk implications of business activities and strategies, and ensuring the relevant subject matter experts are engaged as needed.

Item 1B. Unresolved Staff Comments.

None.

Item 2. Properties.

As of December 31, 2022, we leased 14 general office properties, comprised of approximately 1 million square feet. These facilities are used to carry out our operational, sales and administrative functions. Our principal facilities are as follows:

Location	Approximate Square Footage	Lease Expiration Date
Chadds Ford, Pennsylvania	9,853	April 30, 2027
Coeur D'Alene, Idaho	114,000	July 31, 2038
Columbus, Ohio	326,354 [1]	September 12, 2032
Columbus, Ohio	103,161	June 30, 2024
Draper, Utah	22,869 [1]	August 31, 2031
New York, New York	18,500	January 31, 2026
Plano, Texas	27,925 [1]	June 30, 2026
Wilmington, Delaware	5,198	June 30, 2023

[1] Excludes square footage of subleased portion.

We believe our current facilities are suitable to our businesses and that we will be able to lease, purchase or newly construct additional facilities as needed.

Item 3. Legal Proceedings.

Refer to Part I, Item 1A, "Risk Factors—Legal, Regulatory and Compliance Risks" and Note 15 "Commitments and Contingencies" to our Consolidated Financial Statements, which is incorporated herein by reference.

Item 4. Mine Safety Disclosures.

Not applicable.

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 NYSE, and trades under the symbol "BFH".

Holders

As of February 22, 2023, the closing price of our common stock was $40.23 per share, there were 50,115,421 shares of our common stock outstanding, and there were 99 holders of record of our common stock.

Dividends

Payment of future dividends is subject to declaration by our Board of Directors. Factors considered in determining dividends include, but are not limited to, our profitability, expected capital needs and legal, regulatory and contractual restrictions. See also "Risk Factors —*There is no guarantee that we will pay future dividends or repurchase shares at a level anticipated by stockholders, which could reduce returns to our stockholders.*". Subject to these qualifications, we presently expect to continue to pay dividends on a quarterly basis.

On January 26, 2023, our Board of Directors declared a quarterly cash dividend of $0.21 per share on our common stock, payable on March 17, 2023, to stockholders of record at the close of business on February 10, 2023.

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, 2022:

Period	Total Number of Shares Purchased [1]	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
				(Millions)
October 1-31	4,076	$ 30.61	—	$ —
November 1-30	3,651	36.75	—	—
December 1-31	3,816	38.22	—	—
Total	11,543	$ 35.07	—	$ —

[1] During the periods presented, 11,543 shares of our common stock were purchased by the administrator of our Bread Financial 401(k) Plan for the benefit of the employees who participated in that portion of the Plan.

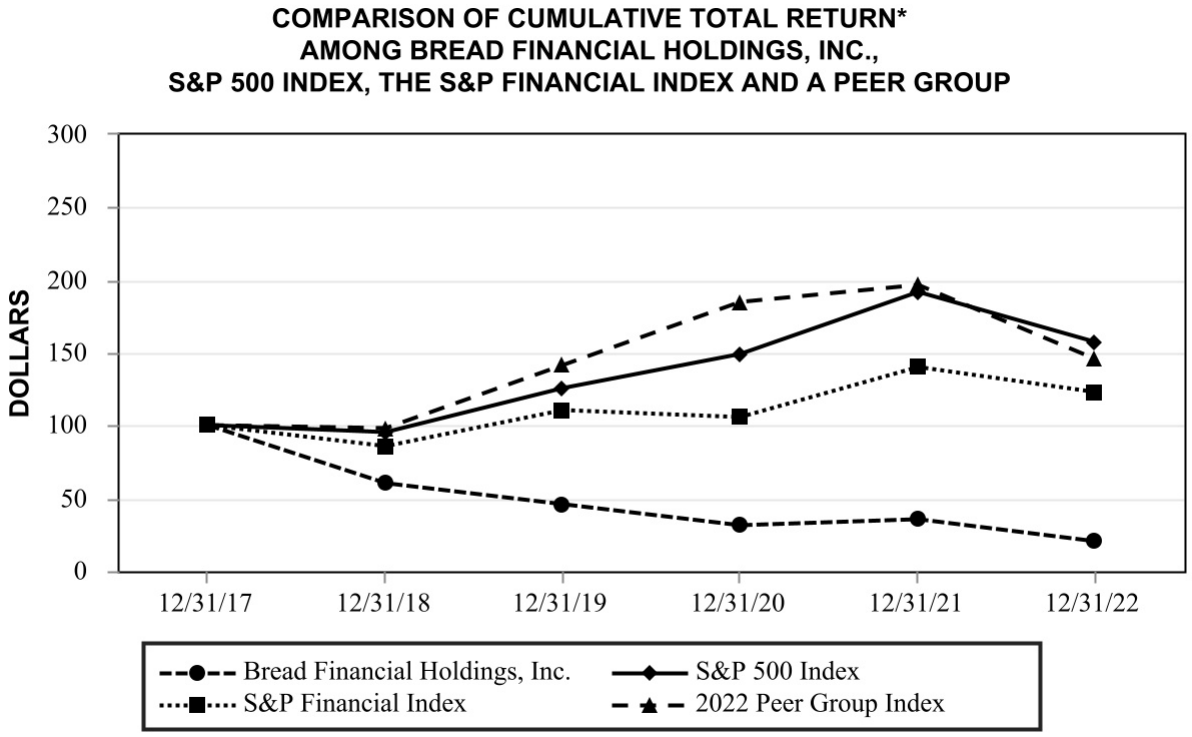
Stock Performance Graph

The following Stock Performance Graph shows the cumulative total stockholder return on our common stock compared to an overall stock market index, the S&P Composite 500 Stock Index (S&P 500 Index), and a published industry index, the S&P Financial Composite Index (S&P Financial Index), over the five-year period commencing December 31, 2017 and ended December 31, 2022. As described under the heading "Business Strategy & Transformation" in "Part I—Item 1. Business" above, through a series of strategic initiatives and transactions, we have simplified our business model as a tech-forward financial services company. In connection with this transformation, we have elected to use the S&P Financial Index as our selected index under Item 201(e)(1)(ii) of Regulation S-K for purposes of this Stock Performance Graph. In our Annual Report on Form 10-K for the year ended December 31, 2021, we included a peer group index as our selected index under Item 201(e)(1)(ii). Accordingly, as required under Item 201(e)(4) of Regulation S-K, we have also included the total stockholder return of a peer group in the Stock Performance Graph below, which consists of the following companies: PayPal Holdings, Inc., MasterCard Incorporated, Synchrony Financial, Discover Financial Services, Fifth Third Bancorp, Key Corp, Citizens Financial Group, Inc., Ally Financial Inc., M&T Bank Corporation, Regions Financial Corporation, Huntington Bancshares Incorporated, Comerica Incorporated, SVB Financial Group and Capital One

Financial Corporation. This peer group is the same as the peer group used in our Annual Report on Form 10-K for the year ended December 31, 2021, except for the removal of Santander Consumer USA Holdings Inc., which was the subject of a take-private transaction in January 2022.

The Stock Performance Graph assumes that $100 was invested in our common stock and each index, and that all dividends were reinvested. For the purpose of this Stock Performance Graph, historical stock prices have been adjusted to reflect the impact of the spinoff of LVI on November 5, 2021. The stock price performance on the graph below is not necessarily indicative of future performance.

Effective March 23, 2022, we changed our corporate name to Bread Financial Holdings, Inc. from Alliance Data Systems Corporation, and on April 4, 2022, we changed our ticker to "BFH" from "ADS" on the NYSE.



	Bread Financial Holdings, Inc.	S&P 500 Index	S&P Financial Index	2022 Peer Group Index
December 31, 2017	$ 100.00	$ 100.00	$ 100.00	$ 100.00
December 31, 2018	59.98	95.62	86.97	98.31
December 31, 2019	45.92	125.72	114.91	141.60
December 31, 2020	31.08	148.85	112.96	184.87
December 31, 2021	35.39	191.58	152.54	196.11
December 31, 2022	20.37	156.89	136.48	145.48

Our future filings with the SEC may "incorporate information by reference," including this Annual Report on Form 10-K. Unless we specifically state otherwise, this Stock 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 (MD&A).

The following discussion and analysis of our results of operations and financial condition should be read in conjunction with our audited consolidated financial statements and related notes included elsewhere in this Annual Report on Form 10-K. Some of the information contained in this discussion and analysis constitutes forward-looking statements that involve risks and uncertainties. Actual results could differ materially from those discussed in these forward-looking statements. Factors that could cause or contribute to these differences include, but are not limited to, those discussed below and elsewhere in this Annual Report on Form 10-K particularly under "Risk Factors" and "Cautionary Note Regarding Forward-Looking Statements." Unless otherwise specified, references to Notes to our Consolidated Financial Statements are to the Notes to our audited Consolidated Financial Statements as of December 31, 2022 and 2021 and for years ended December 31, 2022, 2021 and 2020.

OVERVIEW

We are a tech-forward financial services company that provides simple, personalized payment, lending and saving solutions. We create opportunities for our customers and partners through digitally enabled choices that offer ease, empowerment, financial flexibility and exceptional customer experiences. Driven by a digital-first approach, data insights and white-label technology, we deliver growth for our partners through a comprehensive product suite, including private label and co-brand credit cards and buy now, pay later products such as installment loans and our "split-pay" offerings. We also offer direct-to-consumer solutions that give customers more access, choice and freedom through our branded Bread Cashback™ American Express® Credit Card and Bread Savings™ products.

Effective March 23, 2022, we changed our corporate name to Bread Financial Holdings, Inc. from Alliance Data Systems Corporation, and on April 4, 2022, we changed our ticker to "BFH" from "ADS" on the NYSE. Neither the name change nor the NYSE ticker change affected our legal entity structure, nor did either change have an impact on our Consolidated Financial Statements. On November 5, 2021, our former LoyaltyOne segment was spun off into an independent public company Loyalty Ventures Inc. (traded on The Nasdaq Stock Market LLC under the ticker "LYLT") and therefore is reflected herein as Discontinued Operations. Our primary source of revenue is from Interest and fees on loans from our various credit card and other loan products, and to a lesser extent from contractual relationships with our brand partners.

NON-GAAP FINANCIAL MEASURES

We prepare our Consolidated Financial Statements in accordance with accounting principles generally accepted in the United States of America (GAAP). However, certain information included within this Annual Report on Form 10-K, constitutes non-GAAP financial measures. Our calculations of non-GAAP financial measures may differ from the calculations of similarly titled measures by other companies. In particular, *Pretax pre-provision earnings* (PPNR) is calculated by increasing/decreasing Income from continuing operations before income taxes by the net provision/release in Provision for credit losses. We use PPNR as a metric to evaluate our results of operations before income taxes, excluding the volatility that can occur within Provision for credit losses. *Tangible common equity over Tangible assets* (TCE/TA) represents Total stockholders' equity reduced by Goodwill and intangible assets, net, (TCE) divided by Tangible assets (TA), which is Total assets reduced by Goodwill and intangible assets, net. We use TCE/TA as a metric to evaluate the Company's capital adequacy and estimate its ability to cover potential losses. *Tangible book value per common share* represents TCE divided by shares outstanding. We use Tangible book value per common share as a metric to estimate the Company's potential value in relation to tangible assets per share. We believe the use of these non-GAAP financial measures provide additional clarity in understanding our results of operations and trends. For a reconciliation of these non-GAAP financial measures to the most directly comparable GAAP measures, please see "Table 6: Reconciliation of GAAP to Non-GAAP Financial Measures" that follows.

BUSINESS ENVIRONMENT

This Business Environment section provides an overview of our results of operations and financial position for 2022, as well as our related outlook for 2023 and certain of the uncertainties associated with achieving that outlook. This section should be read in conjunction with the other information appearing in this Annual Report on Form 10-K, including "Consolidated Results of Operations", "Risk Factors", and "Cautionary Note Regarding Forward-Looking Statements", which provides further discussion of variances in our results of operations over the years of comparison, along with other factors that could impact future results and the Company achieving its outlook.

2022 was a transformational year in which we rebranded to Bread Financial Holdings, Inc. in March, and executed on our strategic objectives, including expanding our product offerings with the launch of the Bread Cashback™ American Express® Credit Card, securing new diverse program agreements and long-term renewals with iconic brands, and advancing our technology modernization through major enhancements to our core platform and surrounding digital assets.

Credit sales of $32.9 billion were up 11% when compared with 2021, driven by organic growth from our existing brand partners, as well as the addition of our new brand partners and new product offerings. Average credit card and other loans of $17.8 billion grew 13%, with End-of-period loan balances up 23%. Growth in Total net interest and non-interest income of 17% exceeded the growth in average Credit card and other loans, compared with 2021; in particular Total interest income increased from the prior year due to higher average loan balances and improved loan yields. Interchange revenue, net of retailer share arrangements increased year-over-year due in part to cardholder and brand partner engagement initiatives, as well as increases in our brand partners' share of the economics under new retailer share arrangements, while Other non-interest income decreased primarily due to the write-down of our equity method investment in LVI. Total non-interest expenses increased 15%, driven by portfolio growth and ongoing investments in technology modernization, digital advancement, marketing and product innovation.

Provision for credit losses increased relative to 2021 as a result of a reserve build due to the increase in End-of-period loan balances, including through the acquisition of new portfolios in the year, increased net principal losses and a higher reserve rate. Our Allowance for credit losses increased, with a reserve rate of 11.5% as of December 31, 2022, relative to 10.5% as of December 31, 2021. The reserve rate increased due to continued elevated inflation, increasing consumer debt levels and weakening in macroeconomic indicators, negatively affecting our base case scenario outlook, which was partially offset by the addition of higher quality portfolios throughout the year.

Overall, Income from continuing operations of $224 million was down 72% compared with 2021, reflecting a higher Provision for credit losses as discussed previously. We remained disciplined, generating more than 200 basis points of operating leverage for the year, as we managed our expenses in alignment with our revenue and growth outlook, while continuing to invest in our future. We also strengthened our balance sheet and bolstered our financial resilience through greater product and funding diversification, and growth in capital and increased tangible book value.

Our 2023 financial outlook assumes a more challenging macroeconomic landscape. We are closely monitoring the impact of inflation, rising interest rates and other macroeconomic factors on our consumers and partners, which remain difficult to predict and therefore could have an impact on our 2023 outlook. We are experiencing a shift toward non-discretionary spending with payment rates approaching pre-pandemic levels and expecting the unemployment rate to gradually move to the mid-to-upper 4% range by year-end 2023. Our outlook assumes additional interest rate increases by the Federal Reserve Board which will result in a nominal benefit to Net interest income.

Our outlook for growth in Average credit card and other loans in 2023, based on our new and renewed brand partner announcements, visibility into our pipeline, the sale of BJ's, and the current economic outlook, is in the mid-single digit range relative to 2022. For the year ended December 31, 2022, BJ's branded co-brand accounts generated approximately 10% of Total net interest and non-interest income. As of December 31, 2022, BJ's branded co-brand accounts were responsible for approximately 11% of Total credit card and other loans. We expect Total net interest and non-interest income growth for 2023, excluding the BJ's portfolio gain on sale, to be aligned with growth in Average credit card and other loans; with a full year 2023 Net interest margin expected to be consistent with the 2022 full year rate of 19.2%.

In 2023, as a result of ongoing investments in technology modernization, digital advancement, marketing, and product innovation, along with continued portfolio growth, we anticipate an increase in Total non-interest expenses relative to 2022. We remain focused on delivering nominal positive operating leverage for 2023 as we manage the pace and timing of our investments to align with our full year revenue and growth outlook.

Our 2023 financial outlook also assumes a net loss rate of approximately 7%, inclusive of impacts from the 2022 transition of our credit card processing services as well as continued pressure on consumers' ability to pay due to persistent inflation.

Although we recognize the more challenging macroeconomic landscape, we remain focused on executing on our strategic priorities and making the investments that position us to drive sustainable, profitable growth.

CONSOLIDATED RESULTS OF OPERATIONS

The following discussion provides commentary on the variances in our results of operations for the year ended December 31, 2022, compared with the year ended December 31, 2021, as presented in the accompanying tables. This discussion should be read in conjunction with the discussion under "Business Environment", above. For a discussion of the financial condition and results of operations for 2021 compared with 2020, please refer to Part II, Item 7. "Management's Discussion and Analysis of Financial Condition and Results of Operations (MD&A)" in our Annual Report on Form 10-K for the year ended December 31, 2021, filed with the SEC on February 25, 2022, which discussion is incorporated herein by reference.

Table 1: Summary of Our Financial Performance

	Years Ended December 31,			$ Change		% Change	
	2022	2021	2020	2022 to 2021	2021 to 2020	2022 to 2021	2021 to 2020
(Millions, except per share amounts and percentages)							
Total net interest and non-interest income	$ 3,826	$ 3,272	$ 3,298	$ 554	$ (26)	17	(1)
Provision for credit losses	1,594	544	1,266	1,050	(722)	193	(57)
Total non-interest expenses	1,932	1,684	1,731	248	(47)	15	(3)
Income from continuing operations before income taxes	300	1,044	301	(744)	743	(71)	nm
Provision for income taxes	76	247	93	(171)	154	(69)	168
Income from continuing operations	224	797	208	(573)	589	(72)	nm
(Loss) income from discontinued operations, net of income taxes	(1)	4	6	(5)	(2)	(111)	(38)
Net income	223	801	214	(578)	587	(72)	nm
Net income per diluted share	$ 4.46	$ 16.02	$ 4.46	$ (11.56)	$ 11.56	(72)	nm
Income from continuing operations per diluted share	$ 4.47	$ 15.95	$ 4.35	$ (11.48)	$ 11.60	(72)	nm
Net interest margin [1]	19.2 %	18.2 %	16.8 %			1.0	1.4
Return on average equity [2]	9.8 %	40.7 %	16.7 %			(30.9)	24.0
Effective income tax rate - continuing operations	25.4 %	23.7 %	30.7 %			1.7	(7.0)

[1] Net interest margin represents annualized Net interest income divided by average Total interest-earning assets. See also **Table 5: Net Interest Margin**.

[2] Return on average equity represents annualized Income from continuing operations divided by average Total stockholders' equity.

[nm] Not meaningful

Table 2: Summary of Total Net Interest and Non-interest Income, After Provision for Credit Losses

(Millions, except percentages)	Years Ended December 31,			$ Change		% Change	
	2022	2021	2020	2022 to 2021	2021 to 2020	2022 to 2021	2021 to 2020
Interest income							
Interest and fees on loans	$ 4,615	$ 3,861	$ 3,931	$ 754	$ (70)	20	(2)
Interest on cash and investment securities	69	7	21	62	(14)	nm	(64)
Total interest income	4,684	3,868	3,952	816	(84)	21	(2)
Interest expense							
Interest on deposits	243	167	238	76	(71)	46	(30)
Interest on borrowings	260	216	261	44	(45)	20	(18)
Total interest expense	503	383	499	120	(116)	31	(23)
Net interest income	4,181	3,485	3,453	696	32	20	1
Non-interest income							
Interchange revenue, net of retailer share arrangements	(469)	(369)	(332)	(100)	(37)	27	11
Other	114	156	177	(42)	(21)	(27)	(12)
Total non-interest income	(355)	(213)	(155)	(142)	(58)	66	38
Total net interest and non-interest income	3,826	3,272	3,298	554	(26)	17	(1)
Provision for credit losses	1,594	544	1,266	1,050	(722)	193	(57)
Total net interest and non-interest income, after provision for credit losses	$ 2,232	$ 2,728	$ 2,032	$ (496)	$ 696	(18)	34

(nm) Not meaningful

Total Net Interest and Non-interest Income, After Provision for Credit Losses

Interest income: Total interest income increased for the year ended December 31, 2022, primarily resulting from Interest and fees on loans. The increase during the period, relative to the prior year, was due to increases in Average credit card and other loans driven by new originations and moderation in the consumer payment rate, as well as an increase in finance charge yields of approximately 131 basis points.

Interest expense: Total interest expense increased for the year ended December 31, 2022, due to the following:

- *Interest on deposits* increased $76 million due to higher average interest rates which increased interest expense by approximately $72 million, as well as higher average balances which increased interest expense by $4 million.
- *Interest on borrowings* increased $44 million due to higher interest rates which increased funding costs $72 million, offset by lower average borrowings which decreased funding costs by approximately $28 million.

Non-interest income: Total non-interest income increased for the year ended December 31, 2022, due to the following:

- *Interchange revenue, net of retailer share arrangements* increased due to cardholder and brand partner engagement initiatives, as well as increases in our brand partners' share of the economics under new retailer share arrangements, partially offset by fees earned from increased credit sales.
- *Other* decreased primarily due to the write-down of our equity method investment in LVI of $44 million.

Provision for credit losses increased for the year ended December 31, 2022, due primarily to a reserve build of $626 million, driven by a 23% higher End-of-period loan balance, higher net principal losses, and a higher reserve rate due to economic scenario weightings in our credit reserve modeling as a result of weakening in macroeconomic indicators, elevated inflation, and the increased cost of overall consumer debt.

Table 3: Summary of Total Non-interest Expenses

(Millions, except percentages)	Years Ended December 31, 2022	2021	2020	$ Change 2022 to 2021	$ Change 2021 to 2020	% Change 2022 to 2021	% Change 2021 to 2020
Non-interest expenses							
Employee compensation and benefits	$ 779	$ 671	$ 609	$ 108	$ 62	16	10
Card and processing expenses	359	323	396	36	(73)	11	(18)
Information processing and communication	274	216	191	58	25	27	13
Marketing expenses	180	160	143	20	17	13	12
Depreciation and amortization	113	92	106	21	(14)	23	(13)
Other	227	222	286	5	(64)	2	(23)
Total non-interest expenses	$ 1,932	$ 1,684	$ 1,731	$ 248	$ (47)	15	(3)

Total Non-interest Expenses

Non-interest expenses: Total non-interest expenses increased for the year ended December 31, 2022, due to the following:

- *Employee compensation and benefits* increased due to increased salaries, contract labor, which itself was driven by continued digital and technology modernization-related hiring, and incentive compensation, as well as higher volume-related staffing levels.
- *Card and processing expenses* increased due to higher volumes, primarily related to the acquisition of the AAA credit card portfolio, and higher fraud losses.
- *Information processing and communication* increased due to an increase in data processing expense driven by the transition of our credit card processing services.
- *Marketing expenses* increased due to increased spending associated with higher sales and brand partner joint marketing campaigns, as well as on expanding our new brand, products and direct-to-consumer offerings.
- *Depreciation and amortization* increased due to increased amortization for developed technology associated with the Lon Inc. acquisition, which was completed in December 2020.

Income Taxes

Provision for income taxes decreased for the year ended December 31, 2022, primarily related to a $744 million decrease in Income from continuing operations before income taxes in 2022. The effective tax rate for the year ended December 31, 2022 was 25.4% as compared to 23.7% for the year ended December 31, 2021. The 2022 effective tax rate was unfavorably impacted by lower Income from continuing operations before income taxes and an increase to the deferred tax asset valuation allowance, offset by favorable settlements with tax authorities. The lower effective tax rate in 2021 included a discrete tax benefit related to a favorable settlement with a state tax authority and a discrete tax benefit triggered by the divestiture of our former LoyaltyOne segment.

Table 4: Summary Financial Highlights – Continuing Operations

(Millions, except per share amounts and percentages)	As of or for the Years Ended December 31, 2022	2021	2020	% Change 2022 to 2021	% Change 2021 to 2020
Credit sales	$ 32,883	$ 29,603	$ 24,707	11	20
PPNR[1]	1,894	1,588	1,567	19	1
Average credit card and other loans	17,768	15,656	16,367	13	(4)
End-of-period credit card and other loans	21,365	17,399	16,784	23	4
End-of-period direct-to-consumer deposits	5,466	3,180	1,700	72	87
Return on average assets[2]	1.0 %	3.6 %	0.9 %	(2.6)	2.7
Return on average equity[3]	9.8 %	40.7 %	16.7 %	(30.9)	24.0
Net interest margin[4]	19.2 %	18.2 %	16.8 %	1.0	1.4
Loan yield[5]	26.0 %	24.7 %	24.0 %	1.3	0.7
Efficiency ratio[6]	50.5 %	51.5 %	52.5 %	(1.0)	(1.0)
Tangible common equity / Tangible assets ratio (TCE/TA)[7]	6.0 %	6.6 %	3.7 %	(0.6)	2.9
Tangible book value per common share [8]	$ 29.42	$ 28.09	$ 16.34	4.7	71.9
Cash dividend per common share	$ 0.84	$ 0.84	$ 1.26	—	(33.3)
Payment rate[9]	16.4 %	17.2 %	16.2 %	(0.8)	1.0
Delinquency rate[10]	5.5 %	3.9 %	4.4 %	1.6	(0.5)
Net loss rate[10]	5.4 %	4.6 %	6.6 %	0.8	(2.0)
Reserve rate	11.5 %	10.5 %	12.0 %	1.0	(1.5)

(1) PPNR, is calculated by increasing/decreasing Income from continuing operations before income taxes by the net provision/release in Provision for credit losses. PPNR is a non-GAAP financial measure. See "Non-GAAP Financial Measures" and **Table 6: Reconciliation of GAAP to Non-GAAP Financial Measures**.

(2) Return on average assets represents annualized Income from continuing operations divided by average Total assets.

(3) Return on average equity represents annualized Income from continuing operations divided by average Total stockholders' equity.

(4) Net interest margin represents annualized Net interest income divided by average Total interest-earning assets. See also **Table 5: Net Interest Margin**.

(5) Loan yield represents annualized Interest and fees on loans divided by Average credit card and other loans.

(6) Efficiency ratio represents Total non-interest expenses divided by Total net interest and non-interest income.

(7) Tangible common equity (TCE) represents Total stockholders' equity reduced by Goodwill and intangible assets, net. Tangible assets (TA) represents Total assets reduced by Goodwill and intangible assets, net. TCE/TA is a non-GAAP financial measure. See "Non-GAAP Financial Measures" and **Table 6: Reconciliation of GAAP to Non-GAAP Financial Measures**.

(8) Tangible book value per common share represents TCE divided by shares outstanding and is a non-GAAP financial measure. See "Non-GAAP Financial Measures" and **Table 6: Reconciliation of GAAP to Non-GAAP Financial Measures**.

(9) Payment rate represents consumer payments during the last month of the period, divided by the beginning-of-month credit card and other loans, including held for sale in applicable periods.

(10) Delinquency and Net loss rates as of or for the year ended December 31, 2022 were impacted by the transition of our credit card processing services.

Table 5: Net Interest Margin

(Millions, except percentages)	Year Ended December 31, 2022 Average Balance*	Interest Income / Expense	Average Yield / Rate
Cash and investment securities	$ 3,954	$ 69	1.75 %
Credit card and other loans	17,768	4,615	25.97 %
Total interest-earning assets	21,722	4,684	21.56 %
Direct-to-consumer (retail) deposits	4,342	81	1.87 %
Wholesale deposits	7,358	162	2.21 %
Interest-bearing deposits	11,700	243	2.08 %
Secured borrowings	5,089	153	2.99 %
Unsecured borrowings	1,966	107	5.46 %
Interest-bearing borrowings	7,055	260	3.68 %
Total interest-bearing liabilities	18,755	503	2.68 %
Net interest income		$ 4,181	
Net interest margin (NIM)[1]			19.2 %

(Millions, except percentages)	Year Ended December 31, 2021 Average Balance*	Interest Income / Expense	Average Yield / Rate
Cash and investment securities	$ 3,480	$ 7	0.21 %
Credit card and other loans	15,656	3,861	24.66 %
Total interest-earning assets	19,136	3,868	20.21 %
Direct-to-consumer deposits (retail)	2,490	23	0.91 %
Wholesale deposits	7,509	144	1.92 %
Interest-bearing deposits	9,999	167	1.67 %
Secured borrowings	4,596	112	2.43 %
Unsecured borrowings	2,699	104	3.84 %
Interest-bearing borrowings	7,295	216	2.95 %
Total interest-bearing liabilities	17,294	383	2.21 %
Net interest income		$ 3,485	
Net interest margin (NIM)[1]			18.2 %

(1) Net interest margin represents annualized Net interest income divided by average Total interest-earning assets.

Table 6: Reconciliation of GAAP to Non-GAAP Financial Measures

(Millions, except percentages)	Years Ended December 31, 2022	2021	2020	% Change 2022 to 2021	% Change 2021 to 2020
Pretax pre-provision earnings (PPNR)					
Income from continuing operations before income taxes	$ 300	$ 1,044	$ 301	(71)	nm
Provision for credit losses	1,594	544	1,266	193	(57)
Pretax pre-provision earnings (PPNR)	$ 1,894	$ 1,588	$ 1,567	19	1
Tangible common equity (TCE)					
Total stockholders' equity	$ 2,265	$ 2,086	$ 1,522	9	37
Less: Goodwill and intangible assets, net	(799)	(687)	(710)	16	(3)
Tangible common equity (TCE)	$ 1,466	$ 1,399	$ 812	5	72
Tangible assets (TA)					
Total assets	$ 25,407	$ 21,746	$ 22,547	17	(4)
Less: Goodwill and intangible assets, net	(799)	(687)	(710)	16	(3)
Tangible assets (TA)	$ 24,608	$ 21,059	$ 21,837	17	(4)

(nm) Not meaningful

ASSET QUALITY

Given the nature of our business, the quality of our assets, in particular our Credit card and other loans, is a key determinant underlying our ongoing financial performance and overall financial condition. When it comes to our Credit card and other loans portfolio, we closely monitor two metrics – Delinquency rates and Net principal loss rates – which reflect, among other factors, our underwriting, the inherent credit risk in our portfolio, the success of our collection and recovery efforts, and more broadly, the general macroeconomic conditions.

Delinquencies: An account is contractually delinquent if we do not receive the minimum payment due by the specified due date. Our policy is to continue to accrue interest and fee income on all accounts, except in limited circumstances, until the balance and all related interest and fees are paid or charged-off. After an account becomes 30 days past due, a proprietary collection scoring algorithm automatically scores the risk of the account becoming further delinquent; based upon the level of risk indicated, a collection strategy is deployed. If after exhausting all in-house collection efforts we are unable to collect on the account, we may engage collection agencies or outside attorneys to continue those efforts, or sell the charged-off balances.

The Delinquency rate is calculated by dividing outstanding balances that are contractually delinquent (i.e., balances greater than 30 days past due) as of the end of the period, by the outstanding principal amount of credit cards and other loans as of the same period-end.

The following table presents the delinquency trends on our Credit card and other loans portfolio based on the principal balances outstanding as of December 31:

Table 7: Delinquency Trends on Credit Card and Other Loans

(Millions, except percentages)	2022	% of Total	2021	% of Total
Credit card and other loans outstanding ─ principal	$ 20,107	100.0 %	$ 16,590	100.0 %
Outstanding balances contractually delinquent:[1]				
31 to 60 days	$ 366	1.8 %	$ 219	1.3 %
61 to 90 days	231	1.2	147	0.9
91 or more days	515	2.6	281	1.7
Total	$ 1,112	5.5 %	$ 647	3.9 %

(1) As of December 31, 2022 the Outstanding balances contractually delinquent, and the related % of Total (i.e., the Delinquency rate), were impacted by the transition of our credit card processing services.

As part of our collections strategy, we may offer temporary, short term (six-months or less) loan modifications in order to improve the likelihood of collections and meet the needs of our customers. Our modifications for customers who have requested assistance and meet certain qualifying requirements, come in the form of reduced or deferred payment requirements, interest rate reductions and late fee waivers. We do not offer programs involving the forgiveness of principal. These temporary loan modifications may assist in cases where we believe the customer will recover from the short-term hardship and resume scheduled payments. Under these forbearance modification programs, those accounts receiving relief may not advance to the next delinquency cycle, including charge-off, in the same time frame that would have occurred had the relief not been granted. We evaluate our loan modification programs to determine if they represent a more than insignificant delay in payment, in which case they would then be considered a troubled debt restructuring. For additional information, see Note 2 “Credit Card and Other Loans – Modified Credit Card Loans”, to the Consolidated Financial Statements.

Net Principal Losses: Our net principal losses include the principal amount of losses that are deemed uncollectible, less recoveries, and exclude charged-off interest, fees and third-party fraud losses (including synthetic fraud). Charged-off interest and fees reduce Interest and fees on loans while third-party fraud losses are recorded in Card and processing expenses. Credit card loans, including unpaid interest and fees, are generally charged-off in the month during which an account becomes 180 days past due. BNPL loans, including unpaid interest, are generally charged-off when a loan becomes 120 days past due. However, in the case of a customer bankruptcy or death, credit card and other loans, including unpaid interest and fees, as applicable, are charged-off in each month subsequent to 60 days after receipt of the notification of the bankruptcy or death, but in no case longer than 180 days past due for credit card loans and 120 days past due for BNPL loans.

The net principal loss rate is calculated by dividing net principal losses for the period by the Average credit card and other loans for the same period. Average credit card and other loans represent the average balance of the loans at the beginning and end of each month, averaged over the periods indicated. The following table presents our net principal losses for the years ended December 31:

Table 8: Net Principal Losses on Credit Card and Other Loans

(Millions, except percentages)	2022	2021	2020
Average credit card and other loans	$ 17,768	$ 15,656	$ 16,367
Net principal losses	968	720	1,083
Net principal losses as a percentage of average credit card and other loans[1]	5.4 %	4.6 %	6.6 %

(1) Net principal losses as a percentage of Average credit card and other loans for the year ended December 31, 2022 was impacted by the transition of our credit card processing services.

CONSOLIDATED LIQUIDITY AND CAPITAL RESOURCES

We maintain a strong focus on liquidity and capital. Our funding, liquidity and capital policies are designed to ensure that our business has the liquidity and capital resources necessary to support our daily operations, our business growth, our credit ratings related to our secured financings, and meet our regulatory and policy requirements (including capital and leverage ratio requirements applicable to CB and CCB under FDIC regulations) in a cost effective and prudent manner through expected and unexpected market environments.

Our primary sources of liquidity include cash generated from operating activities, our Credit Agreement and issuances of debt securities, and our securitization programs and deposits issued by the Banks, in addition to our ongoing efforts to renew and expand our various sources of liquidity.

Our primary uses of liquidity are for ongoing and varied lending operations, scheduled payments of principal and interest on our debt, operational expenses, capital expenditures, including digital and product innovation and technology enhancements, and dividends.

We may from time to time seek to retire or purchase our outstanding debt through cash purchases or exchanges for other securities, in open market purchases, privately negotiated transactions or otherwise. Such repurchases or exchanges would depend on prevailing market conditions, our liquidity requirements, contractual restrictions and other factors, and may be funded through the issuance of debt securities. The amounts involved may be material.

We will also need additional financing in the future to repay or refinance the existing debt at maturity or otherwise and to fund our growth. Given the maturities of our current outstanding debt and the current macroeconomic conditions, it is possible that we will be required to repay or refinance some or all of our maturing debt in volatile and/or unfavorable markets.

Because of the alternatives available to us as discussed above, we believe our short-term and long-term sources of liquidity are adequate to fund not only our current operations, but also our near-term and long-term funding requirements including dividend payments, debt service obligations and repayment of debt maturities and other amounts that may ultimately be paid in connection with contingencies. However, the adequacy of our liquidity could be impacted by various factors, including macroeconomic conditions and volatility in the financial and capital markets, limiting our access to or increasing our cost of capital, which could make capital unavailable or available on terms that are unfavorable to us. These factors could significantly reduce our financial flexibility and cause us to contract or not grow our business, which could have a material adverse effect on our results of operations and financial condition.

Funding Sources

Credit Agreement

Parent Company, as borrower, and certain of our non-Bank wholly-owned subsidiaries, as guarantors, are party to our Credit Agreement with various agents and lenders dated June 14, 2017, as amended.

As of December 31, 2022, we had $556 million aggregate principal amount of term loans outstanding and a $750 million revolving line of credit under the Credit Agreement; we had no borrowings on our revolving line of credit. The Credit Agreement matures on July 1, 2024.

The Credit Agreement includes various restrictive financial and non-financial covenants. If we do not comply with these covenants, the maturity of amounts outstanding under the Credit Agreement may be accelerated and become payable and the associated commitments may be terminated. As of December 31, 2022, we were in compliance with all financial covenants under the Credit Agreement.

The Credit Agreement was amended in December 2022 to index borrowings to the Secured Overnight Financing Rate (SOFR) with the discontinuation of the London Interbank Offered Rate (LIBOR). SOFR is based on short-term repurchase agreements that are backed by Treasury securities.

Deposits

We utilize a variety of deposit products to finance our operating activities, including funding for our non-securitized credit card and other loans, and to fund the securitization enhancement requirements of the Banks. We offer both direct-to-consumer retail deposit products as well as deposits sourced through contractual arrangements with various financial counterparties (often referred to as wholesale or brokered deposits). Across both our retail and wholesale deposits, the Banks offer various non-maturity deposit products that are generally redeemable on demand by the customer, and as such have no scheduled maturity date; the Banks also issue certificates of deposit with scheduled maturity dates ranging between January 2023 and December 2027, in denominations of at least $1,000, on which interest is paid either monthly or at maturity.

The following table summarizes our retail and wholesale deposit products by type and associated attributes, as of December 31, 2022 and December 31, 2021:

Table 9: Deposits

(Millions, except percentages)	December 31, 2022	December 31, 2021
Deposits		
Direct-to-consumer (retail)	$ 5,466	$ 3,180
Wholesale	8,321	7,847
Non-maturity deposit products		
Non-maturity deposits	$ 6,736	$ 5,586
Interest rate range	0.70% - 4.70%	0.05% - 3.50%
Weighted-average interest rate	2.56 %	0.68 %
Certificates of deposit		
Certificates of deposit	$ 7,051	$ 5,441
Interest rate range	0.40% - 4.95%	0.20% - 3.75%
Weighted-average interest rate	3.11 %	1.91 %

Securitization Programs and Conduit Facilities

We sell a majority of the credit card loans originated by the Banks to certain of our master trusts (the Trusts). These securitization programs are a principal vehicle through which we finance the Banks' credit card loans. We use a combination of public term asset-backed notes and private conduit facilities for this purpose. During the year ended December 31, 2022, $1.6 billion of asset-backed term notes matured and were repaid, of which $74 million were previously retained by us and therefore eliminated from the Consolidated Balance Sheets.

During the year ended December 31, 2022, we obtained increased lender commitments under our private conduit facilities of $2.1 billion and extended the various maturities to June 2023 and July 2023. As of December 31, 2022, total capacity under the conduit facilities was $6.5 billion, of which $6.1 billion had been drawn and was included in Debt issued by consolidated variable interest entities (VIEs) in the Consolidated Balance Sheet.

In April 2022, the World Financial Network Credit Card Master Trust III amended its 2009-VFC conduit facility, increasing the capacity from $225 million to $275 million and extending the maturity to July 2023. In addition, in April 2022, the World Financial Capital Master Note Trust amended its 2009-VFN conduit facility, increasing the capacity from $1.5 billion to $2.5 billion and extending the maturity to July 2023. In June 2022, the Comenity Capital Asset Securitization Trust was formed for the purpose of funding a portfolio acquisition completed in October 2022. The capacity was negotiated to be $1.0 billion and the maturity was set as June 2023.

As of December 31, 2022, we had approximately $15.4 billion of securitized credit card loans. Securitizations require credit enhancements in the form of cash, spread deposits, additional loans and subordinated classes. The credit enhancement is

principally based on the outstanding balances of the series issued by the Trusts and by the performance of the credit card loans in the Trusts.

The following table shows the maturities of borrowing commitments as of December 31, 2022 for the Trusts by year:

Table 10: Borrowing Commitment Maturities

(Millions)	2023	2024	Thereafter	Total
Conduit facilities [1]	6,525	—	—	6,525
Total [2]	$ 6,525	$ —	$ —	$ 6,525

[1] Amount represents borrowing capacity, not outstanding borrowings.

[2] Total amounts do not include $1.9 billion of debt issued by the Trusts, which was retained by us as a credit enhancement and therefore has been eliminated from the Total.

Early amortization events as defined within each asset-backed securitization transaction are generally driven by asset performance. We do not believe it is reasonably likely that an early amortization event will occur due to asset performance. However, if an early amortization event were declared for a Trust, the trustee of the particular Trust would retain the interest in the loans along with the excess spread that would otherwise be paid to our Bank subsidiary until the investors were fully repaid. The occurrence of an early amortization event would significantly limit or negate our ability to securitize additional credit card loans.

We have secured and continue to secure the necessary commitments to fund our credit card and other loans. However, certain of these commitments are short-term in nature and subject to renewal. There is no guarantee that these funding sources, when they mature, will be renewed on similar terms, or at all, as they are dependent on the availability of the asset-backed securitization and deposit markets at the time.

Regulation RR (Credit Risk Retention) adopted by the FDIC, the SEC, the Federal Reserve and certain other federal regulators mandates a minimum five percent risk retention requirement for securitizations. Such risk retention requirements may limit our liquidity by restricting the amount of asset-backed securities we are able to issue or affecting the timing of future issuances of asset-backed securities. We satisfy such risk retention requirements by maintaining a seller's interest calculated in accordance with Regulation RR.

Stock Repurchase Programs

On February 28, 2022, the Company's Board of Directors approved a stock repurchase program to acquire up to 200,000 shares of our outstanding common stock in the open market during the one-year period ending on February 28, 2023. As of March 31, 2022, we had repurchased all 200,000 shares of our common stock available under this program for an aggregate of $12 million. Following their repurchase, these 200,000 shares ceased to be outstanding shares of common stock and are now treated as authorized but unissued shares of common stock.

Dividends

For the years ended December 31, 2022, 2021 and 2020, we paid $43 million, $42 million and $61 million, respectively, in dividends to our shareholders of common stock. On January 26, 2023, our Board of Directors declared a quarterly cash dividend of $0.21 per share on our common stock, payable on March 17, 2023, to stockholders of record at the close of business on February 10, 2023.

Contractual Obligations

In the normal course of business, we enter into various contractual obligations that may require future cash payments, the vast majority of which relate to deposits, debt issued by consolidated VIEs, long-term and other debt and operating leases.

We believe that we will have access to sufficient resources to meet these commitments.

Cash Flows

The table below summarizes our cash flow activity for the years indicated, followed by a discussion of the variance drivers impacting our Operating, Investing and Financing activities:

Table 11: Cash Flows

(Millions)	2022	2021	2020
Total cash provided by (used in):			
Operating activities	$ 1,848	$ 1,543	$ 1,883
Investing activities	(5,111)	(1,691)	1,774
Financing activities	3,267	608	(4,167)
Effect of foreign currency exchange rates	—	—	15
Net increase (decrease) in cash, cash equivalents and restricted cash	$ 4	$ 460	$ (495)

Cash Flows from Operating Activities primarily include net income adjusted for (i) non-cash items included in net income, such as provision for credit losses, depreciation and amortization, deferred taxes and other non-cash items, and (ii) changes in the balances of operating assets and liabilities, which can fluctuate in the normal course of business due to the amount and timing of payments. We generated cash flows from operating activities of $1,848 million and $1,543 million for the years ended December 31, 2022 and 2021, respectively. For the years ended December 31, 2022 and 2021, the net cash provided by operating activities was primarily driven by cash generated from net income for the period after adjusting for the provision for credit losses.

Cash Flows from Investing Activities primarily include changes in Credit card and other loans. Cash used in investing activities was $5,111 million and $1,691 million for the years ended December 31, 2022 and 2021, respective. For the year ended December 31, 2022, the net cash used in investing activities was primarily due to growth in credit sales and the consequential growth in Credit card and other loans, as well as the acquisition of credit card loan portfolios. For the year ended December 31, 2021, the net cash used in investing activities was primarily due to growth in Credit card and other loans, partially offset by the sale of a credit card loan portfolio.

Cash Flows from Financing Activities primarily include changes in deposits and long-term debt. Cash provided by financing activities was $3,267 million and $608 million for the years ended December 31, 2022 and 2021, respectively. For the year ended December 31, 2022, the net cash provided by financing activities was primarily driven by a net increase in deposits and net borrowings under conduit facilities. For the year ended December 31, 2021, the net cash provided by financing activities was driven by a net increase in deposits, partially offset by net repayments of securitizations.

INFLATION AND SEASONALITY

Although we cannot precisely determine the impact of inflation on our operations, we do not believe, at this time, that we have been significantly affected by inflation. For the most part we have relied on operating efficiencies from scale, technology modernization and digital advancement, and expansion in lower cost jurisdictions, in select circumstances, to offset increased costs of employee compensation and other operating expenses. We also recognize that a customer's ability and willingness to repay us has been negatively impacted by factors such as inflation, which results in greater delinquencies that could lead to greater credit losses, as reflected in our increased Allowance for credit losses. If the efforts to control inflation in the U.S. and globally are not successful and inflationary pressures continue to persist, they could magnify the slowdown in the domestic and global economies and increase the risk of a recession, which may adversely impact our business, results of operations and financial condition.

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 and, to a lesser extent, during the first quarter as Credit card and other loans are paid down.

LEGISLATIVE AND REGULATORY MATTERS

CB is subject to various regulatory capital requirements administered by the State of Delaware and the FDIC. CCB is also subject to various regulatory capital requirements administered by the FDIC, as well as the State of Utah. Failure to meet minimum capital requirements can trigger certain mandatory and possibly additional discretionary actions by our regulators. Under capital adequacy guidelines and the regulatory framework for prompt corrective action, both Banks must meet specific capital guidelines that involve quantitative measures of their assets and liabilities as calculated under regulatory accounting practices. The capital amounts and classification are also subject to qualitative judgments by these regulators about components, risk weightings and other factors. In addition, both Banks are limited in the amounts they can pay as dividends to the Parent Company. For additional information about legislative and regulatory matters impacting us, see "Business–Supervision and Regulation" under Part I of this Annual Report on Form 10-K.

Quantitative measures, established by regulations to ensure capital adequacy, require the Banks to maintain minimum amounts and ratios of Tier 1 capital to average assets, and Common equity tier 1, Tier 1 capital and Total capital, all to risk weighted assets. Failure to meet these minimum capital requirements can result in certain mandatory, and possibly additional discretionary actions by the Banks' regulators that if undertaken, could have a direct material effect on CB's and/or CCB's operating activities, as well as our operating activities. Based on these regulations, as of December 31, 2022 and 2021, each Bank met all capital requirements to which it was subject, and maintained capital ratios in excess of the minimums required to qualify as well capitalized. The Banks are considered well capitalized and seek to maintain capital levels and ratios in excess of the minimum regulatory requirements inclusive of the 2.5% Capital Conservation Buffer. The actual capital ratios and minimum ratios for each Bank, as well as the Combined Banks, are as follows as of December 31, 2022:

Table 12: Capital Ratios

	Actual Ratio	Minimum Ratio for Capital Adequacy Purposes	Minimum Ratio to be Well Capitalized under Prompt Corrective Action Provisions
Comenity Bank			
Common Equity Tier 1 capital ratio[(1)]	18.4 %	4.5 %	6.5 %
Tier 1 capital ratio[(2)]	18.4	6.0	8.0
Total Risk-based capital ratio[(3)]	19.7	8.0	10.0
Tier 1 Leverage capital ratio[(4)]	16.7	4.0	5.0
Comenity Capital Bank			
Common Equity Tier 1 capital ratio[(1)]	16.1 %	4.5 %	6.5 %
Tier 1 capital ratio[(2)]	16.1	6.0	8.0
Total Risk-based capital ratio[(3)]	17.4	8.0	10.0
Tier 1 Leverage capital ratio[(4)]	14.9	4.0	8.0
Combined Banks			
Common Equity Tier 1 capital ratio[(1)]	17.0 %	4.5 %	6.5 %
Tier 1 capital ratio[(2)]	17.0	6.0	8.0
Total Risk-based capital ratio[(3)]	18.3	8.0	10.0
Tier 1 Leverage capital ratio[(4)]	15.6	4.0	5.0

(1) The Common Equity Tier 1 capital ratio represents common equity tier 1 capital divided by total risk-weighted assets.

(2) The Tier 1 capital ratio represents tier 1 capital divided by total risk-weighted assets.

(3) The Total Risk-based capital ratio represents total capital divided by total risk-weighted assets.

(4) The Tier 1 Leverage capital ratio represents tier 1 capital divided by total average assets, after certain adjustments.

The Banks adopted the option provided by the interim final rule issued by joint federal bank regulatory agencies, which largely delayed the effects of CECL on their regulatory capital for two years, until January 1, 2022, after which the effects are phased-in over a three-year period through December 31, 2024. Under the interim final rule, the amount of adjustments to regulatory capital deferred until the phase-in period includes both the initial impact of our adoption of CECL as of January 1, 2020, and 25% of subsequent changes in our Allowance for credit losses during each quarter of the two-year period ended December 31, 2021. In accordance with the interim final rule, we began to phase-in these effects on January 1, 2022.

DISCUSSION OF CRITICAL ACCOUNTING ESTIMATES

Our discussion and analysis of our results of operations and overall financial condition is based upon our Consolidated Financial Statements, which have been prepared in accordance with the accounting policies described in Note 1, “Description of Business and Summary of Significant Accounting Policies” to our Consolidated Financial Statements included as part of this Annual Report on Form 10-K. The preparation of Consolidated 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 estimates and judgments in determination of our financial position and operating results. Estimates are based on information available as of the date of the Consolidated 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 position and operating results, and require management’s most subjective judgments, which for us is our Allowance for credit losses and Provision for income taxes.

Allowance for Credit Losses

The Allowance for credit losses is an estimate of expected credit losses, measured over the estimated life of our Credit card and other loans, that considers forecasts of future economic conditions in addition to information about past events and current conditions. The estimate under the credit reserving methodology referred to as the CECL model is significantly influenced by the composition, characteristics and quality of our Credit card and other loans portfolio, as well as the prevailing economic conditions and forecasts utilized. The estimate of the Allowance for credit losses includes an estimate for uncollectible principal as well as unpaid interest and fees. Principal losses, net of recoveries are deducted from the Allowance. Losses for unpaid interest and fees, as well as any adjustments to the Allowance associated with unpaid interest and fees are recorded as a reduction to Interest and fees on loans. The Allowance is maintained through an adjustment to the Provision for credit losses and is evaluated quarterly for appropriateness.

In estimating our Allowance for credit losses, for each identified group, management uses various models and estimation techniques based on historical loss experience, current conditions, reasonable and supportable forecasts and other relevant factors. These models use historical data and applicable macroeconomic variables, along with statistical analysis and behavioral relationships, to determine expected credit performance. Our quantitative estimate of expected credit losses under CECL is impacted by certain forecasted economic factors. We consider the forecast used to be reasonable and supportable over the estimated life of the credit card and other loans, with no reversion period. In addition to the quantitative estimate of expected credit losses, we also incorporate qualitative adjustments for certain factors such as Company-specific risks, changes in current economic conditions that may not be captured in the quantitatively derived results, or other relevant factors to ensure the Allowance for credit losses reflects our best estimate of current expected credit losses.

Since the implementation of the CECL standard, we have maintained a consistent approach to the forecasting of the life of loan losses for purposes of establishing the Allowance for credit losses. The approach involves the use of third-party projections of economic variables, and applies those projections to their historical correlation to losses in segments of our loan portfolio exhibiting common risk characteristics. The level of the Allowance includes qualitative overlays to the model output to address risks not inherently covered by the model output, as well as management-perceived risks in the economic environment. These overlays have changed over the periods since implementation through December 31, 2022 to reflect changes in the macroeconomic environment and the impact on our loan portfolio.

If we used different assumptions in estimating current expected credit losses, the impact on the Allowance for credit losses could have a material effect on our consolidated financial position and results of operations. For example, a 100 basis point increase in the Allowance as a percentage of the amortized cost of our Credit card and other loans could have resulted in a change of approximately $210 million in the Allowance for credit losses as of December 31, 2022, with a corresponding change in the Provision for credit losses.

Income Taxes

The income tax laws of the United States, as well as its states and municipalities in which we operate, are inherently complex; the manners in which they apply to our facts is often open to interpretation, and consequentially requires us to make judgments in establishing our Provision for income taxes.

Differences between the Consolidated Financial Statements and tax bases of assets and liabilities give rise to deferred tax assets and liabilities, which measure the future tax effects of items recognized in the Consolidated Financial Statements and require certain estimates and judgments, in particular with deferred tax assets, in order to determine whether it is more likely than not that all or a portion of the benefit of a deferred tax asset will not be realized. In evaluating our deferred tax assets on a quarterly basis as new facts and circumstances emerge, we analyze and estimate the impact of future taxable income, reversing temporary differences and available tax planning strategies. Uncertainties can lead to changes in the ultimate realization of our deferred tax assets.

A liability for unrecognized tax benefits, representing the difference between a tax position taken or expected to be taken in a tax return and the benefit recognized in the Consolidated Financial Statements, inherently requires estimates and judgments. A tax position is recognized only when it is more likely than not to be sustained, based purely on its technical merits after examination by the relevant taxing authority, and the amount recognized is the benefit we believe is more likely than not to be realized upon ultimate settlement. We evaluate our tax positions as new facts and circumstances become available, making adjustments to our unrecognized tax benefits as appropriate. Uncertainties can mean the tax

benefits ultimately realized differ from amounts previously recognized, with any differences recorded in Provision for income taxes.

Our assessment of the technical merits and measurement of tax benefits associated with uncertain tax positions is subject to a high degree of judgment and estimation. Actual results may differ from our current judgments due to a variety of factors, including interpretations of law by the relevant taxing authorities that differ from our assessments and results of tax examinations. We believe we have adequately provided for any reasonably foreseeable outcome related to these matters. However, our future results may include favorable or unfavorable adjustments to our estimated tax liabilities in the period the assessments are made or resolved, or when statutes of limitation on potential assessments expire. As of December 31, 2022, we had $282 million in unrecognized tax benefits, including interest and penalties, recorded in Other liabilities on the Consolidated Balance Sheet.

RECENTLY ISSUED ACCOUNTING STANDARDS

See “Recently Issued Accounting Standards” under Note 1, “Description of Business and Summary of Significant Accounting Policies”, to our Consolidated Financial Statements.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk.

See “Risk Management” within Item 1A.

Item 8. Financial Statements and Supplementary Data.

Our Consolidated Financial Statements begin on page F-1 of this Annual Report on 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

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, has evaluated the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the Exchange Act)) as of the end of the period covered by this Report. Based upon that evaluation, our Chief Executive Officer and Chief Financial Officer have concluded that, as of the end of such period, our disclosure controls and procedures are effective and designed to ensure that the information required to be disclosed in our reports filed or submitted under the Exchange Act is recorded, processed, summarized and reported within the requisite time periods specified in the applicable rules and forms, and that it is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure.

There have not been any changes in our internal control over financial reporting (as such term is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during the fourth quarter of 2022 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Management’s Report on Internal Control Over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting. Our internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with accounting principles generally accepted in the United States of America (GAAP), and include those policies and procedures that:

- Pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect our transactions and dispositions of assets;
- Provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, and that our receipts and expenditures are being made only in accordance with authorizations of our management and directors; and

- Provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of our assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree or compliance with the policies or procedures may deteriorate.

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, assessed the effectiveness of our internal control over financial reporting as of December 31, 2022. In making this assessment, our management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in *Internal Control—Integrated Framework (2013)*. Based on those criteria and management's assessment, with the participation of the Chief Executive Officer and Chief Financial Officer, we conclude that, as of December 31, 2022, our internal control over financial reporting was effective.

The effectiveness of internal control over financial reporting as of December 31, 2022, has been audited by Deloitte & Touche LLP, our independent registered public accounting firm who also audited our Consolidated Financial Statements; their attestation report on the effectiveness of our internal control over financial reporting appears on page F-4.

Item 9B. Other Information.

None.

Item 9C. Disclosure Regarding Foreign Jurisdictions that Prevent Inspections.

Not applicable.

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PART III

Item 10. Directors, Executive Officers and Corporate Governance.

Incorporated by reference to the Proxy Statement for the 2023 Annual Meeting of our stockholders, which will be filed with the SEC not later than 120 days after December 31, 2022.

Item 11. Executive Compensation.

Incorporated by reference to the Proxy Statement for the 2023 Annual Meeting of our stockholders, which will be filed with the SEC not later than 120 days after December 31, 2022.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters.

Incorporated by reference to the Proxy Statement for the 2023 Annual Meeting of our stockholders, which will be filed with the SEC not later than 120 days after December 31, 2022.

Item 13. Certain Relationships and Related Transactions, and Director Independence.

Incorporated by reference to the Proxy Statement for the 2023 Annual Meeting of our stockholders, which will be filed with the SEC not later than 120 days after December 31, 2022.

Item 14. Principal Accounting Fees and Services.

Incorporated by reference to the Proxy Statement for the 2023 Annual Meeting of our stockholders, which will be filed with the SEC not later than 120 days after December 31, 2022.

PART IV

Item 15. Exhibits, Financial Statement Schedules.

a) The following documents are filed as part of this Annual Report on Form 10-K:

(1) Financial Statements

(2) Financial Statement Schedules.
Separate financial statement schedules have been omitted either because they are not applicable or because the required information is included in the consolidated financial statements.

(3) Exhibits.
The following exhibits are filed as part of this Annual Report on Form 10-K or, where indicated, were previously filed and are hereby incorporated by reference.

			Incorporated by Reference		
Exhibit No.	Filer	Description	Form	Exhibit	Filing Date
3.1	(a)	Third Amended and Restated Certificate of Incorporation of the Registrant.	8-K	3.2	6/10/16
3.2	(a)	Certificate of Amendment to Third Amended and Restated Certificate of Incorporation of the Registrant.	8-K	3.1	3/24/22
3.3	(a)	Certificate of Designations of Series A Preferred Non-Voting Convertible Preferred Stock of the Registrant	8-K	3.1	4/29/19
3.4	(a)	Sixth Amended and Restated Bylaws of the Registrant.	8-K	3.2	3/24/22
4.1	(a)	Specimen Certificate for shares of Common Stock of the Registrant.	10-Q	4.0	8/8/03
*4.2	(a)	Description of Registrant's Common Stock			
+10.1	(a)	Bread Financial Holdings, Inc. Executive Deferred Compensation Plan, amended and restated effective January 1, 2018.	8-K	10.1	11/24/17
+10.2	(a)	Bread Financial Holdings, Inc. 2010 Omnibus Incentive Plan.	DEF 14A	A	4/20/10
+10.3	(a)	Bread Financial Holdings, Inc. 2015 Omnibus Incentive Plan.	DEF 14A	B	4/20/15
+10.4	(a)	Bread Financial Holdings, Inc. 2020 Omnibus Incentive Plan.	DEF 14A	A	4/23/20
+10.5	(a)	Bread Financial Holdings, Inc. 2022 Omnibus Incentive Plan.	DEF 14A	A	4/13/22
+10.6	(a)	Form of Time-Based Restricted Stock Unit Award Agreement under the Bread Financial Holdings, Inc. 2015 Omnibus Incentive Plan.	8-K	10.1	2/20/18
+10.7	(a)	Form of Performance-Based Restricted Stock Unit Award Agreement under the Bread Financial Holdings, Inc. 2015 Omnibus Incentive Plan (2020 grant Strategic)	8-K	10.3	2/20/20

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Exhibit No.	Filer	Description	Incorporated by Reference		
			Form	Exhibit	Filing Date
+10.8	(a)	Form of Time-Based Restricted Stock Unit Award Agreement under the Bread Financial Holdings, Inc. 2020 Omnibus Incentive Plan.	8-K	10.1	2/18/21
^+10.9	(a)	Form of Performance-Based Restricted Stock Unit Award Agreement under the Bread Financial Holdings, Inc. 2020 Omnibus Incentive Plan.	8-K	10.2	2/18/21
*+10.10	(a)	Form of Time-Based Restricted Stock Unit Award Agreement under the Bread Financial Holdings, Inc. 2022 Omnibus Incentive Plan.			
*^+10.11	(a)	Form of Performance-Based Restricted Stock Unit Award Agreement under the Bread Financial Holdings, Inc. 2022 Omnibus Incentive Plan.			
+10.12	(a)	Form of Non-employee Director Restricted Stock Unit Award Agreement under the Bread Financial Holdings, Inc. 2010 Omnibus Incentive Plan.	10-K	10.52	2/28/13
+10.13	(a)	Form of Non-employee Director Restricted Stock Unit Award Agreement under the Bread Financial Holdings, Inc. 2015 Omnibus Incentive Plan.	10-Q	10.6	8/7/17
+10.14	(a)	Form of Non-employee Director Restricted Stock Unit Award Agreement under the Bread Financial Holdings, Inc. 2020 Omnibus Incentive Plan.	8-K	10.1	6/15/21
*+10.15	(a)	Form of Non-employee Director Restricted Stock Unit Award Agreement under the Bread Financial Holdings, Inc. 2022 Omnibus Incentive Plan.			
+10.16	(a)	Bread Financial Holdings, Inc. Non-Employee Director Deferred Compensation Plan.	8-K	10.1	6/9/06
+10.17	(a)	Form of Bread Financial Associate Confidentiality Agreement.	10-K	10.18	2/27/17
+10.18	(a)	Form of Bread Financial Holdings, Inc. Indemnification Agreement for Officers and Directors.	8-K	10.1	6/5/15
+10.19	(a)	Bread Financial Holdings, Inc. Amended and Restated 2015 Employee Stock Purchase Plan, effective March 23, 2022.	DEF 14A	C	4/20/15
10.20	(b) (c)	Second Amended and Restated Pooling and Servicing Agreement, dated as of January 17, 1996 as amended and restated as of September 17, 1999 and August 1, 2001, by and among WFN Credit Company, LLC, World Financial Network National Bank, and BNY Midwest Trust Company.	8-K	4.6	8/31/01
10.21	(b) (c) (d)	Second Amendment to the Second Amended and Restated Pooling and Servicing Agreement, dated as of May 19, 2004, among World Financial Network National Bank, WFN Credit Company, LLC and BNY Midwest Trust Company.	8-K	4.1	8/4/04
10.22	(b) (c) (d)	Third Amendment to the Second Amended and Restated Pooling and Servicing Agreement, dated as of March 30, 2005, among World Financial Network National Bank, WFN Credit Company, LLC and BNY Midwest Trust Company.	8-K	4.1	4/5/05

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Exhibit No.	Filer	Description	Incorporated by Reference		
			Form	Exhibit	Filing Date
10.23	(b) (d)	Fourth Amendment to the Second Amended and Restated Pooling and Servicing Agreement, dated as of June 13, 2007, among World Financial Network National Bank, WFN Credit Company, LLC and BNY Midwest Trust Company.	8-K	4.1	6/15/07
10.24	(b) (c) (d)	Fifth Amendment to the Second Amended and Restated Pooling and Servicing Agreement, dated as of October 26, 2007, among World Financial Network National Bank, WFN Credit Company, LLC and BNY Midwest Trust Company.	8-K	4.1	10/31/07
10.25	(b) (d)	Sixth Amendment to the Second Amended and Restated Pooling and Servicing Agreement, dated as of May 27, 2008, among World Financial Network National Bank, WFN Credit Company, LLC, and The Bank of New York Trust Company, N.A.	8-K	4.1	5/29/08
10.26	(b) (d)	Seventh Amendment to the Second Amended and Restated Pooling and Servicing Agreement, dated as of June 28, 2010, among World Financial Network National Bank, WFN Credit Company, LLC, and The Bank of New York Mellon Trust Company, N.A.	8-K	4.2	6/30/10
10.27	(b) (d)	Supplemental Agreement to Second Amended and Restated Pooling and Servicing Agreement, dated as of August 9, 2010, among World Financial Network National Bank, WFN Credit Company, LLC, and The Bank of New York Mellon Trust Company, N.A.	8-K	4.1	8/12/10
10.28	(b) (c) (d)	Eighth Amendment to the Second Amended and Restated Pooling and Servicing Agreement, dated as of November 9, 2011, among World Financial Network Bank, WFN Credit Company, LLC, and The Bank of New York Mellon Trust Company, N.A.	8-K	4.1	11/14/11
10.29	(b) (c) (d)	Ninth Amendment to Second Amended and Restated Pooling and Servicing Agreement, dated as of December 1, 2016, among Comenity Bank, WFN Credit Company, LLC, and MUFG Union Bank, N.A.	8-K	4.1	12/2/16
10.30	(b) (c) (d)	Tenth Amendment to Second Amended and Restated Pooling and Servicing Agreement, dated as of August 16, 2018, among Comenity Bank, WFN Credit Company, LLC, and MUFG Union Bank, N.A.	8-K	4.1	8/20/18
10.31	(b) (c) (d)	Eleventh Amendment to Second Amended and Restated Pooling and Servicing Agreement, dated as of June 11, 2020, among Comenity Bank, WFN Credit Company, LLC, and MUFG Union Bank, N.A.	8-K	4.2	6/16/20
10.32	(b) (c)	Twelfth Amendment to Second Amended and Restated Pooling and Servicing Agreement, dated as of October 27, 2020, among WFN Credit Company, LLC, as transferor, Comenity Bank, as servicer, and MUFG Union Bank, N.A., as trustee.	8-K	4.1	10/30/20
10.33	(b) (c)	Collateral Series Supplement to Second Amended and Restated Pooling and Servicing Agreement, dated as of August 21, 2001, among WFN Credit Company, LLC, World Financial Network National Bank and BNY Midwest Trust Company.	8-K	4.7	8/31/01

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Exhibit No.	Filer	Description	Incorporated by Reference		
			Form	Exhibit	Filing Date
10.34	(b) (c)	First Amendment to Collateral Series Supplement, dated as of November 7, 2002, among WFN Credit Company, LLC, World Financial Network National Bank and BNY Midwest Trust Company.	8-K	4.3	11/20/02
10.35	(b) (c) (d)	Second Amendment to Collateral Series Supplement, dated as of July 6, 2016, among WFN Credit Company, LLC, Comenity Bank and MUFG Union Bank, N.A.	8-K	4.1	7/8/16
10.36	(b) (c)	Transfer and Servicing Agreement, dated as of August 1, 2001, between WFN Credit Company, LLC, World Financial Network National Bank, and World Financial Network Credit Card Master Note Trust.	8-K	4.3	8/31/01
10.37	(b) (c)	First Amendment to the Transfer and Servicing Agreement, dated as of November 7, 2002, among WFN Credit Company, LLC, World Financial Network National Bank and World Financial Network Credit Card Master Note Trust.	8-K	4.2	11/20/02
10.38	(b) (c) (d)	Third Amendment to the Transfer and Servicing Agreement, dated as of May 19, 2004, among WFN Credit Company, LLC, World Financial Network National Bank and World Financial Network Credit Card Master Note Trust.	8-K	4.2	8/4/04
10.39	(b) (c) (d)	Fourth Amendment to the Transfer and Servicing Agreement, dated as of March 30, 2005, among WFN Credit Company, LLC, World Financial Network National Bank and World Financial Network Credit Card Master Note Trust.	8-K	4.2	4/5/05
10.40	(b) (d)	Fifth Amendment to the Transfer and Servicing Agreement, dated as of June 13, 2007, among WFN Credit Company, LLC, World Financial Network National Bank and World Financial Network Credit Card Master Note Trust.	8-K	4.2	6/15/07
10.41	(b) (c) (d)	Sixth Amendment to the Transfer and Servicing Agreement, dated as of October 26, 2007, among WFN Credit Company, LLC, World Financial Network National Bank and World Financial Network Credit Card Master Note Trust.	8-K	4.2	10/31/07
10.42	(b) (d)	Seventh Amendment to Transfer and Servicing Agreement, dated as of June 28, 2010, among World Financial Network National Bank, WFN Credit Company, LLC, and World Financial Network Credit Card Master Note Trust.	8-K	4.4	6/30/10
10.43	(b) (d)	Supplemental Agreement to Transfer and Servicing Agreement, dated as of August 9, 2010, among World Financial Network National Bank, WFN Credit Company, LLC, and World Financial Network Credit Card Master Note Trust.	8-K	4.3	8/12/10
10.44	(b) (c) (d)	Eighth Amendment to Transfer and Servicing Agreement, dated as of June 15, 2011, among World Financial Network National Bank, WFN Credit Company, LLC, and World Financial Network Credit Card Master Note Trust.	8-K	4.1	6/15/11

Exhibit No.	Filer	Description	Incorporated by Reference		
			Form	Exhibit	Filing Date
10.45	(b) (c) (d)	Ninth Amendment to Transfer and Servicing Agreement, dated as of November 9, 2011, among World Financial Network Bank, WFN Credit Company, LLC, and World Financial Network Credit Card Master Note Trust.	8-K	4.3	11/14/11
10.46	(b) (c) (d)	Tenth Amendment to the Transfer and Servicing Agreement, dated as of July 6, 2016, among Comenity Bank, WFN Credit Company, LLC and World Financial Network Credit Card Master Note Trust.	8-K	4.4	7/8/16
10.47	(b) (d)	Receivables Purchase Agreement, dated as of August 1, 2001, between World Financial Network National Bank and WFN Credit Company, LLC.	8-K	4.8	8/31/01
10.48	(b) (d)	First Amendment to Receivables Purchase Agreement, dated as of June 28, 2010, between World Financial Network National Bank and WFN Credit Company, LLC.	8-K	4.3	6/30/10
10.49	(b) (d)	Supplemental Agreement to Receivables Purchase Agreement, dated as of August 9, 2010, between World Financial Network National Bank and WFN Credit Company, LLC.	8-K	4.2	8/12/10
10.50	(b) (c) (d)	Second Amendment to Receivables Purchase Agreement, dated as of November 9, 2011, between World Financial Network Bank and WFN Credit Company, LLC.	8-K	4.2	11/14/11
10.51	(b) (c) (d)	Third Amendment to Receivables Purchase Agreement, dated as of July 6, 2016, between Comenity Bank and WFN Credit Company, LLC.	8-K	4.2	7/8/16
10.52	(b) (c) (d)	Fourth Amendment to Receivables Purchase Agreement, dated as of June 11, 2020, between Comenity Bank and WFN Credit Company, LLC.	8-K	4.3	6/16/20
10.53	(b) (c)	Master Indenture, dated as of August 1, 2001, between World Financial Network Credit Card Master Note Trust and BNY Midwest Trust Company.	8-K	4.1	8/31/01
10.54	(b) (c)	Omnibus Amendment, dated as of March 31, 2003, among WFN Credit Company, LLC, World Financial Network Credit Card Master Trust, World Financial Network National Bank and BNY Midwest Trust Company.	8-K	4	4/22/03
10.55	(b) (d)	Supplemental Indenture No. 1, dated as of August 13, 2003, between World Financial Network Credit Card Master Note Trust and BNY Midwest Trust Company.	8-K	4.2	8/28/03
10.56	(b) (d)	Supplemental Indenture No. 2, dated as of June 13, 2007, between World Financial Network Credit Card Master Note Trust and BNY Midwest Trust Company.	8-K	4.3	6/15/07

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Exhibit No.	Filer	Description	Incorporated by Reference		
			Form	Exhibit	Filing Date
10.57	(b (d)	Supplemental Indenture No. 3, dated as of May 27, 2008, between World Financial Network Credit Card Master Note Trust and The Bank of New York Trust Company, N.A.	8-K	4.2	5/29/08
10.58	(b (d)	Supplemental Indenture No. 4, dated as of June 28, 2010, between World Financial Network Credit Card Master Note Trust and The Bank of New York Mellon Trust Company, N.A.	8-K	4.1	6/30/10
10.59	(b) (c) (d)	Supplemental Indenture No. 5, dated as of February 20, 2013, between World Financial Network Credit Card Master Note Trust and Union Bank, N.A.	8-K	4.2	2/22/13
10.60	(b) (c) (d)	Supplemental Indenture No. 6 to Master Indenture, dated as of July 6, 2016, between World Financial Network Credit Card Master Note Trust and MUFG Union Bank, N.A.	8-K	4.3	7/8/16
10.61	(b) (c) (d)	Supplemental Indenture No. 7 to Master Indenture, dated as of June 11, 2020, between World Financial Network Credit Card Master Note Trust and MUFG Union Bank, N.A.	8-K	4.1	6/16/20
10.62	(b) (c) (d)	Agreement of Resignation, Appointment and Acceptance, dated as of May 25, 2021, by and among WFN Credit Company, LLC, U.S. Bank Trust National Association and Citicorp Trust Delaware, National Association.	8-K	4.1	5/28/21
10.63	(b) (c) (d)	Succession Agreement, dated as of June 18, 2021, by and among Comenity Bank, World Financial Network Credit Card Master Note Trust, MUFG Union Bank, N.A. and U.S. Bank National Association.	8-K	4.1	6/24/21
10.64	(b) (c) (d)	Succession Agreement, dated as of June 18, 2021, among WFN Credit Company, LLC, MUFG Union Bank, N.A. and U.S. Bank National Association.	8-K	4.2	6/24/21
10.65	(b (d)	Amended and Restated Trust Agreement, dated as of August 1, 2001, between WFN Credit Company, LLC and Chase Manhattan Bank USA, National Association.	8-K	4.4	8/31/01
10.66	(b) (c) (d)	First Amendment to Amended and Restated Trust Agreement, dated as of May 25, 2021, between WFN Credit Company, LLC and Citicorp Trust Delaware, National Association.	8-K	4.2	5/28/21
10.67	(b (d)	Administration Agreement, dated as of August 1, 2001, between World Financial Network Credit Card Master Note Trust and World Financial Network National Bank.	8-K	4.5	8/31/01
10.68	(b (d)	First Amendment to Administration Agreement, dated as of July 31, 2009, between World Financial Network Credit Card Master Note Trust and World Financial Network National Bank.	8-K	4.1	7/31/09
10.69	(b) (c) (d)	Fourth Amended and Restated Service Agreement, dated as of June 1, 2022, by and between Comenity Bank and Comenity Servicing LLC.	10-D	99.2	6/15/22

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Exhibit No.	Filer	Description	Incorporated by Reference		
			Form	Exhibit	Filing Date
10.70	(b) (c) (d)	First Addendum to Appendix A of Fourth Amended and Restated Service Agreement, dated as of July 29, 2022, between Comenity Servicing LLC and Comenity Bank.	8-K	99.1	8/4/22
10.71	(b) (c) (d)	Second Addendum to Appendix A of Fourth Amended and Restated Service Agreement, dated as of August 31, 2022, between Comenity Servicing LLC and Comenity Bank.	8-K	99.1	9/7/22
10.72	(b) (c) (d)	Third Addendum to Appendix A of Fourth Amended and Restated Service Agreement, dated as of October 7, 2022, between Comenity Servicing LLC and Comenity Bank.	8-K	99.1	10/12/22
10.73	(b) (c) (d)	Fourth Addendum to Appendix A of Fourth Amended and Restated Service Agreement, dated as of October 31, 2022, between Comenity Servicing LLC and Comenity Bank.	8-K	99.1	11/2/22
10.74	(b) (c) (d)	Fifth Addendum to Appendix A of Fourth Amended and Restated Service Agreement, dated as of November 30, 2022, between Comenity Servicing LLC and Comenity Bank.	8-K	99.1	12/1/22
10.75	(b) (c) (d)	Sixth Addendum to Appendix A of Fourth Amended and Restated Service Agreement, dated as of January 11, 2023, between Comenity Servicing LLC and Comenity Bank.	8-K	99.1	1/12/23
10.76	(b) (c) (d)	Seventh Addendum to Appendix A of Fourth Amended and Restated Service Agreement, dated as of January 31, 2023, between Comenity Servicing LLC and Comenity Bank.	8-K	99.1	2/2/23
10.77	(b) (c) (d)	Asset Representations Review Agreement, dated as of July 6, 2016, among Comenity Bank, WFN Credit Company, LLC, World Financial Network Credit Card Master Note Trust and FTI Consulting, Inc.	8-K	10.1	7/8/16
10.78	(a)	Receivables Purchase Agreement, dated as of September 28, 2001, between World Financial Network National Bank and WFN Credit Company, LLC.	10-Q	10.5	11/7/08
10.79	(a)	First Amendment to Receivables Purchase Agreement, dated as of June 24, 2008, between World Financial Network National Bank and WFN Credit Company, LLC.	10-K	10.94	3/2/09
10.80	(a)	Second Amendment to Receivables Purchase Agreement, dated as of March 30, 2010, between World Financial Network National Bank and WFN Credit Company, LLC.	10-K	10.127	2/28/11
10.81	(a)	Supplemental Agreement to Receivables Purchase Agreement, dated as of August 9, 2010, between World Financial Network National Bank and WFN Credit Company, LLC.	10-K	10.128	2/28/11
10.82	(a)	Third Amendment to Receivables Purchase Agreement, dated as of September 30, 2011, between World Financial Network Bank and WFN Credit Company, LLC.	10-Q	10.4	11/7/11

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Exhibit No.	Filer	Description	Incorporated by Reference		
			Form	Exhibit	Filing Date
10.83	(a)	World Financial Network Credit Card Master Trust III Amended and Restated Pooling and Servicing Agreement, dated as of September 28, 2001, among WFN Credit Company, LLC, World Financial Network National Bank, and The Chase Manhattan Bank, USA, National Association.	10-Q	10.6	11/7/08
10.84	(a)	First Amendment to the Amended and Restated Pooling and Servicing Agreement, dated as of April 7, 2004, among WFN Credit Company, LLC, World Financial Network National Bank, and The Chase Manhattan Bank, USA, National Association.	10-Q	10.7	11/7/08
10.85	(a)	Second Amendment to the Amended and Restated Pooling and Servicing Agreement, dated as of March 23, 2005, among WFN Credit Company, LLC, World Financial Network National Bank, and The Chase Manhattan Bank, USA, National Association.	10-Q	10.8	11/7/08
10.86	(a)	Third Amendment to the Amended and Restated Pooling and Servicing Agreement, dated as of October 26, 2007, among WFN Credit Company, LLC, World Financial Network National Bank, and Union Bank of California, N.A. (successor to JPMorgan Chase Bank, N.A.).	10-Q	10.9	11/7/08
10.87	(a)	Fourth Amendment to Amended and Restated Pooling and Servicing Agreement, dated as of March 30, 2010, among WFN Credit Company, LLC, World Financial Network National Bank, and Union Bank, N.A.	10-Q	10.9	5/7/10
10.88	(a)	Fifth Amendment to Amended and Restated Pooling and Servicing Agreement, dated as of September 30, 2011, among WFN Credit Company, LLC, World Financial Network Bank, and Union Bank, N.A.	10-Q	10.3	11/7/11
10.89	(a)	Sixth Amendment to Amended and Restated Pooling and Servicing Agreement, dated as of December 1, 2016, among WFN Credit Company, LLC, Comenity Bank, and Deutsche Bank Trust Company Americas.	10-K	10.94	2/27/17
10.90	(a)	Seventh Amendment to Amended and Restated Pooling and Servicing Agreement, dated as of September 1, 2017, among WFN Credit Company, LLC, Comenity Bank, and U.S. Bank National Association (successor to Deutsche Bank Trust Company Americas).	10-K	10.96	2/27/18
10.91	(a)	Eighth Amendment to Amended and Restated Pooling and Servicing Agreement, dated as of November 16, 2020, among WFN Credit Company, LLC, Comenity Bank, and U.S. Bank National Association (successor to Deutsche Bank Trust Company Americas).	10-K	10.105	2/26/21
10.92	(a)	Supplemental Agreement to Amended and Restated Pooling and Servicing Agreement, dated as of August 9, 2010, among WFN Credit Company, LLC, World Financial Network National Bank, and Union Bank, N.A.	10-K	10.134	2/28/11
10.93	(a)	Receivables Purchase Agreement, dated as of September 29, 2008, between World Financial Capital Bank and World Financial Capital Credit Company, LLC.	10-Q	10.3	11/7/08

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Exhibit No.	Filer	Description	Incorporated by Reference		
			Form	Exhibit	Filing Date
10.94	(a)	Amendment No. 1 to Receivables Purchase Agreement, dated as of June 4, 2010, between World Financial Capital Bank and World Financial Capital Credit Company, LLC.	10-Q	10.11	8/9/10
10.95	(a)	Transfer and Servicing Agreement, dated as of September 29, 2008, among World Financial Capital Credit Company, LLC, World Financial Capital Bank and World Financial Capital Master Note Trust.	10-Q	10.4	11/7/08
10.96	(a)	Amendment No. 1 to Transfer and Servicing Agreement, dated as of June 4, 2010, among World Financial Capital Credit Company, LLC, World Financial Capital Bank and World Financial Capital Master Note Trust.	10-Q	10.12	8/9/10
10.97	(a)	Master Indenture, dated as of September 29, 2008, between World Financial Capital Master Note Trust and U.S. Bank National Association, together with Supplemental Indenture Nos. 1 - 3.	10-K	10.104	2/27/18
*10.98	(a)	Receivables Purchase Agreement, dated as of June 17, 2022, between Comenity Capital Bank and Comenity Capital Credit Company, LLC.			
*10.99	(a)	Transfer Agreement, dated as of June 17, 2022, between Comenity Capital Credit Company, LLC and Comenity Capital Asset Securitization Trust.			
*10.100	(a)	Servicing Agreement, dated as of June 17, 2022, between Comenity Capital Credit Company, LLC, Comenity Capital Bank and Comenity Capital Asset Securitization Trust.			
*10.101	(a)	Master Indenture, dated as of June 17, 2022, between Comenity Capital Asset Securitization Trust and U.S. Bank Trust Company, National Association.			
10.102	(a)	Fourth Amended and Restated Series 2009-VFN Indenture Supplement, dated as of February 28, 2014, between World Financial Network Credit Card Master Note Trust and Union Bank, N.A.	10-K	10.129	2/27/15
10.103	(a)	First Amendment to Fourth Amended and Restated Series 2009-VFN Indenture Supplement, dated as of July 10, 2017, between World Financial Network Credit Card Master Note Trust and MUFG Union Bank, N.A., formerly known as Union Bank, N.A.	10-Q	10.8	8/7/17
10.104	(a)	Second Amendment to Fourth Amended and Restated Series 2009-VFN Indenture Supplement, dated as of December 1, 2017, between World Financial Network Credit Card Master Note Trust and MUFG Union Bank, N.A., formerly known as Union Bank, N.A.	10-K	10.109	2/27/18
10.105	(a)	Third Amendment to Fourth Amended and Restated Series 2009-VFN Indenture Supplement, dated as of May 3, 2018, between World Financial Network Credit Card Master Note Trust and MUFG Union Bank, N.A., formerly known as Union Bank, N.A.	10-K	10.110	2/26/19

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Exhibit No.	Filer	Description	Incorporated by Reference		
			Form	Exhibit	Filing Date
10.106	(a)	Fourth Amendment to Fourth Amended and Restated Series 2009-VFN Indenture Supplement, dated as of August 31, 2018, between World Financial Network Credit Card Master Note Trust and MUFG Union Bank, N.A., formerly known as Union Bank, N.A.	10-K	10.111	2/26/19
10.107	(a)	Fifth Amendment to Fourth Amended and Restated Series 2009-VFN Indenture Supplement, dated as of February 1, 2019, between World Financial Network Credit Card Master Note Trust and MUFG Union Bank, N.A., formerly known as Union Bank, N.A.	10-K	10.112	2/26/19
10.108	(a)	Sixth Amendment to Fourth Amended and Restated Series 2009-VFN Indenture Supplement, dated as of June 11, 2020, between World Financial Network Credit Card Master Note Trust and MUFG Union Bank, N.A., formerly known as Union Bank, N.A.	10-K	10.118	2/26/21
10.109	(a)	Seventh Amendment to Fourth Amended and Restated Series 2009-VFN Indenture Supplement, dated as of September 10, 2020, between World Financial Network Credit Card Master Note Trust and MUFG Union Bank, N.A., formerly known as Union Bank, N.A.	10-K	10.119	2/26/21
*10.110	(a)	Eighth Amendment to Fourth Amended and Restated Series 2009-VFN Indenture Supplement, dated as of August 1, 2022, between World Financial Network Credit Card Master Note Trust and U.S. Bank National Association, as successor to MUFG Union Bank, N.A.			
10.111	(a)	Third Amended and Restated Series 2009-VFC1 Supplement, dated as of April 28, 2017, among WFN Credit Company, LLC, Comenity Bank and Deutsche Bank Trust Company Americas.	10-Q	10.7	8/7/17
10.112	(a)	First Amendment to Third Amended and Restated Series 2009-VFC1 Supplement, dated as of October 19, 2017, among WFN Credit Company, LLC, Comenity Bank and U.S. Bank National Association (successor to Deutsche Bank Trust Company Americas).	10-Q	10.4	11/8/17
10.113	(a)	Second Amendment to Third Amended and Restated Series 2009-VFC1 Supplement, dated as of August 31, 2018, among WFN Credit Company, LLC, Comenity Bank and U.S. Bank National Association (successor to Deutsche Bank Trust Company Americas).	10-K	10.115	2/26/19
10.114	(a)	Third Amendment to Third Amended and Restated Series 2009-VFC1 Supplement, dated as of June 28, 2019, among WFN Credit Company, LLC, Comenity Bank and U.S. Bank National Association (successor to Deutsche Bank Trust Company Americas).	10-K	10.123	2/26/21
10.115	(a)	Fourth Amendment to Third Amended and Restated Series 2009-VFC1 Supplement, dated as of April 17, 2020, among WFN Credit Company, LLC, Comenity Bank and U.S. Bank National Association (successor to Deutsche Bank Trust Company Americas).	10-K	10.124	2/26/21
10.116	(a)	Fifth Amended and Restated Series 2009-VFN Indenture Supplement, dated as of November 1, 2016, between World Financial Capital Master Note Trust and Deutsche Bank Trust Company Americas.	10-K	10.102	2/27/17

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Exhibit No.	Filer	Description	Incorporated by Reference		
			Form	Exhibit	Filing Date
10.117	(a)	First Amendment to Fifth Amended and Restated Series 2009-VFN Indenture Supplement, dated as of November 1, 2017, between World Financial Capital Master Note Trust and U.S. Bank National Association (successor to Deutsche Bank Trust Company Americas).	10-Q	10.5	11/8/17
10.118	(a)	Second Amendment to Fifth Amended and Restated Series 2009-VFN Indenture Supplement, dated as of September 28, 2018, between World Financial Capital Master Note Trust and U.S. Bank National Association (successor to Deutsche Bank Trust Company Americas).	10-Q	10.3	11/6/18
*10.119	(a)	Series 2022-VFN1 Indenture Supplement, dated as of June 17, 2022, between Comenity Capital Asset Securitization Trust and U.S. Bank Trust Company, National Association.			
10.120	(a)	Amended and Restated Credit Agreement, dated as of June 14, 2017, by and among Bread Financial Holdings, Inc., certain subsidiaries parties thereto, as guarantors, Wells Fargo Bank, National Association, as Administrative Agent, and various other agents and lenders.	8-K	10.1	6/19/17
10.121	(a)	First Amendment to Amended and Restated Credit Agreement and Incremental Amendment, dated as of June 16, 2017, by and among Bread Financial Holdings, Inc., and certain subsidiaries parties thereto, as guarantors, Wells Fargo Bank, National Association, as Administrative Agent, and various other lenders.	8-K	10.2	6/19/17
10.122	(a)	Second Amendment to Amended and Restated Credit Agreement, dated as of July 5, 2018, by and among Bread Financial Holdings, Inc., and certain subsidiaries parties thereto, as guarantors, Wells Fargo Bank, National Association, as Administrative Agent, and various other lenders.	10-Q	10.2	8/7/18
10.123	(a)	Third Amendment to Amended and Restated Credit Agreement, dated as of April 30, 2019, by and among Registrant, and certain subsidiaries parties thereto, as guarantors, Wells Fargo Bank, National Association, as Administrative Agent, and various other lenders.	10-Q	10.7	5/6/19
10.124	(a)	Fourth Amendment to Amended and Restated Credit Agreement, dated as of December 20, 2019, by and among Bread Financial Holdings, Inc., certain of its subsidiaries as guarantors, Wells Fargo Bank, National Association, as administrative agent, and various other agents and lenders.	8-K	10.2	12/23/19
10.125	(a)	Fifth Amendment to Amended and Restated Credit Agreement, dated as of February 13, 2020, by and among Bread Financial Holdings, Inc., certain of its subsidiaries as guarantors, Wells Fargo Bank, National Association, as administrative agent, and various other agents and lenders.	10-K	10.125	2/28/20
10.126	(a)	Sixth Amendment to Amended and Restated Credit Agreement, dated as of September 22, 2020, by and among Bread Financial Holdings, Inc., certain of its subsidiaries as guarantors, Wells Fargo Bank, National Association, as administrative agent, and various other agents and lenders.	8-K	10.2	9/23/20

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Exhibit No.	Filer	Description	Incorporated by Reference		
			Form	Exhibit	Filing Date
10.127	(a)	Seventh Amendment to Amended and Restated Credit Agreement, dated as of July 9, 2021, by and among Bread Financial Holdings, Inc., certain of its subsidiaries as guarantors, Wells Fargo Bank, National Association, as administrative agent, and various other agents and lenders.	8-K	10.1	7/14/21
10.128	(a)	Eighth Amendment to Amended and Restated Credit Agreement, dated as of December 13, 2022, by and among Bread Financial Holdings, Inc., certain of its subsidiaries as guarantors, Wells Fargo Bank, National Association, as administrative agent, and various other agents and lenders.	8-K	10.1	12/15/22
10.129	(a)	Indenture, dated as of December 20, 2019, among Bread Financial Holdings, Inc., certain of its subsidiaries as guarantors and MUFG Union Bank, N.A., as trustee (including the form of the Company's 4.750% Senior Note due December 15, 2024).	8-K	4.1	12/23/19
10.130	(a)	First Supplemental Indenture, dated as of August 6, 2021, among Bread Financial Holdings, Inc., certain of its subsidiaries as guarantors and MUFG Union Bank, N.A., as trustee under the Indenture dated as of December 20, 2019.	10-Q	10.4	11/3/21
10.131	(a)	Indenture, dated as of September 22, 2020, among Bread Financial Holdings, Inc., certain of its subsidiaries as guarantors and MUFG Union Bank, N.A., as trustee (including the form of the Company's 7.000% Senior Note due January 15, 2026).	8-K	4.1	9/23/20
^10.132	(a)	First Supplemental Indenture, dated as of August 6, 2021, among Bread Financial Holdings, Inc., certain of its subsidiaries as guarantors and MUFG Union Bank, N.A., as trustee under the Indenture dated as of September 22, 2020.	10-Q	10.5	11/3/21
*21	(a)	Subsidiaries of the Registrant			
*23.1	(a)	Consent of Deloitte & Touche LLP			
*31.1	(a)	Certification of Chief Executive Officer of Bread Financial Holdings, Inc. pursuant to Rule 13a-14(a) promulgated under the Securities Exchange Act of 1934, as amended.			
*31.2	(a)	Certification of Chief Financial Officer of Bread Financial Holdings, Inc. pursuant to Rule 13a-14(a) promulgated under the Securities Exchange Act of 1934, as amended.			
**32.1	(a)	Certification of Chief Executive Officer of Bread Financial Holdings, 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	(a)	Certification of Chief Financial Officer of Bread Financial Holdings, 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.			

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Exhibit No.	Filer	Description	Incorporated by Reference		
			Form	Exhibit	Filing Date
*101	(a)	The following financial information from Bread Financial Holdings, Inc.'s Annual Report on Form 10-K for the fiscal year ended December 31, 2022, formatted in Inline XBRL: (i) Consolidated Balance Sheets, (ii) Consolidated Statements of Income, (iii) Consolidated Statements of Comprehensive Income, (iv) Consolidated Statements of Stockholders' Equity, (v) Consolidated Statements of Cash Flows and (vi) Notes to Consolidated Financial Statements.			
*104	(a)	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101)			

* Filed herewith

** Furnished herewith

+ Management contract, compensatory plan or arrangement

^ Certain exhibits have been omitted pursuant to Item 601(a)(5) of Regulation S-K. Bread Financial Holdings, Inc. hereby undertakes to furnish supplementally copies of any of the omitted exhibits upon request by the U.S. Securities and Exchange Commission.

(a) Bread Financial Holdings, Inc.

(b) WFN Credit Company, LLC

(c) World Financial Network Credit Card Master Trust

(d) World Financial Network Credit Card Master Note Trust

Item 16. Form 10-K Summary.

None.

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INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

BREAD FINANCIAL HOLDINGS, INC.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Stockholders and the Board of Directors of Bread Financial Holdings, Inc.

Opinion on the Financial Statements

We have audited the accompanying Consolidated Balance Sheets of Bread Financial Holdings, Inc. and subsidiaries (the "Company") as of December 31, 2022 and 2021, the related Consolidated Statements of Income, Comprehensive income, Stockholders' equity, and Cash flows for each of the three years in the period ended December 31, 2022 (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, 2022 and 2021, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2022, in conformity with accounting principles generally accepted in the United States of America.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company's internal control over financial reporting as of December 31, 2022, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated February 28, 2023, expressed an unqualified opinion on the Company's internal control over financial reporting.

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 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. 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.

Critical Audit Matter

The critical audit matter communicated below is a matter arising from the current-period audit of the financial statements that was communicated or required to be communicated to the audit committee and that (1) relates to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the accounts or disclosures to which it relates.

Allowance for Credit Losses — Refer to Notes 1 and 3 to the financial statements

Critical Audit Matter Description

The Allowance for credit losses is an estimate of expected credit losses, measured over the estimated life of its credit card and other loans that considers forecasts of future economic conditions in addition to information about past events and current conditions. The estimate under the credit reserving methodology referred to as the Current Expected Credit Loss (CECL) model is significantly influenced by the composition, characteristics, and quality of the Company's portfolio of credit card and other loans, as well as the prevailing economic conditions and forecasts utilized. The estimate of the Allowance for credit losses includes an estimate for uncollectible principal as well as unpaid interest and fees. Principal losses, net of recoveries are deducted from the Allowance. Principal losses for unpaid interest and fees as well as any adjustments to the Allowance associated with unpaid interest and fees are recorded as a reduction to Interest and fees on

loans. The Allowance is maintained through an adjustment to the Provision for credit losses and is evaluated for appropriateness.

In estimating its Allowance for credit losses, for each identified group, management utilizes various models and estimation techniques based on historical loss experience, current conditions, reasonable and supportable forecasts and other relevant factors. These models utilize historical data and applicable macroeconomic variables with statistical analysis and behavioral relationships, to determine expected credit performance. The Company's quantitative estimate of expected credit losses under CECL is impacted by certain forecasted economic factors. The Company considers the forecast used to be reasonable and supportable over the estimated life of the credit card and other loans, with no reversion period. In addition to the quantitative estimate of expected credit losses, the Company also incorporates qualitative adjustments for certain factors such as Company-specific risks, changes in current economic conditions that may not be captured in the quantitatively derived results, or other relevant factors to ensure the Allowance for credit losses reflects the Company's best estimate of current expected credit losses. At December 31, 2022, the total Allowance for credit losses was $2.5 billion.

Given the significant judgments made by management in estimating its Allowance for credit losses related to credit card loans, performing audit procedures to evaluate the reasonableness of the estimated Allowance for credit losses, including procedures to evaluate the qualitative adjustments, required a high degree of auditor judgment and an increased extent of effort, including the need to involve our credit modeling specialists.

How the Critical Audit Matter Was Addressed in the Audit

- We tested the design and operating effectiveness of management's controls over the determination and review of model methodology, significant assumptions and qualitative adjustments.
- We evaluated whether the method (including the model), data, and significant assumptions are appropriate in the context of the applicable financial reporting framework.
- We tested the completeness and accuracy of the historical data used in management's models.
- With assistance from credit modeling specialists, we evaluated whether the model is suitable for determining the estimate, which included understanding the model methodology and logic, whether the selected method for estimating credit losses is appropriate and whether the significant assumptions were reasonable.
- We evaluated the reasonableness of the selection of forecasted macroeconomic variables, considered alternative forecasted scenarios and evaluated any contradictory evidence.
- We evaluated whether judgments have been applied consistently to the model and that any qualitative adjustments to the output of the model are consistent with the measurement objective of the applicable financial reporting framework and are appropriate in the circumstances.
- We considered any contradictory evidence that arose while performing our procedures, and whether or not this evidence was indicative of management bias.

/s/ Deloitte & Touche LLP
Columbus, Ohio
February 28, 2023

We have served as the Company's auditor since 1998.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Stockholders and the Board of Directors of Bread Financial Holdings, Inc.

Opinion on Internal Control over Financial Reporting

We have audited the internal control over financial reporting of Bread Financial Holdings, Inc. and subsidiaries (the "Company") as of December 31, 2022, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2022, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by COSO.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated financial statements as of and for the year ended December 31, 2022, of the Company and our report dated February 28, 2023 expressed an unqualified opinion on those financial statements.

Basis for Opinion

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the 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 audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

Definition and Limitations of Internal Control over Financial Reporting

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ Deloitte & Touche LLP
Columbus, Ohio
February 28, 2023

BREAD FINANCIAL HOLDINGS, INC.
CONSOLIDATED STATEMENTS OF INCOME

(Millions, except per share amounts)	Years Ended December 31, 2022	2021	2020
Interest income			
Interest and fees on loans	$ 4,615	$ 3,861	$ 3,931
Interest on cash and investment securities	69	7	21
Total interest income	4,684	3,868	3,952
Interest expense			
Interest on deposits	243	167	238
Interest on borrowings	260	216	261
Total interest expense	503	383	499
Net interest income	**4,181**	**3,485**	**3,453**
Non-interest income			
Interchange revenue, net of retailer share arrangements	(469)	(369)	(332)
Other	114	156	177
Total non-interest income	(355)	(213)	(155)
Total net interest and non-interest income	**3,826**	**3,272**	**3,298**
Provision for credit losses	**1,594**	**544**	**1,266**
Total net interest and non-interest income, after provision for credit losses	2,232	2,728	2,032
Non-interest expenses			
Employee compensation and benefits	779	671	609
Card and processing expenses	359	323	396
Information processing and communication	274	216	191
Marketing expenses	180	160	143
Depreciation and amortization	113	92	106
Other	227	222	286
Total non-interest expenses	**1,932**	**1,684**	**1,731**
Income from continuing operations before income taxes	300	1,044	301
Provision for income taxes	76	247	93
Income from continuing operations	224	797	208
(Loss) income from discontinued operations, net of income taxes	(1)	4	6
Net income	**$ 223**	**$ 801**	**$ 214**
Basic income per share			
Income from continuing operations	$ 4.48	$ 16.02	$ 4.36
(Loss) income from discontinued operations	$ (0.01)	$ 0.07	$ 0.11
Net income per share	$ 4.47	$ 16.09	$ 4.47
Diluted income per share			
Income from continuing operations	$ 4.47	$ 15.95	$ 4.35
(Loss) income from discontinued operations	$ (0.01)	$ 0.07	$ 0.11
Net income per share	$ 4.46	$ 16.02	$ 4.46
Weighted average common shares outstanding			
Basic	49.9	49.7	47.8
Diluted	50.0	50.0	47.9

See Notes to Consolidated Financial Statements.

BREAD FINANCIAL HOLDINGS, INC.
CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME

(Millions)	Years Ended December 31, 2022	2021	2020
Net income	$ 223	$ 801	$ 214
Other comprehensive (loss) income			
Unrealized (loss) gain on available-for-sale securities	(25)	(24)	22
Tax benefit (expense)	6	2	(1)
Unrealized (loss) gain on available-for-sale securities, net of tax	(19)	(22)	21
Unrealized gain (loss) on cash flow hedges	—	1	(1)
Tax benefit	—	—	—
Unrealized gain (loss) on cash flow hedges, net of tax	—	1	(1)
Unrealized gain on net investment hedge	—	20	—
Tax expense	—	(13)	—
Unrealized gain on net investment hedge, net of tax	—	7	—
Foreign currency translation adjustments (inclusive of deconsolidation of $54 million and $4 million for the years ended December 31, 2021 and 2020, respectively, related to the disposition of businesses)	—	17	75
Other comprehensive (loss) income, net of tax	(19)	3	95
Total comprehensive income, net of tax	$ 204	$ 804	$ 309

See Notes to Consolidated Financial Statements.

BREAD FINANCIAL HOLDINGS, INC.
CONSOLIDATED BALANCE SHEETS

(Millions, except per share amounts)	December 31, 2022	December 31, 2021
ASSETS		
Cash and cash equivalents	$ 3,891	$ 3,046
Credit card and other loans		
Total credit card and other loans (includes loans available to settle obligations of consolidated variable interest entities: 2022, $15,383; 2021, $11,215)	21,365	17,399
Allowance for credit losses	(2,464)	(1,832)
Credit card and other loans, net	18,901	15,567
Investment securities	221	239
Property and equipment, net	195	215
Goodwill and intangible assets, net	799	687
Other assets	1,400	1,992
Total assets	**$ 25,407**	**$ 21,746**
LIABILITIES AND STOCKHOLDERS' EQUITY		
Deposits	$ 13,826	$ 11,027
Debt issued by consolidated variable interest entities	6,115	5,453
Long-term and other debt	1,892	1,986
Other liabilities	1,309	1,194
Total liabilities	**23,142**	**19,660**
Commitments and contingencies (Note 15)		
Stockholders' equity		
Common stock, $0.01 par value; authorized, 200.0 million shares; issued, 49.9 million and 49.8 million shares as of December 31, 2022 and December 31, 2021, respectively	1	1
Additional paid-in capital	2,192	2,174
Retained earnings (accumulated deficit)	93	(87)
Accumulated other comprehensive loss	(21)	(2)
Total stockholders' equity	**2,265**	**2,086**
Total liabilities and stockholders' equity	**$ 25,407**	**$ 21,746**

See Notes to Consolidated Financial Statements.

BREAD FINANCIAL HOLDINGS, INC.
CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY

(Millions)	Common Stock Shares	Common Stock Amount	Additional Paid-In Capital	Treasury Stock	Retained Earnings (Accumulated Deficit)	Accumulated Other Comprehensive Loss	Total Stockholders' Equity
January 1, 2020	115.0	$ 1	$ 3,258	$ (6,733)	$ 5,163	$ (100)	$ 1,589
Net income	—	—	—	—	214	—	214
Cumulative effect of change in accounting principle — Allowance for credit losses	—	—	—	—	(485)	—	(485)
Other comprehensive income	—	—	—	—	—	95	95
Stock-based compensation	—	—	21	—	—	—	21
Common stock issued as consideration for acquired business	1.9	—	149	—	—	—	149
Dividends and dividend equivalent rights declared ($1.26 per common share)	—	—	—	—	(60)	—	(60)
Issuance of shares to employees, net of shares withheld for employee taxes	0.2	—	(1)	—	—	—	(1)
December 31, 2020	117.1	$ 1	$ 3,427	$ (6,733)	$ 4,832	$ (5)	$ 1,522
Net income	—	—	—	—	801	—	801
Other comprehensive income	—	—	—	—	—	3	3
Stock-based compensation	—	—	29	—	—	—	29
Dividends and dividend equivalent rights declared ($0.84 per common share)	—	—	—	—	(42)	—	(42)
Retirement of treasury stock	(67)	—	(1,280)	6,733	(5,453)	—	—
Spinoff of Loyalty Ventures Inc.	—	—	—	—	(225)	—	(225)
Issuance of shares to employees, net of shares withheld for employee taxes	0.1	—	(2)	—	—	—	(2)
December 31, 2021	49.8	$ 1	$ 2,174	$ —	$ (87)	$ (2)	$ 2,086
Net income	—	—	—	—	223	—	223
Other comprehensive loss	—	—	—	—	—	(19)	(19)
Stock-based compensation	—	—	33	—	—	—	33
Repurchase of common stock	(0.2)	—	(12)	—	—	—	(12)
Dividends and dividend equivalent rights declared ($0.84 per common share)	—	—	—	—	(43)	—	(43)
Issuance of shares to employees, net of shares withheld for employee taxes	0.3	—	(3)	—	—	—	(3)
December 31, 2022	49.9	$ 1	$ 2,192	$ —	$ 93	$ (21)	$ 2,265

See Notes to Consolidated Financial Statements

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BREAD FINANCIAL HOLDINGS, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS

(Millions)	Years Ended December 31, 2022	2021	2020
CASH FLOWS FROM OPERATING ACTIVITIES			
Net income	$ 223	$ 801	$ 214
Adjustments to reconcile net income to net cash provided by operating activities			
Provision for credit losses	1,594	544	1,266
Depreciation and amortization	113	123	184
Deferred income taxes	(245)	(15)	(223)
Non-cash stock compensation	33	29	21
Amortization of deferred financing costs	24	31	36
Amortization of deferred origination costs	86	75	74
Asset impairment charges	—	—	64
Other	67	(4)	(36)
Change in other operating assets and liabilities, net of acquisitions and dispositions			
Change in other assets	(134)	(30)	210
Change in other liabilities	87	(11)	73
Net cash provided by operating activities	1,848	1,543	1,883
CASH FLOWS FROM INVESTING ACTIVITIES			
Change in credit card and other loans	(3,222)	(1,805)	1,784
Change in redemption settlement assets	—	(113)	(41)
Payments for acquired businesses, net of cash and restricted cash	—	(75)	(267)
Proceeds from sale of credit card loan portfolios	—	512	289
Purchase of credit card loan portfolios	(1,804)	(110)	—
Capital expenditures	(68)	(84)	(54)
Purchases of investment securities	(43)	(93)	(40)
Maturities of investment securities	30	73	77
Other	(4)	4	26
Net cash (used in) provided by investing activities	(5,111)	(1,691)	1,774
CASH FLOWS FROM FINANCING ACTIVITIES			
Unsecured borrowings under debt agreements	218	38	1,276
Repayments/maturities of unsecured borrowings under debt agreements	(319)	(864)	(1,320)
Debt issued by consolidated variable interest entities	4,248	4,278	2,419
Repayments/maturities of debt issued by consolidated variable interest entities	(3,587)	(4,538)	(4,096)
Net increase (decrease) in deposits	2,778	1,228	(2,370)
Debt proceeds from spinoff of Loyalty Ventures Inc.	—	652	—
Transfers to Loyalty Ventures Inc. related to spinoff	—	(127)	—
Payment of deferred financing costs	(13)	(13)	(19)
Dividends paid	(43)	(42)	(61)
Other	(15)	(4)	4
Net cash provided by (used in) financing activities	3,267	608	(4,167)
Effect of foreign currency exchange rates on cash, cash equivalents and restricted cash	—	—	15
Change in cash, cash equivalents and restricted cash	4	460	(495)
Cash, cash equivalents and restricted cash at beginning of period	3,923	3,463	3,958
Cash, cash equivalents and restricted cash at end of period	$ 3,927	$ 3,923	$ 3,463
SUPPLEMENTAL CASH FLOW INFORMATION			
Cash paid during the year for interest	$ 466	$ 357	$ 488
Cash paid during the year for income taxes, net	$ 338	$ 325	$ 268

The Consolidated Statements of Cash Flows are presented with the combined cash flows from continuing and discontinued operations.
See Notes to Consolidated Financial Statements.

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BREAD FINANCIAL HOLDINGS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

1. DESCRIPTION OF BUSINESS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

DESCRIPTION OF THE BUSINESS

Bread Financial Holdings, Inc. (BFH) or, including its consolidated subsidiaries and variable interest entities (VIEs), the Company) is a tech-forward financial services company that provides simple, personalized payment, lending and saving solutions. The Company creates opportunities for its customers and partners through digitally enabled choices that offer ease, empowerment, financial flexibility and exceptional customer experiences. Driven by a digital-first approach, data insights and white-label technology, the Company delivers growth for its partners through a comprehensive product suite, including private label and co-brand credit cards and buy now, pay later products such as installment loans and “split-pay” offerings. The Company also offers direct-to-consumer solutions that give customers more access, choice and freedom through its branded Bread Cashback™ American Express® Credit Card and Bread Savings™ products.

Effective March 23, 2022, Alliance Data Systems Corporation was renamed Bread Financial Holdings, Inc., and on April 4, 2022, the Company changed its New York Stock Exchange ticker from “ADS” to “BFH”. Neither the name change nor the ticker change affected the Company’s legal entity structure, nor did either change have an impact on its Consolidated Financial Statements.

The Consolidated Financial Statements have been prepared in accordance with accounting principles generally accepted in the United States of America (GAAP). For purposes of comparability, certain prior period amounts have been reclassified to conform to the current year presentation, in particular, as a result of the spinoff of its LoyaltyOne segment and its classification as discontinued operations, the Company has adjusted the presentation of its Consolidated Financial Statements from its historical approach under Securities and Exchange Commission (SEC) Regulation S-X Article 5, which is broadly applicable to all “commercial and industrial companies”, to Article 9, which is applicable to “bank holding companies” (BHCs). While neither the Company nor any of its subsidiaries are considered a “bank” within the meaning of the Bank Holding Company Act, the changes from the historical presentation, to the BHC presentation, the most significant of which reflect a reclassification of Interest expense within Net interest income, are intended to reflect the Company’s operations going forward and better align the Company with its peers for comparability purposes. For a discussion of the prior period reclassifications, please refer to Note 22, “Discontinued Operations and Bank Holding Company Presentation” in our Annual Report on Form 10-K for the year ended December 31, 2021. As noted above, the Company’s Consolidated Financial Statements have been presented with its LoyaltyOne segment as discontinued operations, see Note 22, “Discontinued Operations”, for more information.

SIGNIFICANT ACCOUNTING POLICIES

The Company presents its accounting policies within the Notes to the Consolidated Financial Statements to which they relate; the table below lists such accounting policies and the related Notes. The remaining significant accounting policies applied by the Company are included following the table.

Significant Accounting Policy	Note Number	Note Title
Credit Card and Other Loans	Note 2	Credit Card and Other Loans
Allowance for Credit Losses	Note 3	Allowance for Credit Losses
Transfers of Financial Assets	Note 4	Securitizations
Investment Securities	Note 5	Investment Securities
Property and Equipment	Note 6	Property and Equipment, Net
Goodwill	Note 7	Goodwill and Intangible Assets, Net
Intangible Assets, Net	Note 7	Goodwill and Intangible Assets, Net
Leases	Note 9	Leases
Stock Compensation Expense	Note 18	Stockholders' Equity
Income Taxes	Note 19	Income Taxes
Earnings Per Share	Note 20	Earnings Per Share

BREAD FINANCIAL HOLDINGS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (CONTINUED)

Principles of Consolidation

The accompanying consolidated financial statements include the accounts of BFH and all subsidiaries in which the Company has a controlling financial interest. For voting interest entities, a controlling financial interest is determined when the Company is able to exercise control over the operating and financial decisions of the investee. For variable interest entities (VIEs), which are themselves determined based on the amount and characteristics of the equity in the entity, the Company has a controlling financial interest when it is determined to be the primary beneficiary. The primary beneficiary is the party having both the power to exercise control over the activities that most significantly impact the VIE's financial performance, as well as the obligation to absorb the losses of, or the right to receive the benefits from, the VIE that could potentially be significant to that VIE. The Company is the primary beneficiary of its securitization trusts (the Trusts) and therefore consolidates these Trusts within its Consolidated Financial Statements.

In cases where the Company does not have a controlling financial interest, but is able to exert significant influence over the operating and financial decisions of the entity, the Company accounts for such investments under the equity method.

All intercompany transactions have been eliminated.

Currency Translation

The Company's monetary assets and liabilities denominated in foreign currencies, for example those of subsidiaries outside of the United States of America (U.S.), are translated into U.S. dollars based on the rates of exchange in effect at the end of the reporting period, while non-monetary assets and liabilities are translated based on the rates of exchange in effect as of the date of the transaction giving rise to the asset or liability. Income and expense items are translated at the average exchange rates prevailing during the period. The resulting effects, along with any related hedge or tax impacts, are recorded in Accumulated other comprehensive loss, a component of stockholders' equity. Translation adjustments, along with the related hedge and tax impacts, are recognized in the Consolidated Statements of Income upon the sale or substantial liquidation of an investment in a foreign subsidiary. Gains and losses resulting from transactions in currencies other than the entity's functional currency are recognized in Other non-interest expenses in the Consolidated Statements of Income, and were insignificant for each of the periods presented. Historically, the Company's impacts from foreign currency exchange rate fluctuations were most prevalent within businesses that have been spun off, such as LoyaltyOne.

Amounts Based on Estimates and Judgments

The preparation of financial statements in conformity with GAAP requires management to make estimates and judgments about future events that affect the reported amounts of assets and liabilities, and disclosure of contingent assets and liabilities at the date of the Consolidated Financial Statements, as well as the reported amounts of income and expenses during the reporting periods. The most significant of those estimates and judgments relate to the Company's Allowance for credit losses and Provision for income taxes; actual results could differ.

Revenue Recognition

The Company's primary source of revenue is from Interest and fees on loans from its various credit card and other loan products, and to a lesser extent from contractual relationships with its brand partners. The following describes the Company's recognition policies across its various sources of revenue.

Interest and fees on loans: Represent revenue earned on customer accounts owned by the Company, and is recognized in the period earned in accordance with the contractual provisions of the credit agreements. Interest and fees continue to accrue on all accounts, except in limited circumstances, until the account balance and all related interest and fees are paid or charged-off, in the month during which an account becomes 180 days past due for credit card loans or 120 days past due for other loans, which are buy now, pay later products such as installment loans and the Company's "split-pay" offerings (BNPL) loans. Charge-offs for unpaid interest and fees, as well as any adjustments to the allowance associated with unpaid interest and fees, are recorded as a reduction of Interest and fees on loans. Direct loan origination costs on Credit card and other loans are deferred and amortized on a straight-line basis over a one-year period for credit card loans, or for BNPL loans over the life of the loan, and are recorded as a reduction to Interest and fees on loans. As of December 31, 2022 and 2021, the remaining unamortized deferred direct loan origination costs were $46 million and $48 million, respectively, and included in Total credit card and other loans.

Interest on cash and investment securities: Represents revenue earned on cash and cash equivalents as well as investments in debt and equity securities, and is recognized in the period earned.

Interchange revenue, net of retailer share arrangements: Represents revenue earned from merchants, including our brand partners, and cardholders from processing and servicing accounts, and is recognized as such services are performed. Revenue earned from merchants, including our brand partners, primarily consists of merchant and interchange fees, which are transaction fees charged to the merchant for the processing of credit card transactions and are recognized at the time the cardholder transaction occurs. Our credit card program agreements may also provide for royalty payments to our brand partners based on purchased volume or if certain contractual incentives are met, such as if the economic performance of the program exceeds a contractually defined threshold, or for payments for new accounts. These amounts are recorded as a reduction of revenue in the period incurred.

Other non-interest income: Represents ancillary revenues earned from cardholders, consisting primarily of monthly fees from the purchase of certain payment protection products which are recognized based on the average cardholder account balance over time and can be cancelled at any point by the cardholder, as well as gains or losses on the sales of loan portfolios, and income or losses from equity method investments.

Contract Costs: The Company recognizes as an asset contract costs, such as up-front payments pursuant to contractual agreements with brand partners. Such costs are deferred and recognized on a straight-line basis over the term of the related agreement. Depending on the nature of the contract costs, the amortization is recorded as a reduction to Non-interest income, or as a charge to Non-interest expenses, in the Company's Consolidated Statements of Income. Amortization of contract costs recorded as a reduction of Interchange revenue, net of retailer share arrangements was $72 million, $64 million and $65 million for the years ended December 31, 2022, 2021 and 2020, respectively; amortization of contract costs recorded in Non-interest expenses totaled $12 million, $11 million and $12 million for the years ended December 31, 2022, 2021 and 2020, respectively. As of December 31, 2022 and 2021, the remaining unamortized contract costs were $344 million and $364 million, respectively, and are included in Other assets on the Consolidated Balance Sheets.

The Company performs an impairment assessment when events or changes in circumstances indicate that the carrying amount of contract costs may not be recoverable. For the year ended December 31, 2020, due to the COVID-19 pandemic and resulting retail store closures and significant declines in credit sales, the Company recognized an impairment charge of $38 million in Non-interest expenses in its Consolidated Statement of Income. No impairment charges were recognized in either of the years ended December 31, 2022 or 2021.

Cash and Cash Equivalents

Cash and cash equivalents include cash and due from banks, interest-bearing cash balances such as those invested in money market funds, as well as other highly liquid short-term investments with an original maturity of three months or less, and restricted cash. As of December 31, 2022 and 2021, cash and due from banks was $288 million and $251 million, respectively, interest-bearing cash balances were $3.5 billion and $2.7 billion, respectively, and short-term investments were $130 million and $80 million, respectively.

Restricted cash primarily represents cash restricted for principal and interest repayments of debt issued by consolidated VIEs, and is recorded in Other assets on the Consolidated Balance Sheets. Restricted cash totaled $36 million and $877 million as of December 31, 2022 and 2021, respectively.

Derivative Financial Instruments

From time to time, the Company uses derivative financial instruments to manage its exposure to various financial risks; the Company does not trade or speculate in derivative financial instruments. Subject to the criteria set forth in GAAP, the Company will either designate its derivative financial instruments in hedging relationships, or as economic hedges should the criteria in GAAP not be met.

The Company's derivative financial instruments were insignificant to the Consolidated Financial Statements for the periods presented.

BREAD FINANCIAL HOLDINGS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (CONTINUED)

CONCENTRATIONS

The Company depends on a limited number of large partner relationships for a significant portion of its revenue. As of and for the year ended December 31, 2022, the Company's five largest credit card programs accounted for approximately 47% of its Total net interest and non-interest income and 41% of its End-of-period credit card and other loans. In particular, the Company's programs with (alphabetically) Ulta Beauty and Victoria's Secret & Co. and its retail affiliates each accounted for more than 10% of its Total net interest and non-interest income for the year ended December 31, 2022. A decrease in business from, or the loss of, any of the Company's significant partners for any reason, could have a material adverse effect on its business. The Company previously announced the non-renewal of its contract with BJ's Wholesale Club (BJ's) and the sale of the BJ's portfolio, which closed in late February 2023. For the year ended December 31, 2022, BJ's branded co-brand accounts generated approximately 10% of the Company's Total net interest and non-interest income. As of December 31, 2022, BJ's branded co-brand accounts were responsible for approximately 11% of the Company's Total credit card and other loans.

RECENTLY ISSUED ACCOUNTING STANDARDS

In March 2022, the Financial Accounting Standards Board issued new accounting and disclosure guidance for troubled debt restructurings effective January 1, 2023, with early adoption permitted. Specifically, the new guidance eliminates the previous recognition and measurement guidance for troubled debt restructurings while enhancing the disclosure requirements for certain loan modifications, including requiring disclosure of gross principal losses by year of loan origination. Effective January 1, 2023, the Company adopted the guidance, with no significant impact on its financial position, results of operations and regulatory risk-based capital, or anticipated impacts on its operational processes, controls and governance in support of the new guidance.

2. CREDIT CARD AND OTHER LOANS

The Company's payment and lending solutions result in the generation of credit card and other loans, which are recorded at the time a borrower enters into a point-of-sale transaction with a merchant. Credit card loans represent revolving amounts due and have a range of terms that include credit limits, interest rates and fees, which can be revised over time based on new information about the cardholder, in accordance with applicable regulations and the governing terms and conditions. Cardholders choosing to make a payment of less than the full balance due, instead of paying in full, are subject to finance charges and are required to make monthly payments based on pre-established amounts. Other loans, which again are BNPL products such as installment loans and the Company's "split-pay" offerings, have a range of fixed terms such as interest rates, fees and repayment periods, and borrowers are required to make pre-established monthly payments over the term of the loan in accordance with the applicable terms and conditions. Credit card and other loans are presented on the Consolidated Balance Sheets net of the Allowance for credit losses, and include principal and any related accrued interest and fees. The Company continues to accrue interest and fee income on all accounts, except in limited circumstances, until the related balance and all related interest and fees are paid or charged-off; an Allowance for credit losses is established for uncollectable interest and fees.

Primarily, the Company classifies its Credit card and other loans as held for investment. The Company sells a majority of its credit card loans originated by Comenity Bank (CB) and by Comenity Capital Bank (CCB), which together are referred to herein as the "Banks", to the Trusts, which are themselves consolidated VIEs, and therefore these loans are restricted for securitization investors. All new originations of Credit card and other loans are determined to be held for investment at origination because the Company has the intent and ability to hold them for the foreseeable future. In determining what constitutes the foreseeable future, the Company considers the average life and homogenous nature of its Credit card and other loans. In assessing whether its Credit card and other loans continue to be held for investment, the Company also considers capital levels and scheduled maturities of funding instruments used. The assertion regarding the intent and ability to hold Credit card and other loans for the foreseeable future can be made with a high degree of certainty given the maturity distribution of the Company's direct-to-consumer deposits and other funding instruments; the demonstrated ability to replace maturing time-based deposits and other borrowings with new deposits or borrowings; and historic payment activity on its Credit card and other loans. Due to the homogenous nature of the Company's credit card loans, amounts are classified as held for investment on a brand partner portfolio basis. From time to time certain Credit card loans are classified as held for sale, as determined on a brand partner basis. The Company carries these assets at the lower of aggregate cost or fair value, and continues to recognize finance charges on an accrual basis. Cash flows associated with Credit card and other loans originated or purchased for investment are classified as Cash flows from investing activities, regardless of any subsequent change in intent and ability.

BREAD FINANCIAL HOLDINGS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (CONTINUED)

The Company's Credit card and other loans were as follows, as of December 31:

(Millions)	2022	2021
Credit card loans	$ 21,065	$ 17,217
Installment or other loans	300	182
Total credit card and other loans [1][2]	21,365	17,399
Less: Allowance for credit losses	(2,464)	(1,832)
Credit card and other loans, net	$ 18,901	$ 15,567

(1) Includes $15.4 billion and $11.2 billion of Credit card and other loans available to settle obligations of consolidated VIEs as of December 31, 2022 and 2021, respectively.

(2) Includes $307 million and $224 million, of accrued interest and fees that have not yet been billed to cardholders as of December 31, 2022 and 2021, respectively.

Credit Card and Other Loans Aging

An account is contractually delinquent if the Company does not receive the minimum payment due by the specified due date. The Company's policy is to continue to accrue interest and fee income on all accounts, except in limited circumstances, until the balance and all related interest and fees are paid or charged-off. After an account becomes 30 days past due, a proprietary collection scoring algorithm automatically scores the risk of the account becoming further delinquent; based upon the level of risk indicated, a collection strategy is deployed. If after exhausting all in-house collection efforts the Company is unable to collect on the account, it may engage collection agencies or outside attorneys to continue those efforts, or sell the charged-off balances.

The following table presents the delinquency trends on the Company's Credit card and other loans portfolio based on the amortized cost:

	Aging Analysis of Delinquent Amortized Cost Credit Card and Other Loans [1]					
(Millions)	31 to 60 days delinquent	61 to 90 days delinquent	91 or more days delinquent	Total delinquent	Current	Total
As of December 31, 2022	$ 444	$ 296	$ 732	$ 1,472	$ 19,559	$ 21,031
As of December 31, 2021	$ 262	$ 186	$ 401	$ 849	$ 16,284	$ 17,133

(1) BNPL loan delinquencies have been included with credit card loan delinquencies in the table above, as amounts were insignificant as of each period presented. As permitted by GAAP, the Company excludes unbilled finance charges and fees from its amortized cost basis of Credit card and other loans. As of December 31, 2022 and 2021, again, accrued interest and fees that have not yet been billed to cardholders were $307 million and $224 million, respectively, included in Credit card and other loans on the Consolidated Balance Sheets.

From time to time the Company may re-age cardholders' accounts, which is intended to assist delinquent cardholders who have experienced financial difficulties but who demonstrate both an ability and willingness to repay the amounts due; this practice affects credit card loan delinquencies and principal losses. Accounts meeting specific defined criteria are re-aged when the cardholder makes one or more consecutive payments aggregating to a certain pre-defined amount of their account balance. Upon re-aging, the outstanding balance of a delinquent account is returned to Current status. For the years ended December 31, 2022, 2021 and 2020, the Company's re-aged accounts as a percentage of total Credit card and other loans represented 1.4%, 1.7% and 2.8%, respectively. The Company's re-aging practices comply with regulatory guidelines.

Net Principal Losses

The Company's net principal losses include the principal amount of losses that are deemed uncollectible, less recoveries, and exclude charged-off interest, fees and third-party fraud losses (including synthetic fraud). Charged-off interest and fees reduce Interest and fees on loans, while third-party fraud losses (including synthetic fraud) are recorded in Card and processing expenses. Credit card loans, including unpaid interest and fees, are generally charged-off in the month during which an account becomes 180 days past due. BNPL loans, including unpaid interest, are generally charged-off when a loan becomes 120 days past due. However, in the case of a customer bankruptcy or death, Credit card and other loans, including unpaid interest and fees as applicable, are charged-off in each month subsequent to 60 days after the receipt of notification of the bankruptcy or death, but in any case not later than 180 days past due for credit card loans and 120 days past due for BNPL loans. The Company records the actual losses for unpaid interest and fees as a reduction to Interest and fees on loans, which were $651 million, $456 million and $717 million for the years ended December 31, 2022, 2021 and 2020, respectively.

Modified Credit Card Loans

Forbearance Programs

As part of the Company's collections strategy, the Company may offer temporary, short term (six-months or less) forbearance programs in order to improve the likelihood of collections and meet the needs of the Company's customers. The Company's modifications for customers who have requested assistance and meet certain qualifying requirements, come in the form of reduced or deferred payment requirements, interest rate reductions and late fee waivers. The Company does not offer programs involving the forgiveness of principal. These temporary loan modifications may assist in cases where the Company believes the customer will recover from the short-term hardship and resume scheduled payments. Under these forbearance modification programs, those accounts receiving relief may not advance to the next delinquency cycle, including to charge-off, in the same time frame that would have occurred had the relief not been granted. The Company evaluates its forbearance modification programs to determine if they represent a more than insignificant delay in payment, in which case they would then be considered a troubled debt restructuring (TDR). Loans in these short term programs that are determined to be TDR's, will be included as such in the disclosures below.

Credit Card Loans Modified as TDRs

The Company considers impaired loans to be loans for which it is probable that it will be unable to collect all amounts due according to the original contractual terms of the cardholder agreement, including credit card loans modified as TDRs. In instances where cardholders are experiencing financial difficulty, the Company may modify its credit card loans with the intention of minimizing losses and improving collectability, while providing cardholders with financial relief; such credit card loans are classified as TDRs, exclusive of the forbearance programs described above. Modifications, including for temporary hardship and permanent workout programs, include concessions consisting primarily of a reduced minimum payment, late fee waiver, and an interest rate reduction. The temporary programs' concessions remain in place for a period no longer than twelve months, while the permanent programs remain in place through the payoff of the credit card loans if the cardholder complies with the terms of the program.

TDR concessions do not include the forgiveness of unpaid principal, but may involve the reversal of certain unpaid interest or fee assessments, and the cardholder's ability to make future purchases is either limited, or suspended until the cardholder successfully exits from the modification program. In accordance with the terms of the Company's temporary hardship and permanent workout programs, the credit agreement reverts back to its original contractual terms (including the contractual interest rate) when the customer exits the program, which is either when all payments have been made in accordance with the program, or when the customer defaults out of the program.

TDRs are collectively evaluated for impairment on a pooled basis in measuring the appropriate Allowance for credit losses. The Company's impaired credit card loans represented 1% and 2% of total credit card loans for year ended December 31, 2022 and 2021, respectively. As of those same dates, the Company's recorded investment in impaired credit card loans was $257 million and $281 million, respectively, with an associated Allowance for credit losses of $70 million and $81 million, respectively. The average recorded investment in impaired credit card loans was $257 million and $383 million for the year ended December 31, 2022 and 2021, respectively.

BREAD FINANCIAL HOLDINGS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (CONTINUED)

Interest income on these impaired credit card loans is accounted for in the same manner as non-impaired credit card loans, and cash collections are allocated according to the same payment hierarchy methodology applied for credit card loans not in modification programs. The Company recognized $15 million, $26 million and $30 million for the year ended December 31, 2022, 2021 and 2020, respectively, in interest income associated with credit card loans in modification programs, during the period that such loans were impaired.

The following table provides additional information regarding credit card loans modified as TDRs for the years ended December 31:

	2022			2021		
(Millions, except for Number of restructurings)	**Number of Restructurings**	**Pre-modification Outstanding Balance**	**Post-modification Outstanding Balance**	**Number of Restructurings**	**Pre-modification Outstanding Balance**	**Post-modification Outstanding Balance**
Troubled debt restructurings	149,815	$ 227	$ 227	171,993	$ 254	$ 254

The following table provides additional information regarding credit card loans modified as TDRs that have subsequently defaulted within 12 months of their modification dates for the years ended December 31; the probability of default is factored into the Allowance for credit losses:

	2022		2021	
(Millions, except for Number of restructurings)	**Number of Restructurings**	**Outstanding Balance**	**Number of Restructurings**	**Outstanding Balance**
Troubled debt restructurings that subsequently defaulted	63,726	$ 88	114,531	$ 154

Credit Quality

Credit Card Loans

As part of the Company's credit risk management activities, the Company assesses overall credit quality by reviewing information related to the performance of a credit cardholder's account, as well as information from credit bureaus relating to the cardholder's broader credit performance. The Company utilizes VantageScore (Vantage) credit scores to assist in its assessment of credit quality. Vantage credit scores are obtained at origination of the account and are refreshed monthly thereafter to assist in predicting customer behavior. The Company categorizes these Vantage credit scores into the following three credit score categories: (i) 661 or higher, which are considered the strongest credits and therefore have the lowest credit risk; (ii) 601 to 660, considered to have moderate credit risk; and (iii) 600 or less, which are considered weaker credits and therefore have the highest credit risk. In certain limited circumstances there are customer accounts for which a Vantage score is not available and the Company uses alternative sources to assess credit risk and predict behavior. The table below excludes 0.6% and 0.1% of the total credit card loans balance as of December 31, 2022 and 2021, respectively, representing those customer accounts for which a Vantage credit score is not available. The following table reflects the distribution of the Company's credit card loans by Vantage score as of December 31:

	Vantage					
	2022			2021		
	661 or Higher	**601 to 660**	**600 or Less**	**661 or Higher**	**601 to 660**	**600 or Less**
Credit card loans	62 %	26 %	12 %	62 %	26 %	12 %

BNPL Loans

The amortized cost basis of the Company's BNPL loans totaled $299 million and $182 million as of December 31, 2022 and 2021, respectively. As of December 31, 2022, approximately 86% of these loans were originated with customers with Fair Isaac Corporation (FICO) scores of 660 or above, and correspondingly approximately 14% of these loans were

originated with customers with FICO scores below 660. Similarly, as of December 31, 2021, approximately 84% and 16% of these loans were originated by customers with FICO scores of 660 or above, and below 660, respectively.

Unfunded Loan Commitments

The Company is active in originating private label and co-brand credit cards in the U.S. The Company manages potential credit risk in its unfunded lending commitments by reviewing each potential customer's credit application and evaluating the applicant's financial history and ability and perceived willingness to repay. Credit card loans are made primarily on an unsecured basis. Cardholders reside throughout the U.S. and are not significantly concentrated in any one geographic area.

The Company manages its potential risk in credit commitments by limiting the total amount of credit, both by individual customer and in total, by monitoring the size and maturity of its portfolios and applying consistent underwriting standards. The Company has the unilateral ability to cancel or reduce unused credit card lines at any time. Unused credit card lines available to cardholders totaled approximately $128 billion and $112 billion as of December 31, 2022 and 2021, respectively. While this amount represented the total available unused credit card lines, the Company has not experienced and does not anticipate that all cardholders will access their entire available line at any given point in time.

Portfolio Sales

In August 2021, the Company sold a credit card portfolio for cash consideration of approximately $512 million and recognized a gain of approximately $10 million on the transaction, which was recorded in Other non-interest income.

As of December 31, 2022 and December 31, 2021, there were no credit card loans held for sale and no portfolio sales were made during the year end December 31, 2022.

The Company previously announced the non-renewal of its contract with BJ's and the sale of the BJ's portfolio, which closed in late February 2023, for a total preliminary purchase price of approximately $2.5 billion on a loan portfolio of approximately $2.3 billion, subject to customary purchase price adjustments.

Portfolio Acquisitions

In April 2022, the Company acquired a credit card portfolio for cash consideration of approximately $249 million, which primarily consisted of credit card loans, and also included intangible assets (primarily purchased credit card relationships) and rewards liabilities. For Consolidated Financial Statement disclosure purposes, allocation of the purchase price to the credit card loans and intangible assets acquired is not significant.

In October 2022, the Company acquired the AAA credit card portfolio for cash consideration of approximately $1.6 billion, which primarily consisted of $1.5 billion of credit card loans, and also included $118 million of intangible assets (primarily purchased credit card relationships) and reward liabilities, and is subject to customary purchase price adjustments.

3. ALLOWANCE FOR CREDIT LOSSES

The Allowance for credit losses is an estimate of expected credit losses, measured over the estimated life of its Credit card and other loans that considers forecasts of future economic conditions in addition to information about past events and current conditions. The estimate under the credit reserving methodology referred to as the Current Expected Credit Loss (CECL) model is significantly influenced by the composition, characteristics and quality of the Company's portfolio of credit card and other loans, as well as the prevailing economic conditions and forecasts utilized. The estimate of the Allowance for credit losses includes an estimate for uncollectible principal as well as unpaid interest and fees. Principal losses, net of recoveries are deducted from the Allowance. Principal losses for unpaid interest and fees as well as any adjustments to the Allowance associated with unpaid interest and fees are recorded as a reduction to Interest and fees on loans. The Allowance is maintained through an adjustment to the Provision for credit losses and is evaluated for appropriateness.

In estimating its Allowance for credit losses, for each identified group, management utilizes various models and estimation techniques based on historical loss experience, current conditions, reasonable and supportable forecasts and other relevant factors. These models

utilize historical data and applicable macroeconomic variables with statistical analysis and

behavioral relationships, to determine expected credit performance. The Company's quantitative estimate of expected credit losses under CECL is impacted by certain forecasted economic factors. The Company considers the forecast used to be reasonable and supportable over the estimated life of the credit card and other loans, with no reversion period. In addition to the quantitative estimate of expected credit losses, the Company also incorporates qualitative adjustments for certain factors such as Company-specific risks, changes in current economic conditions that may not be captured in the quantitatively derived results, or other relevant factors to ensure the Allowance for credit losses reflects the Company's best estimate of current expected credit losses.

Credit Card Loans

The Company uses a "pooled" approach to estimate expected credit losses for financial assets with similar risk characteristics. The Company has evaluated multiple risk characteristics across its credit card loans portfolio, and determined delinquency status and credit quality to be the most significant characteristics for estimating expected credit losses. To estimate its Allowance for credit losses, the Company segments its credit card loans on the basis of delinquency status, credit quality risk score and product. These risk characteristics are evaluated on at least an annual basis, or more frequently as facts and circumstances warrant. In determining the estimated life of the Company's credit card loans, payments were applied to the measurement date balance with no payments allocated to future purchase activity. The Company uses a combination of First In First Out and the Credit Card Accountability, Responsibility, and Disclosure Act of 2009 (CARD Act) methodologies to model balance paydown.

BNPL Loans

The Company measures its Allowance for credit losses on BNPL loans using a statistical model to estimate projected losses over the remaining terms of the loans, inclusive of an assumption for prepayments. The model is based on the historical statistical relationship between loan loss performance and certain macroeconomic data pooled based on credit quality risk score, term of the underlying loans, vintage and geographic location. As of December 31, 2022 and 2021, the Allowance for credit losses on BNPL loans was $21 million and $14 million, respectively.

Allowance for Credit Losses Rollforward

The following table presents the Company's Allowance for credit losses for its Credit card and other loans. With the acquisition of Lon, Inc. in December 2020, the Company acquired certain BNPL loans which represented a separate portfolio segment; the amount of the related Allowance for credit losses was insignificant and therefore has been included in the table below. The amounts presented are for the years ended December 31:

(Millions)	2022	2021	2020
Beginning balance[1]	$ 1,832	$ 2,008	$ 1,815
Provision for credit losses[2]	1,594	544	1,266
Change in estimate for uncollectible unpaid interest and fees	10	—	10
Net principal losses[3]	(972)	(720)	(1,083)
Ending balance	$ 2,464	$ 1,832	$ 2,008

(1) The 2020 Beginning balance includes an increase of $644 million as of January 1, 2020, related to the adoption of the CECL methodology.
(2) Provision for credit losses includes a build/release for the Allowance, as well as replenishment of Net principal losses.
(3) Net principal losses are presented net of recoveries of $187 million, $163 million and $205 million for the years ended December 31, 2022, 2021 and 2020, respectively. Net principal losses for the year ended December 31, 2022 include a $5 million adjustment related to the effects of the purchase of previously written-off accounts that were sold to a third-party debt collection agency; no such adjustment was made in the comparative periods.

For the year ended December 31, 2022, the factors that influenced the increase in the Allowance for credit losses are a higher End-of-period credit card and other loan balance, a higher reserve rate due to economic scenario weightings in the

Company's credit reserve modeling as a result of weakening in macroeconomic indicators, elevated inflation, and the increased cost of overall consumer debt.

4. SECURITIZATIONS

The Company accounts for transfers of financial assets as either sales or financings. Transfers of financial assets that are accounted for as sales are removed from the Consolidated Balance Sheets with any realized gain or loss reflected in the Consolidated Statements of Income during the period in which the sale occurs. Transfers of financial assets that are not accounted for as a sale are treated as a financing.

The Company regularly securitizes the majority of its credit card loans through the transfer of those loans to one of its Trusts. The Company performs the decision making for the Trusts, as well as servicing the cardholder accounts that generate the credit card loans held by the Trusts. In its capacity as a servicer, the Company administers the loans, collects payments and charges-off uncollectible balances. Servicing fees are earned by a subsidiary of the Company, which are eliminated in consolidation.

The Trusts are consolidated VIEs because they have insufficient equity at risk to finance their activities – being the issuance of debt securities and notes, collateralized by the underlying credit card loans. Because the Company performs the decision making and servicing for the Trusts, it has the power to direct the activities that most significantly impact the Trusts' economic performance (the collection of the underlying credit card loans). In addition, the Company holds all of the variable interests in the Trusts, with the exception of the liabilities held by third-parties. These variable interests provide the Company with the right to receive benefits and the obligation to absorb losses, which could be significant to the Trusts. As a result of these considerations, the Company is deemed to be the primary beneficiary of the Trusts and therefore consolidates the Trusts.

The Trusts issue debt securities and notes, which are non-recourse to the Company. The collections on the securitized credit card loans held by the Trusts are available only for payment of those debt securities and notes, or other obligations arising in the securitization transactions. For its securitized credit card loans, during the initial phase of a securitization reinvestment period, the Company generally retains principal collections in exchange for the transfer of additional credit card loans into the securitized pool of assets. During the amortization or accumulation period of a securitization, the investors' share of principal collections (in certain cases, up to a maximum specified amount each month) is either distributed to the investors or held in an account until it accumulates to the total amount due, at which time it is paid to the investors in a lump sum.

The Company is required to maintain minimum interests in its Trusts ranging from 4% to 10% of the securitized credit card loans. This requirement is met through a transferor's interest and is supplemented through excess funding deposits which represent cash amounts deposited with the trustee of the securitizations. Cash collateral, restricted deposits are generally released proportionately as investors are repaid. Under the terms of the Trusts, the occurrence of certain triggering events associated with the performance of the securitized credit card loans in each Trust could result in certain required actions, including payment of Trust expenses, the establishment of reserve funds, or early amortization of the debt securities and/or notes, in a worst-case scenario. During the years ended December 31, 2022, 2021 and 2020, no such triggering events occurred.

The following tables provide the total securitized credit card loans and related delinquencies as of December 31, and net principal losses of securitized credit card loans for the years ended December 31:

(Millions)	2022	2021
Total credit card loans – available to settle obligations of consolidated VIEs	$ 15,383	$ 11,215
Of which: principal amount of credit card loans 91 days or more past due	$ 307	$ 159

(Millions)	2022	2021	2020
Net principal losses of securitized credit card loans	$ 554	$ 453	$ 756

BREAD FINANCIAL HOLDINGS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (CONTINUED)

5. INVESTMENT SECURITIES

The Company's investment securities consist of available-for-sale (AFS) securities, which are debt securities and mutual funds. The Company also holds equity securities within its investment securities portfolio. Collectively, these investments are carried at fair value on the Consolidated Balance Sheets within Investment securities.

For any AFS debt securities in an unrealized loss position, the CECL methodology requires estimation of the lifetime expected credit losses which then would be recognized in the Consolidated Statements of Income by establishing, or adjusting an existing allowance for those credit losses. The Company did not have any such credit losses for the periods presented. Any unrealized gains, or any portion of a security's non-credit-related unrealized losses are recorded in the Consolidated Statements of Comprehensive Income, net of tax. The Company typically invests in highly-rated securities with low probabilities of default.

Gains and losses on investments in equity securities are recorded in Other non-interest expenses in the Consolidated Statements of Income.

Realized gains and losses are recognized upon disposition of the investment securities, using the specific identification method. The table below reflects unrealized gains and losses as of December 31, 2022 and December 31, 2021, respectively:

	2022				2021			
(Millions)	Amortized Cost	Unrealized Gains	Unrealized Losses	Fair Value	Amortized Cost	Unrealized Gains	Unrealized Losses	Fair Value
Available-for-sale securities	$ 175	$ —	$ (23)	$ 152	$ 173	$ 4	$ (2)	$ 175
Equity securities	$ 69	$ —	$ —	$ 69	$ 64	$ —	$ —	$ 64
Total	$ 244	$ —	$ (23)	$ 221	$ 237	$ 4	$ (2)	$ 239

The following tables provide information about the Company's AFS debt securities with gross unrealized losses and the length of time that individual securities have been in a continuous unrealized loss position, as of December 31, 2022 and December 31, 2021, respectively:

	December 31, 2022					
	Less than 12 months		12 Months or Greater		Total	
(Millions)	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses
Available-for-sale securities	$ 95	$ (9)	$ 57	$ (14)	$ 152	$ (23)
Total	$ 95	$ (9)	$ 57	$ (14)	$ 152	$ (23)

	December 31, 2021					
	Less than 12 months		12 Months or Greater		Total	
(Millions)	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses
Available-for-sale securities	$ 57	$ (1)	$ 15	$ (1)	$ 72	$ (2)
Total	$ 57	$ (1)	$ 15	$ (1)	$ 72	$ (2)

As of December 31, 2022, the amortized cost and estimated fair value of the Company's AFS debt securities, which are mortgage-backed securities with no stated maturities, was $175 million and $152 million, respectively.

There were no realized gains or losses from the sale of any investment securities for the years ended December 31, 2022, 2021 and 2020.

BREAD FINANCIAL HOLDINGS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (CONTINUED)

6. PROPERTY AND EQUIPMENT, NET

Furniture, equipment, buildings and leasehold improvements are carried at cost less accumulated depreciation, and depreciation is measured on a straight-line basis. Costs incurred during construction are capitalized; depreciation begins once the asset is placed in service. As of December 31, 2022, the Company's furniture and equipment has remaining estimated useful lives ranging from less than one year to 10 years. Leasehold improvements are depreciated over the lesser of the remaining terms of the respective leases, or the economic lives of the improvements, and range from less than one year to 16 years, as of December 31, 2022.

Costs associated with the acquisition or development of internal-use software are also capitalized and recorded in Property and equipment, net. Once the internal-use software is ready for its intended use, the cost is amortized on a straight-line basis over the software's estimated useful life. As of December 31, 2022, the Company's internal-use software has remaining estimated useful lives ranging from less than one year to 10 years.

The Company reviews long-lived assets and asset groups for impairment whenever events or circumstances indicate their carrying amounts may not be recoverable. An impairment is recognized if the carrying amount is not recoverable and exceeds the asset or asset group's fair value.

Property and equipment consists of the following as of December 31:

(Millions)	2022	2021
Internal-use computer software and development	$ 305	$ 263
Furniture and equipment	96	107
Land and leasehold improvements	72	76
Construction in progress	9	25
Total	482	471
Accumulated depreciation and amortization	(287)	(256)
Property and equipment	$ 195	$ 215

Depreciation expense totaled $19 million, $26 million and $57 million for the years ended December 31, 2022, 2021 and 2020, respectively, and includes purchased software. Amortization expense on capitalized internal-use software costs totaled $68 million, $37 million and $15 million for the years ended December 31, 2022, 2021 and 2020, respectively.

As of December 31, 2022 and 2021, the net amount of unamortized capitalized internal-use software costs included in Property and equipment, net on the Consolidated Balance Sheets was $112 million and $113 million, respectively.

7. GOODWILL AND INTANGIBLE ASSETS, NET

Goodwill

Goodwill is reviewed at least annually for impairment, or more frequently if circumstances indicate that an impairment is probable, using qualitative or quantitative analysis. No goodwill impairment has been recognized during any of the years ended December 31, 2022, 2021, or 2020.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (CONTINUED)

The changes in the carrying amount of goodwill for the years ended December 31, 2022 and 2021, respectively, were as follows:

(Millions)	
Balance as of December 31, 2020	$ 634
Goodwill acquired during the period	—
Balance as of December 31, 2021	$ 634
Goodwill acquired during the period	—
Balance as of December 31, 2022	$ 634

There were no accumulated goodwill impairment losses as of both December 31, 2022 and 2021.

Intangible Assets, net

The Company's identifiable intangible assets consist of both amortizable and non-amortizable intangible assets. Definite-lived intangible assets are subject to amortization and are amortized on a straight-line basis over their estimated useful lives; indefinite-lived intangible assets are not amortized. The Company reviews long-lived assets and asset groups, including intangible assets, for impairment whenever events and circumstances indicate their carrying amounts may not be recoverable; recognizing an impairment if the carrying amount is not recoverable and exceeds the fair value of the asset or asset group. No impairment of intangible assets has been recognized during any of the years ended December 31, 2022, 2021, or 2020.

Intangible assets consist of the following as of December 31:

	2022			
(Millions)	Gross Assets	Accumulated Amortization	Net	Useful Life
Definite-Lived Assets				
Customer contracts and lists	$ 9	$ (6)	$ 3	3 years
Premium on purchased credit card loan portfolios	$ 230	$ (73)	$ 157	4-13 years
Non-compete agreements	$ 2	$ (1)	$ 1	5 years
	$ 241	$ (80)	$ 161	
Indefinite-Lived Assets				
Tradename	$ 4	$ —	$ 4	Indefinite life
Total intangible assets	$ 245	$ (80)	$ 165	

	2021			
(Millions)	Gross Assets	Accumulated Amortization	Net	Useful Life
Definite-Lived Assets				
Customer contracts and lists	$ 9	$ (3)	$ 6	3 years
Premium on purchased credit card loan portfolios	133	(89)	44	1-13 years
Non-compete agreements	2	—	2	5 years
	$ 144	$ (92)	$ 52	
Indefinite-Lived Assets				
Tradename	1	—	1	Indefinite life
Total intangible assets	$ 145	$ (92)	$ 53	

BREAD FINANCIAL HOLDINGS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (CONTINUED)

Amortization expense related to intangible assets was approximately $26 million, $29 million and $34 million for the years ended December 31, 2022, 2021 and 2020, 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:

(Millions)	
2023	41
2024	37
2025	29
2026	24
2027	8
Thereafter	22
	161

8. OTHER ASSETS

The following is a summary of Other assets as of December 31:

(Millions)	**2022**	**2021**
Deferred tax asset, net	$ 552	$ 302
Deferred contract costs	344	364
Accounts receivable, net [(1)]	164	151
Right-of-use assets - operating	88	97
Restricted cash [(2)]	36	877
Investment in Loyalty Ventures Inc. (LVI)	6	50
Other [(3)]	210	151
Total other assets	$ 1,400	$ 1,992

(1) Primarily related to federal, state and foreign income tax receivables (including a tax-related receivable in the amount of $49 million, net, which the Company is entitled to receive through LVI), and amounts receivable from various brand partners.

(2) The balance as of December 31, 2021 represents principal accumulation for the repayment of debt issued by consolidated VIEs that matured in 2022.

(3) Primarily comprised of prepaid expenses and non-income-based tax receivables.

9. LEASES

The Company has various operating leases for facilities and equipment which are recorded as lease-related assets (right-of-use assets) and liabilities for those leases with terms greater than 12 months. The Company does not have any finance leases. The Company determines if an arrangement is a lease or contains a lease at inception, and does not separate lease and non-lease components. Right-of-use assets are recognized as of the lease commencement date at amounts equal to the respective lease liabilities, adjusted for any prepaid lease payments, initial direct costs and lease incentives. The Company's lease liabilities are recognized as of the lease commencement date, or upon modification of the lease, at the present value of the contractual fixed lease payments, discounted using the Company's incremental borrowing rate as the rate implicit in the lease is typically not readily determinable. Operating lease expense is recognized on a straight-line basis over the lease term, while variable lease payments are expensed as incurred.

As of both December 31, 2022 and 2021, the weighted average discount rate applied by the Company was 5.8%. As of December 31, 2022, the Company's leases have remaining lease terms ranging from less than one year, up to 16 years, some of which may include renewal options, while the weighted average remaining lease term was 8.8 years and 9.8 years

BREAD FINANCIAL HOLDINGS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (CONTINUED)

as of December 31, 2022 and 2021, respectively. Leases with an initial term of 12 months or less are not recognized on the Consolidated Balance Sheets; lease expense for these leases is recognized on a straight-line basis over the lease term. As with other long-lived assets, right-of-use assets are reviewed for impairment whenever events and circumstances indicate their carrying amounts may not be recoverable.

The components of lease expense were as follows for the years ended December 31:

(Millions)	2022	2021	2020
Operating lease cost	$ 17	$ 23	$ 25
Short-term lease cost	—	—	1
Variable lease cost	3	2	2
Sublease income	(7)	(5)	(1)
Total	$ 13	$ 20	$ 27

Supplemental lease-related cash flow information was as follows for the years ended December 31:

(Millions)	2022	2021	2020
Cash paid for amounts included in the measurement of lease liabilities:			
Operating cash flows from operating leases	$ 23	$ 25	$ 28
Right-of-use assets obtained in exchange for lease obligations:			
Operating leases	$ —	$ 5	$ 1

Future, maturities of the Company's lease liabilities, by year, were as follows as of December 31, 2022:

(Millions)	
2023	$ 19
2024	20
2025	19
2026	18
2027	16
Thereafter	70
Total undiscounted lease liabilities	162
Less: Amount representing interest	(36)
Total present value of minimum lease payments	$ 126

BREAD FINANCIAL HOLDINGS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (CONTINUED)

10. DEPOSITS

Deposits were categorized as interest-bearing or non-interest-bearing as follows, as of December 31:

(Millions)	2022	2021
Interest-bearing	$ 13,787	$ 11,027
Non-interest-bearing (including cardholder credit balances)	39	—
Total deposits	$ 13,826	$ 11,027

Deposits by deposit type were as follows as of December 31:

(Millions)	2022	2021
Savings accounts		
Direct-to-consumer (retail)	$ 2,782	$ 1,713
Wholesale	3,954	3,873
Certificates of deposit		
Direct-to-consumer (retail)	2,684	1,467
Wholesale	4,367	3,974
Cardholder credit balances	39	—
Total deposits	$ 13,826	$ 11,027

The scheduled maturities of certificates of deposit were as follows as of December 31, 2022:

(Millions)	
2023[1]	$ 4,437
2024	1,333
2025	482
2026	234
2027	565
Thereafter	—
Total certificates of deposit	$ 7,051

(1) The 2023 balance includes $9 million in unamortized debt issuance costs, which are associated with the entire portfolio of certificates of deposit.

As of December 31, 2022 and December 31, 2021, certificates of deposit that exceeded applicable FDIC insurance limits, which are generally $250,000 or more, in the aggregate, were $822 million and $500 million, respectively.

BREAD FINANCIAL HOLDINGS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (CONTINUED)

11. BORROWINGS OF LONG-TERM AND OTHER DEBT

Long-term and other debt consisted of the following as of December 31:

Description (Millions, except percentages)	2022	2021	Contractual Maturities	Interest Rates
Long-term and other debt:				
Revolving line of credit	$ —	$ —	July 2024	(1)
Term loans	556	658	July 2024	(2)
Senior notes due 2024	850	850	December 2024	4.750%
Senior notes due 2026	500	500	January 2026	7.000%
Subtotal	1,906	2,008		
Less: Unamortized debt issuance costs	14	22		
Total long-term and other debt	$ 1,892	$ 1,986		
Debt issued by consolidated VIEs:				
Fixed rate asset-backed term note securities	$ —	$ 1,572		
Conduit asset-backed securities	6,115	3,883	Various – Jun 2023 to Oct 2023	(3)
Subtotal	6,115	5,455		
Less: Unamortized debt issuance costs	—	2		
Total debt issued by consolidated VIEs	$ 6,115	$ 5,453		
Total borrowings of long-term and other debt	$ 8,007	$ 7,439		

(1) The interest rate in 2022 is based upon the Secured Overnight Financing Rate (SOFR) plus an applicable margin. The interest rate in 2021 is based upon the London Interbank Offered Rate (LIBOR) plus an applicable margin.

(2) The interest rate in 2022 is based upon SOFR plus an applicable margin. The interest rate in 2021 is based upon LIBOR plus an applicable margin. The weighted average interest rate for the term loans was 3.24% and 1.85% as of December 31, 2022 and 2021, respectively.

(3) The interest rate in 2022 is based upon SOFR, or the asset-backed commercial paper costs of each individual conduit provider plus an applicable margin. The interest rate in 2021 is based upon LIBOR, or the asset-backed commercial paper costs of each individual conduit provider plus an applicable margin. As of December 31, 2022, the interest rates ranged from 5.08% to 5.93%. As of December 31, 2021, the interest rates ranged from 0.89% to 0.96%.

Certain of the Company's long-term debt agreements contain various restrictive financial and non-financial covenants. If the Company does not comply with these covenants, the maturity of amounts outstanding may be accelerated and become payable and the associated commitments may be terminated. As of December 31, 2022, the Company was in compliance with all such covenants.

Long-term and Other Debt

Credit Agreement

The Company, as borrower, and certain of its non-Bank wholly-owned subsidiaries, as guarantors, are party to a Credit Agreement with various agents and lenders dated June 14, 2017, as amended (the Credit Agreement). As of December 31, 2022, the Credit Agreement had $556 million aggregate principal amount of term loans outstanding (the term loans) and provided for a $750 million revolving credit facility (the revolving line of credit) which was undrawn as of December 31, 2022. The Credit Agreement matures on July 1, 2024.

The Credit Agreement contains the usual and customary negative and affirmative covenants, including, but not limited to, restrictions on the Company's ability and in certain instances, its subsidiaries' ability to consolidate or merge; substantially change the nature of its business; sell, lease, or otherwise transfer any substantial part of its assets; create or incur indebtedness; create liens; and make acquisitions. The negative covenants are subject to certain exceptions as specified in the Credit Agreement. The Credit Agreement also requires the Company to comply with certain financial covenants and

includes customary events of default. The Credit Agreement was amended in December 2022 to index borrowings SOFR, with the discontinuation of LIBOR. SOFR is based on short-term repurchase agreements that are backed by Treasury securities.

Senior Notes Due 2024 and 2026

The Senior Notes set forth below are each governed by their respective indenture that includes usual and customary negative covenants and events of default. These Senior Notes are unsecured and are guaranteed on a senior unsecured basis by certain of the Company's existing and future domestic restricted subsidiaries that incurs or in any other manner becomes liable for any debt under the Company's domestic credit facilities, including the Credit Agreement.

Due December 15, 2024: In December 2019, the Company issued and sold $850 million aggregate principal amount of 4.750% Senior Notes due December 15, 2024 (the Senior Notes due 2024). The Senior Notes due 2024 accrue interest on the outstanding principal amount at the rate of 4.750% per annum from December 20, 2019, payable semi-annually in arrears, on June 15 and December 15 of each year, beginning on June 15, 2020. The Senior Notes due 2024 will mature on December 15, 2024, subject to earlier repurchase or redemption.

Due January 15, 2026: In September 2020, the Company issued and sold $500 million aggregate principal amount of 7.000% Senior Notes due January 15, 2026 (the Senior Notes due 2026). The Senior Notes due 2026 accrue interest on the outstanding principal amount at the rate of 7.000% per annum from September 22, 2020, payable semi-annually in arrears, on March 15 and September 15 of each year, beginning on March 15, 2021. The Senior Notes due 2026 will mature on January 15, 2026, subject to earlier repurchase or redemption.

Debt Issued by Consolidated VIEs

An asset-backed security is a security whose value and income payments are derived from and collateralized by a specified pool of underlying assets – in the case of the Company, its credit card loans. The sale of the pool of underlying assets to general investors is accomplished through a securitization process. The Company regularly sells its credit card loans to its Trusts, which are consolidated by the Company. The liabilities of these consolidated VIEs include asset-backed securities for which creditors, or beneficial interest holders, do not have recourse to the general credit of the Company.

Asset-Backed Term Notes

For the year ended December 31, 2022, no asset-backed term notes were issued, and $1.6 billion of asset-backed term notes matured and were repaid, of which $74 million were previously retained by the Company and therefore eliminated from the Consolidated Balance Sheets.

Conduit Facilities

The Company maintained committed syndicated bank Conduit Facilities to support the funding of its credit card loans for its Trusts. Borrowings outstanding under each private Conduit Facility bear interest at a margin above SOFR, or the asset-backed commercial paper costs of each individual conduit provider.

During the year ended December 31, 2022, the Company obtained increased lender commitments under its Conduit Facilities of $2.1 billion and extended the various maturities to June 2023 and July 2023. Specifically, in April 2022, the World Financial Network Credit Card Master Trust III amended its 2009-VFC Conduit Facility, increasing the capacity from $225 million to $275 million and extending the maturity to July 2023. In addition, in April 2022, the World Financial Capital Master Note Trust amended its 2009-VFN Conduit Facility, increasing the capacity from $1.5 billion to $2.5 billion and extending the maturity to July 2023. In June 2022, the Comenity Capital Asset Securitization Trust was formed for the purpose of funding a portfolio acquisition completed in October 2022. The capacity was negotiated to be $1.0 billion and the maturity was set as June 2023.

As of December 31, 2022, total capacity under the Conduit Facilities was $6.5 billion, of which $6.1 billion had been drawn.

BREAD FINANCIAL HOLDINGS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (CONTINUED)

Maturities

The future principal payments for the Company's long-term and other debt are as follows, as of December 31, 2022:

Year	Long-Term and Other Debt	Debt Issued by Consolidated VIEs	Total
(Millions)			
2023	$ 152	$ 6,115	$ 6,267
2024	1,254	—	1,254
2025	—	—	—
2026	500	—	500
2027	—	—	—
Thereafter	—	—	—
Total maturities	1,906	6,115	8,021
Unamortized debt issuance costs	(14)	—	(14)
	$ 1,892	$ 6,115	$ 8,007

12. OTHER LIABILITIES

The following is a summary of Other liabilities as of December 31:

	2022	2021
(Millions)		
Accounts payable and other brand partner liabilities	$ 398	$ 291
Accrued liabilities [(1)]	306	314
Long-term tax reserves	306	313
Operating lease liabilities	126	140
Other[(2)]	173	136
Total other liabilities	$ 1,309	$ 1,194

(1) Primarily related to accrued payroll and benefits, marketing, taxes and professional services expenses.

(2) Primarily comprised of long-term unearned revenue and cardholder liabilities.

13. OTHER NON-INTEREST INCOME AND OTHER NON-INTEREST EXPENSES

The following table provides the components of Other non-interest income for the years ended December 31:

	2022	2021	2020
(Millions)			
Payment protection products	$ 154	$ 141	$ 156
Loss from equity method investment	(44)	2	—
Other	4	13	21
Total other non-interest income	$ 114	$ 156	$ 177

BREAD FINANCIAL HOLDINGS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (CONTINUED)

The following table provides the components of Other non-interest expenses for the years ended December 31:

(Millions)	2022	2021	2020
Professional services and regulatory fees	$ 142	$ 136	$ 114
Asset impairment charges	—	—	64
Other [1]	85	86	108
Total other non-interest expense	$ 227	$ 222	$ 286

[1] Primarily related to occupancy expense and non-income based taxes.

14. FAIR VALUES OF FINANCIAL INSTRUMENTS

Fair value is defined under GAAP as the price that would be required to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date; with such transaction based on the principal market, or in the absence of a principal market the most advantageous market for the specific instrument. GAAP provides for a three-level fair value hierarchy that classifies the inputs to valuation techniques used to measure fair value, defined as follows:

Level 1: Inputs that are unadjusted quoted prices for identical assets or liabilities in active markets that the entity can access.

Level 2: Inputs, other than those included within Level 1, that are observable for the asset or liability, either directly or indirectly, for substantially the full term of the asset or liability, including quoted prices for similar assets or liabilities in active markets, quoted prices for identical or similar assets or liabilities in inactive markets, or inputs other than quoted prices that are observable for the asset or liability.

Level 3: Inputs that are unobservable (e.g., internally derived assumptions) and reflect an entity's own estimates about estimates market participants would use in pricing the asset or liability based on the best information available under the circumstances. In particular, Level 3 inputs and valuation techniques involve judgment and as a result are not necessarily indicative of 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.

The Company monitors the market conditions and evaluates the fair value hierarchy levels quarterly. For the years ended December 31, 2022 and 2021, there were no transfers into or out of Level 3, and no transfers between Levels 1 and 2.

The following table summarizes the carrying values and fair values of the Company's financial assets and financial liabilities as of December 31:

	2022		2021	
(Millions)	Carrying Amount	Fair Value	Carrying Amount	Fair Value
Financial assets				
Credit card and other loans, net	$ 18,901	$ 21,328	$ 15,567	$ 17,989
Investment securities	221	221	239	239
Financial liabilities				
Deposits	13,826	13,731	11,027	11,135
Debt issued by consolidated VIEs	6,115	6,115	5,453	5,467
Long-term and other debt	1,892	1,759	1,986	2,053

BREAD FINANCIAL HOLDINGS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (CONTINUED)

Valuation Techniques Used in the Fair Value Measurement of Financial Assets and Financial Liabilities

Credit card and other loans, net: The Company's Credit card and other loans are recorded at historical cost, less the Allowance for credit losses, on the Consolidated Balance Sheets. In estimating the fair values, the Company uses a discounted cash flow model (i.e., Level 3 inputs), primarily because a comparable whole loan sales market for similar loans does not exist, and therefore there is a lack of observable pricing inputs. The Company uses various internally derived inputs, including projected income, discount rates and forecasted write-offs; economic value attributable to future loans generated by the cardholder accounts is not included in the fair values.

Investment securities: Investment securities consist of AFS securities, which are debt securities and mutual funds, as well as equity securities, and are recorded at fair value on the Consolidated Balance Sheets. Quoted prices of identical or similar investment securities in active markets are used to estimate the fair values (i.e., Level 1 or Level 2 inputs).

Deposits: Money market and other non-maturity deposits carrying values approximate their fair values because they are short-term in duration and have no defined maturity. Certificates of deposit are recorded at their historical issuance cost on the Consolidated Balance Sheets, adjusted for unamortized fees, with fair value being estimated based on the currently observable market rates available to the Company for similar deposits with similar remaining maturities (i.e., Level 2 inputs). Interest payable is included within Other liabilities on the Consolidated Balance Sheets.

Debt issued by consolidated VIEs: The Company records debt issued by its consolidated VIEs at historical issuance cost on the Consolidated Balance Sheets, adjusted for unamortized fees, as well as premiums or discounts, as applicable. Interest payable is included within Other liabilities on the Consolidated Balance Sheets. Fair value is estimated based on the currently observable market rates available to the Company for similar debt instruments with similar remaining maturities or quoted market prices for the same transaction (i.e., Level 2 inputs).

Long-term and other debt: The Company records its long-term and other debt at historical issuance cost on the Consolidated Balance Sheets, adjusted for unamortized fees, as well as premiums or discounts, as applicable. Interest payable is included within Other liabilities on the Consolidated Balance Sheets. The fair value is estimated based on the currently observable market rates available to the Company for similar debt instruments with similar remaining maturities, or quoted market prices for the same transaction (i.e., Level 2 inputs).

The following tables summarize the Company's financial assets and financial liabilities measured at fair value on a recurring basis, categorized by the fair value hierarchy described in the preceding paragraphs, as of December 31:

	2022			
(Millions)	**Total**	**Level 1**	**Level 2**	**Level 3**
Investment securities	$ 221	$ 44	$ 177	$ —
Total assets measured at fair value	$ 221	$ 44	$ 177	$ —

	2021			
(Millions)	**Total**	**Level 1**	**Level 2**	**Level 3**
Investment securities	$ 239	$ 48	$ 191	$ —
Total assets measured at fair value	$ 239	$ 48	$ 191	$ —

Financial Instruments Disclosed but Not Carried at Fair Value

The following tables summarize the Company's financial assets and financial liabilities that are measured at amortized cost, and not required to be carried at fair value on a recurring basis, as of December 31, 2022 and 2021. The fair values of these financial instruments are estimates as of December 31, 2022 and 2021, and require management's judgment; therefore, these figures may not be indicative of future fair values, nor can the fair value of the Company be estimated by aggregating all of the amounts presented.

BREAD FINANCIAL HOLDINGS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (CONTINUED)

(Millions)	2022 Fair Value	Level 1	Level 2	Level 3
Financial assets:				
Credit card and other loans, net	$ 21,328	$ —	$ —	$ 21,328
Total	$ 21,328	$ —	$ —	$ 21,328
Financial liabilities:				
Deposits	$ 13,731	$ —	$ 13,731	$ —
Debt issued by consolidated VIEs	6,115	—	6,115	—
Long-term and other debt	1,759	—	1,759	—
Total	$ 21,605	$ —	$ 21,605	$ —

(Millions)	2021 Fair Value	Level 1	Level 2	Level 3
Financial assets:				
Credit card and other loans, net	$ 17,989	$ —	$ —	$ 17,989
Total	$ 17,989	$ —	$ —	$ 17,989
Financial liabilities:				
Deposits	$ 11,135	$ —	$ 11,135	$ —
Debt issued by consolidated VIEs	5,467	—	5,467	—
Long-term and other debt	2,053	—	2,053	—
Total	$ 18,655	$ —	$ 18,655	$ —

Assets and Liabilities Measured at Fair Value on a Nonrecurring Basis

Certain assets and liabilities are recognized or disclosed at fair value on a nonrecurring basis, including property and equipment, right-of-use assets, deferred contract assets, goodwill and intangible assets. These assets are not measured at fair value on a recurring basis but are subject to fair value adjustments in certain circumstances, such as upon impairment. For the year ended December 31, 2022, the Company recognized a write-down of its equity method investment in LVI of $44 million; as of December 31, 2022, the carrying amount of its investment was $6 million and the fair value was $11 million. The Company did not have any impairments for the year ended December 31, 2021.

15. COMMITMENTS AND CONTINGENCIES

Regulatory Matters

CB is regulated, supervised and examined by the State of Delaware and the Federal Deposit Insurance Corporation (FDIC). The Company's industrial bank, CCB, is regulated, supervised and examined by the State of Utah and the FDIC.

The Consumer Financial Protection Bureau (CFPB) promulgates regulations for the federal consumer financial protection laws and supervises and examines large banks (those with more than $10 billion of total assets) with respect to those laws. Banks in a multi-bank organization, such as CB and CCB, are subject to supervision and examination by the CFPB with respect to the federal consumer financial protection laws if at least one bank reports total assets over $10 billion for four consecutive quarters. While the Banks were subject to supervision and examination by the CFPB with respect to the federal consumer financial protection laws between 2016 and 2021, this reverted to the FDIC in 2022. However, CCB's total assets then exceeded $10 billion for four consecutive quarters as of

September 30, 2022, and both Banks are now again subject to supervision and examination by the CFPB with respect to federal consumer protection laws.

BREAD FINANCIAL HOLDINGS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (CONTINUED)

Quantitative measures established by regulations to ensure capital adequacy require CB and CCB to maintain minimum amounts and ratios of Tier 1 capital to average assets, Common equity tier 1, Tier 1 capital and Total capital, all to risk weighted assets. Failure to meet these minimum capital requirements can result in certain mandatory, and possibly additional discretionary actions by the Banks' regulators that if undertaken, could have a direct material effect on CB's and/or CCB's operating activities, as well as those of the Company. Based on these regulations, as of December 31, 2022 and 2021, each Bank met all capital requirements to which it was subject, and maintained capital ratios in excess of the minimums required to qualify as well capitalized. The Banks are considered well capitalized and seek to maintain capital levels and ratios in excess of the minimum regulatory requirements inclusive of the 2.5% Capital Conservation Buffer. The actual capital ratios and minimum ratios for each Bank, as well as the Combined Banks, are as follows as of December 31, 2022:

	Actual Ratio	Minimum Ratio for Capital Adequacy Purposes	Minimum Ratio to be Well Capitalized under Prompt Corrective Action Provisions
Comenity Bank			
Common Equity Tier 1 capital ratio[(1)]	18.4 %	4.5 %	6.5 %
Tier 1 capital ratio[(2)]	18.4	6.0	8.0
Total Risk-based capital ratio[(3)]	19.7	8.0	10.0
Tier 1 Leverage capital ratio[(4)]	16.7	4.0	5.0
Comenity Capital Bank			
Common Equity Tier 1 capital ratio[(1)]	16.1 %	4.5 %	6.5 %
Tier 1 capital ratio[(2)]	16.1	6.0	8.0
Total Risk-based capital ratio[(3)]	17.4	8.0	10.0
Tier 1 Leverage capital ratio[(4)]	14.9	4.0	8.0
Combined Banks			
Common Equity Tier 1 capital ratio[(1)]	17.0 %	4.5 %	6.5 %
Tier 1 capital ratio[(2)]	17.0	6.0	8.0
Total Risk-based capital ratio[(3)]	18.3	8.0	10.0
Tier 1 Leverage capital ratio[(4)]	15.6	4.0	5.0

(1) The Common Equity Tier 1 capital ratio represents common equity tier 1 capital divided by total risk-weighted assets.
(2) The Tier 1 capital ratio represents tier 1 capital divided by total risk-weighted assets.
(3) The Total Risk-based capital ratio represents total capital divided by total risk-weighted assets.
(4) The Tier 1 Leverage capital ratio represents tier 1 capital divided by total average assets, after certain adjustments.

Indemnification

On July 1, 2019, the Company completed the sale of its Epsilon segment to Publicis Groupe S.A. (Publicis). Under the terms of the agreement governing that transaction, the Company agreed to indemnify Publicis and its affiliates from and against any losses arising out of or related to a U.S. Department of Justice (DOJ) investigation. The DOJ investigation related to third-party marketers who sent, or allegedly sent, deceptive mailings and the provision of data and services to those marketers by Epsilon's data practice. Epsilon actively cooperated with the DOJ in connection with the investigation. On January 19, 2021, Epsilon entered into a deferred prosecution agreement (DPA) with the DOJ to resolve the matters that were the subject of the investigation. Pursuant to the DPA, Epsilon agreed, among other things, to pay penalties and consumer compensation in the aggregate amount of $150 million, to be paid in two equal installments, the first in January 2021 and the second in January 2022. A $150 million loss contingency was recorded as of December 31, 2020. Pursuant to

its contractual indemnification obligation, in January 2021 the Company paid $75 million to Publicis, and in January 2022 the Company paid the remaining $75 million installment to Publicis.

Legal Proceedings

From time to time the Company is involved in various claims and lawsuits and other proceedings, arising in the ordinary course of business that it believes will not have a material adverse effect on its business, consolidated financial condition or liquidity, including claims and lawsuits alleging breaches of the Company's contractual obligations, arbitrations, class actions and other litigation, arising in connection with its business activities. The Company is also involved, from time to time, in reviews, investigations, subpoenas, supervisory actions and other proceedings (both formal and informal) by governmental agencies regarding its business, which could subject the Company to significant fines, penalties, obligations to change its business practices, significant restrictions on its existing business or ability to develop new business, cease-and-desist orders, safety-and-soundness directives or other requirements resulting in increased expenses, diminished income and damage to the Company's reputation.

16. EMPLOYEE BENEFIT PLANS

Employee Stock Purchase Plan

In March 2015, the Company's Board of Directors adopted the 2015 Employee Stock Purchase Plan (the 2015 ESPP), which was subsequently approved by the Company's stockholders on June 3, 2015. The 2015 ESPP became effective July 1, 2015 with no definitive expiration date. The Company's Board of Directors may at any time and for any reason terminate or amend the 2015 ESPP. No employee may purchase more than $25,000 worth of stock under the 2015 ESPP in any calendar year, and no employee may purchase stock under the 2015 ESPP if such purchase would cause the employee to own more than 5% of the voting rights or value of the Company's common stock. The 2015 ESPP provides for six-month offering periods, commencing on the first trading day of the first and third calendar quarter of each year and ending on the last trading day of each subsequent calendar quarter. The purchase price of the common stock upon exercise is 85% of the fair market value of shares on the applicable purchase date as determined by averaging the high and low trading prices of the last trading day of each six-month period as defined above. An employee elects to participate and have contributions deducted through payroll deductions. The 2015 ESPP provides for the issuance of any remaining shares available for issuance under the 2005 ESPP, which were 441,327 shares at June 30, 2015. The 2015 ESPP reserved an additional 1,000,000 shares of the Company's common stock for issuance under the 2015 Plan, bringing the maximum number of shares reserved for issuance under the 2015 ESPP to 1,441,327 shares, subject to adjustment as provided in the 2015 ESPP.

During the year ended December 31, 2022, the Company issued 100,951 shares of common stock under the 2015 ESPP at a weighted-average issue price of $31.48. Since its adoption on July 1, 2015, 672,776 shares of common stock have been issued, with 768,551 shares available for issuance under the 2015 ESPP.

401(k) Retirement Savings Plan

The Bread Financial Holdings, Inc. 401(k) and Retirement Savings Plan (the RSP) is a defined contribution plan that is qualified under Section 401(k) of the Internal Revenue Code of 1986. The Company amended the RSP effective December 3, 2020. The RSP is an IRS-approved safe harbor plan design that eliminates the need for most discrimination testing. Eligible employees can participate in the RSP immediately upon joining the Company and after 180 days of employment begin receiving company matching contributions; "seasonal" or "on-call" employees must complete a year of eligibility service before they may participate. The RSP covers U.S. employees of Bread Financial Holdings, Inc. who are at least 18 years old, one of the Company's wholly-owned subsidiaries, and any other subsidiary or affiliated organization that adopts the RSP; employees of the Company and all of its U.S. subsidiaries are currently covered.

The RSP permits eligible employees to make Roth elective deferrals, which are included in the employee's taxable income at the time of contribution, but not when distributed. Regular, or Non-Roth elective deferrals made by employees, together with contributions by the Company to the RSP, and income earned on these contributions, are not taxable until withdrawn from the RSP. The Company matches an employee's contribution dollar-for-dollar up to five percent of the employee's eligible compensation; all Company matching contributions immediately vest. For the years ended December 31, 2022, 2021 and 2020, Company matching contributions were $17 million, $15 million and $16 million, respectively.

BREAD FINANCIAL HOLDINGS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (CONTINUED)

Participants in the RSP can direct their contributions and the Company's matching contribution to numerous investment options, including the Company's common stock. On July 20, 2001, the Company registered 1,500,000 shares of its common stock for issuance in accordance with the RSP pursuant to a Registration Statement on Form S-8, File No. 333-65556. As of December 31, 2022, 241,603 of such shares remain available for issuance.

Executive Deferred Compensation Plan

The Company also maintains an Executive Deferred Compensation Plan (EDCP). The EDCP permits a defined group of management and highly compensated employees to defer on a pre-tax basis a portion of their base salary and incentive compensation (as defined in the EDCP) payable for services rendered. Deferrals under the EDCP are unfunded and subject to the claims of the Company's creditors. Each participant in the EDCP is 100% vested in their account, and account balances accrue interest at a rate established and adjusted periodically by the Compensation & Human Capital committee of the Company's Board of Directors. As of December 31, 2022 and 2021, the Company's outstanding liability related to the EDCP, which was included in Other liabilities on the Consolidated Balance Sheets, was $20 million and $18 million, respectively.

17. CHANGES IN ACCUMULATED OTHER COMPREHENSIVE LOSS

The changes in each component of accumulated other comprehensive loss, net of tax effects, are as follows:

(Millions)	Net Unrealized Gains (Losses) on AFS Securities	Net Unrealized Losses on Cash Flow Hedges	Net Unrealized Losses on Net Investment Hedge	Foreign Currency Translation Losses [1]	Accumulated Other Comprehensive Loss
Balance as of January 1, 2020	$ 2	$ —	$ (7)	$ (95)	$ (100)
Changes in other comprehensive income (loss)	21	(1)	—	71	91
Recognition resulting from the sale of Precima's foreign subsidiaries	—	—	—	4	4
Balance as of December 31, 2020	$ 23	$ (1)	$ (7)	$ (20)	$ (5)
Changes in other comprehensive (loss) income	(21)	2	—	(37)	(56)
Recognition resulting from the spinoff of LoyaltyOne's foreign subsidiaries	(1)	(1)	7	54	59
Balance as of December 31, 2021	$ 1	$ —	$ —	$ (3)	$ (2)
Changes in other comprehensive (loss) income	(19)	—	—	—	(19)
Balance as of December 31, 2022	$ (18)	$ —	$ —	$ (3)	$ (21)

[1] Primarily related to the impact of changes in the Canadian dollar and Euro foreign currency exchange rates from the Company's former LoyaltyOne segment, which was spun off in November 2021.

With the spinoff of the Company's former LoyaltyOne segment on November 5, 2021, the $7 million net unrealized loss on its net investment hedge related to its net investment in BrandLoyalty was reclassified into net income. Upon the sale of Precima on January 10, 2020, $4 million of accumulated foreign currency translation adjustments attributable to Precima's foreign subsidiaries sold were reclassified from Accumulated other comprehensive loss and included in the calculation of the gain on the sale of Precima.

BREAD FINANCIAL HOLDINGS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (CONTINUED)

18. STOCKHOLDERS' EQUITY

Stock Repurchase Programs

On February 28, 2022, the Company's Board of Directors approved a stock repurchase program to acquire up to 200,000 shares of the Company's outstanding common stock in the open market during the one-year period ending on February 28, 2023. As of March 31, 2022, the Company had repurchased all 200,000 shares of its common stock available under this program for an aggregate of $12 million. Following their repurchase, these 200,000 shares ceased to be outstanding shares of common stock and are now treated as authorized but unissued shares of common stock.

Stock Compensation Plans

The Company has adopted equity compensation plans 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.

The 2015 Omnibus Incentive Plan (the 2015 Plan) became effective July 1, 2015, subsequently expired on June 30, 2020, and reserved 5,100,000 shares of common stock for grants of nonqualified stock options, incentive stock options, stock appreciation rights, restricted stock, restricted stock unit awards (RSUs), 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 who performed services for the Company or its affiliates, with only employees eligible to receive incentive stock options.

The 2020 Omnibus Incentive Plan (the 2020 Plan) became effective July 1, 2020 and reserved 2,400,000 shares of common stock for grants of nonqualified stock options, incentive stock options, stock appreciation rights, restricted stock, RSUs, 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 the Company or its affiliates, with only employees being eligible to receive incentive stock options. The 2020 Plan expires on June 30, 2030; provided that, pursuant to the terms of the 2022 Plan (as defined below), no new grants shall be made under the 2020 Plan.

In March 2022, the Company's Board of Directors adopted the 2022 Omnibus Incentive Plan (the 2022 Plan), which was subsequently approved by the Company's stockholders on May 24, 2022. The 2022 Plan became effective July 1, 2022 and expires on June 30, 2032. The 2022 Plan reserves 3,075,000 shares of common stock for grants of nonqualified stock options, incentive stock options, stock appreciation rights, restricted stock, RSUs, 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 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 in any one calendar year may not exceed $1 million. On June 22, 2022, the Company registered 3,075,000 shares of its common stock for issuance in accordance with the 2022 Plan pursuant to a Registration Statement on Form S-8, File No. 333-265771. Terms of all awards under the 2022 Plan are determined by the Board of Directors or the Compensation & Human Capital Committee of the Board of Directors or its designee at the time of award.

Stock Compensation Expense

Stock-based compensation expense is measured at the grant date of the award, based on the fair value of the award, and is recognized ratably over the requisite service period. Stock-based compensation expense recognized in Employee compensation and benefits expense in the Consolidated Statements of Income for the years ended December 31, 2022, 2021 and 2020 was $32 million, $25 million and $15 million, respectively, with corresponding income tax benefits of $5 million, $4 million and $3 million, respectively.

As the amount of stock-based compensation expense recognized is based on awards ultimately expected to vest, the amount recognized in the Company's Consolidated Statements of Income has been reduced for estimated forfeitures. The Company estimates forfeitures at each grant date based on historical experience, with forfeiture estimates to be revised, if necessary, in subsequent periods should actual forfeitures differ from those estimates; forfeitures were estimated at 5% for each of the years ended December 31, 2022, 2021 and 2020.

BREAD FINANCIAL HOLDINGS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (CONTINUED)

As of December 31, 2022, there was approximately $55 million of unrecognized expense, adjusted for estimated forfeitures, related to non-vested, stock-based equity awards granted to employees, which is expected to be recognized over a weighted average remaining period of approximately 2.2 years.

Restricted Stock Unit Awards

The following table summarizes RSUs activity under the Company's equity compensation plans:

	Market-Based [1]	Performance-Based [1]	Service-Based	Total	Weighted Average Fair Value
Balance as of January 1, 2020	24,288	230,272	258,572	513,132	$ 172.06
Shares granted	20,770	219,186	241,610	481,566	89.11
Shares vested	—	(42,097)	(127,921)	(170,018)	175.09
Shares forfeited	(22,831)	(186,135)	(38,447)	(247,413)	166.93
Balance as of December 31, 2020	22,227	221,226	333,814	577,267	$ 103.89
Shares granted [2]	2,641	111,542	774,062	888,245	88.18
Shares vested	—	(24,677)	(167,723)	(192,400)	118.78
Shares forfeited	(5,801)	(216,675)	(291,201)	(513,677)	93.16
Balance as of December 31, 2021	19,067	91,416	648,952	759,435	$ 89.14
Shares granted	—	82,513	766,178	848,691	63.22
Shares vested	—	(8,983)	(218,077)	(227,060)	78.23
Shares forfeited	(19,067)	—	(89,390)	(108,457)	65.83
Balance as of December 31, 2022	—	164,946	1,107,663	1,272,609	$ 68.86
Outstanding and Expected to Vest				1,238,212	$ 69.17

(1) Shares granted reflect a 100% target attainment of the respective market-based or performance-based metric. Shares forfeited include those restricted stock units forfeited as a result of the Company not meeting the respective market-based or performance-based metric conditions.

(2) Shares granted reflect a November 2021 make-whole equity adjustment to unvested shares due to the reduction in the Company's share value resulting from the spinoff of LVI. This adjustment increased shares granted by 2,641 shares, 12,659 shares and 96,556 shares for market-based, performance-based and service-based awards, respectively. These shares were excluded from the weighted average fair value calculation.

For performance-based and service-based awards, the fair value of the RSUs was estimated using the Company's closing share price on the date of grant. Service-based RSUs typically vest ratably over a three year period. Performance-based RSUs typically cliff vest at the end of three years, if specified performance measures tied to the Company's financial performance are met, which are measured annually over the three year period. For the performance-based RSUs awarded in 2022 and 2021, the pre-defined vesting criteria typically permit a range from 0% to 150% to be earned. Accruals of compensation cost for an award with a performance condition are based on the probable outcome of that performance condition.

The total fair value of RSUs vested was $18 million, $23 million and $30 million for the years ended December 31, 2022, 2021 and 2020, respectively. As of December 31, 2022, the aggregate intrinsic value of RSUs outstanding and expected to vest was $47 million.

Dividends

For the years ended December 31, 2022, 2021 and 2020, the Company paid $43 million, $42 million and $61 million, respectively, in dividends to its shareholders of common stock. On January 26, 2023, the Company's Board of Directors declared a quarterly cash dividend of $0.21 per share on its common stock, payable on March 17, 2023, to stockholders of record at the close of business on February 10, 2023.

BREAD FINANCIAL HOLDINGS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (CONTINUED)

Treasury Stock

On July 30, 2021, the Company retired its 67.4 million shares of treasury stock outstanding, which increased Treasury stock by $6,733 million, reduced Retained earnings by $5,453 million, reduced Additional paid-in capital by $1,280 million and reduced Common stock by an immaterial amount, with no impact to total stockholders' equity, on the Consolidated Balance Sheets.

19. INCOME TAXES

The Company files income tax returns in federal, state, local and foreign jurisdictions, as applicable. Provisions for current income tax liabilities are calculated and accrued on income and expense amounts expected to be included in the income tax returns for the current year. Income taxes reported in earnings also include deferred income tax provisions and provisions for uncertain tax positions.

Differences between the Consolidated Financial Statements and tax bases of assets and liabilities give rise to deferred tax assets and liabilities, which measure the future tax effects of items recognized in the Consolidated Financial Statements. Changes in deferred income tax assets and liabilities associated with components of Other comprehensive (loss) income are charged or credited directly to Other comprehensive (loss) income. Otherwise, changes in deferred income tax assets and liabilities are included as a component of Provision for income taxes. The effect on deferred income tax assets and liabilities attributable to changes in enacted tax rates are charged or credited to Provision for income taxes in the period of enactment.

Deferred tax assets require certain estimates and judgments in order to determine whether it is more likely than not that all or a portion of the benefit of a deferred tax asset will not be realized. In evaluating the Company's deferred tax assets on a quarterly basis as new facts and circumstances emerge, the Company analyzes and estimates the impact of future taxable income, reversing temporary differences and available tax planning strategies. Uncertainties can lead to changes in the ultimate realization of deferred tax assets. A liability for unrecognized tax benefits, representing the difference between a tax position taken or expected to be taken in a tax return and the benefit recognized in the Consolidated Financial Statements, inherently requires estimates and judgments. A tax position is recognized only when it is more likely than not to be sustained, based purely on its technical merits after examination by the relevant taxing authority, and the amount recognized is the benefit the Company believes is more likely than not to be realized upon ultimate settlement. The Company evaluates its tax positions as new facts and circumstances become available, making adjustments to unrecognized tax benefits as appropriate. Uncertainties can mean the tax benefits ultimately realized differ from amounts previously recognized, with any differences recorded in Provision for income taxes, along with amounts for estimated interest and penalties related to uncertain tax positions.

The components of the Company's Provision for income taxes included in the Consolidated Statements of Income were as follows for the years ended December 31:

(Millions)	2022	2021	2020
Current			
Federal	$ 280	$ 218	$ 228
State	41	49	36
Total current income tax expense	321	267	264
Deferred			
Federal	(201)	(13)	(143)
State	(44)	(7)	(28)
Total deferred income tax benefit	(245)	(20)	(171)
Total Provision for income taxes	$ 76	$ 247	$ 93

BREAD FINANCIAL HOLDINGS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (CONTINUED)

A reconciliation of the Company's expected income tax expense computed by applying the federal statutory rate to income from continuing operations before income taxes, to the recorded Provision for income taxes, is as follows for the years ended December 31:

(Millions)	2022	2021	2020
Expected expense at statutory rate	$ 63	$ 219	$ 63
(Decrease) increase in income taxes resulting from:			
State and local income taxes, net of federal benefit	(2)	33	6
Impact of 2017 Tax Reform	—	(8)	(2)
Non-deductible expenses	6	4	6
IRC Section 199, net of tax reserves	4	—	12
Basis difference in unconsolidated subsidiaries	(8)	—	—
Valuation allowance	16	—	—
Other	(3)	(1)	8
Total	$ 76	$ 247	$ 93

For the year ended December 31, 2022, the Company increased its reserve for Internal Revenue Code (IRC) Section 199 deductions by approximately $4 million as a result of an unfavorable court ruling. In addition, the Company recorded an income tax benefit (deferred tax asset) of approximately $8 million related to the initial recognition of the basis difference in an unconsolidated subsidiary, against which the Company recorded a $16 million valuation allowance as of December 31, 2022.

H.R. 1, originally known as the Tax Cuts and Jobs Act of 2017 (the 2017 Tax Reform) was enacted on December 22, 2017 and permanently reduced the corporate tax rate to 21% from 35%, effective January 1, 2018. For the year ended December 31, 2021, the Company recorded an income tax benefit of approximately $8 million related to the 2017 Tax Reform rate differential that was released from Other comprehensive (loss) income due to the divestiture of the Company's former LoyaltyOne segment.

For the year ended December 31, 2020, the Company recorded an income tax benefit of approximately $2 million related to the rate benefit for a capital loss that will be carried back to a year preceding the 2017 Tax Reform rate reduction. The Company is currently under audit with the Internal Revenue Service and as a result of the preliminary audit findings, the Company increased its reserve for IRC Section 199 deductions by $12 million during the year ended December 31, 2020.

On August 16, 2022, the Inflation Reduction Act (the Act) was signed into law in the U.S., which includes a new 15 percent corporate minimum tax on certain large corporations and a one percent excise tax on stock repurchases made after December 31, 2022. The Company does not anticipate the Act will have a significant impact on its financial position, results of operations or cash flows, nor does it expect significant changes to operational processes, controls or governance as a result of the Act.

BREAD FINANCIAL HOLDINGS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (CONTINUED)

The following table reflects the significant components of Deferred tax assets and liabilities as of December 31:

(Millions)	2022	2021
Deferred tax assets		
Deferred revenue	$ 14	$ 17
Allowance for credit losses	598	447
Net operating loss carryforwards and other carryforwards	39	42
Operating lease liabilities	30	33
Accrued expenses and other	88	65
Total deferred tax assets	769	604
Valuation allowance	(26)	(8)
Deferred tax assets, net of valuation allowance	743	596
Deferred tax liabilities		
Deferred income	$ 148	$ 221
Depreciation	7	28
Right of use assets	20	22
Intangible assets	16	23
Total deferred tax liabilities	191	294
Net deferred tax assets	$ 552	$ 302
Amounts recognized on the Consolidated Balance Sheets:		
Other assets	$ 552	$ 302

As of December 31, 2022, included in the Company's U.S. tax returns are approximately $124 million of U.S. federal net operating loss carryovers (NOLs) and approximately $34 million of foreign tax credits. With the exception of NOLs generated after December 31, 2017, these attributes expire at various times through the year 2037. As of December 31, 2022, the Company has state NOLs of approximately $231 million and state credits of approximately $2 million, both available to offset future state taxable income, and state capital losses of approximately $7 million to offset capital gains. The state NOLs, credits and capital losses will expire at various times through the year 2040.

The Company uses the portfolio approach relating to the release of stranded tax effects recorded in Accumulated other comprehensive loss. Under the portfolio approach, the net unrealized gains or losses recorded in Accumulated other comprehensive loss would be eliminated only on the date the entire portfolio of Available-for-sale investment securities is sold or otherwise disposed of.

BREAD FINANCIAL HOLDINGS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (CONTINUED)

The following table presents changes in unrecognized tax benefits:

(Millions)		
Balance as of January 1, 2020	$	215
Increases related to prior years' tax positions		59
Decreases related to prior years' tax positions		(23)
Increases related to current year tax positions		11
Settlements during the period		(5)
Lapses of applicable statutes of limitation		(2)
Balance as of December 31, 2020	$	255
Increases related to prior years' tax positions		1
Decreases related to prior years' tax positions		(13)
Increases related to current year tax positions		12
Settlements during the period		(8)
Balance as of December 31, 2021	$	247
Increases related to prior years' tax positions		8
Decreases related to prior years' tax positions		(25)
Increases related to current year tax positions		14
Settlements during the period		(2)
Balance as of December 31, 2022	$	242

The Company recognizes potential accrued interest and penalties related to unrecognized tax benefits in Provision for income taxes. The Company has potential cumulative interest and penalties with respect to unrecognized tax benefits of approximately $74 million, $76 million and $69 million as of December 31, 2022, 2021 and 2020, respectively. For the years ended December 31, 2022, 2021 and 2020, the Company recorded approximately a $1 million benefit and $8 million and $9 million expense, respectively, in Provision for income taxes for potential interest and penalties for unrecognized tax benefits.

As of December 31, 2022, 2021 and 2020, the Company had unrecognized tax benefits of approximately $238 million, $241 million and $243 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 files income tax returns in U.S. federal, state and foreign jurisdictions, as applicable. With some exceptions, the tax returns filed by the Company are no longer subject to U.S. federal income tax, and state and local examinations for the years before 2015, or foreign income tax examinations for years before 2018.

20. EARNINGS PER SHARE

Basic earnings (losses) per share (EPS) is based only on the weighted average number of common shares outstanding, excluding any dilutive effects of stock options, unvested restricted stock awards, or other dilutive securities. Diluted EPS is based on the weighted average number of common and potentially dilutive common shares (dilutive stock options, unvested restricted stock awards and other dilutive securities outstanding during the year) pursuant to the Treasury Stock method.

BREAD FINANCIAL HOLDINGS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (CONTINUED)

The following table sets forth the computation of basic and diluted EPS attributable to common stockholders for the years ended December 31:

(Millions, except per share amounts)	2022	2021	2020
Numerator			
Income from continuing operations	$ 224	$ 797	$ 208
(Loss) income from discontinued operations, net of income taxes	(1)	4	6
Net income	$ 223	$ 801	$ 214
Denominator			
Basic: Weighted average common stock	49.9	49.7	47.8
Weighted average effect of dilutive securities			
Net effect of dilutive unvested restricted stock awards [1]	0.1	0.3	0.1
Denominator for diluted calculation	50.0	50.0	47.9
Basic EPS			
Income from continuing operations	$ 4.48	$ 16.02	$ 4.36
(Loss) income from discontinued operations, net of income taxes	$ (0.01)	$ 0.07	$ 0.11
Net income	$ 4.47	$ 16.09	$ 4.47
Diluted EPS			
Income from continuing operations	$ 4.47	$ 15.95	$ 4.35
(Loss) income from discontinued operations, net of income taxes	$ (0.01)	$ 0.07	$ 0.11
Net income	$ 4.46	$ 16.02	$ 4.46

[1] For the years ended December 31, 2022, 2021 and 2020, an insignificant amount of restricted stock awards were excluded from each calculation of weighted average dilutive common shares as the effect would have been anti-dilutive.

21. SUPPLEMENTAL CASH FLOW INFORMATION

The Consolidated Statements of Cash Flows are presented with the combined cash flows from continuing and discontinued operations. The following table provides a reconciliation of cash and cash equivalents to the total of the amounts reported in the Consolidated Statements of Cash Flows as of December 31:

(Millions)	2022	2021
Cash and Cash Equivalents	$ 3,891	$ 3,046
Restricted Cash included within Other Assets	36	877
Total cash, cash equivalents and restricted cash	$ 3,927	$ 3,923

Non-cash investing and financing activities for the year ended December 31, 2021 included the Company's equity method investment in LVI upon spinoff, on November 5, 2021, which totaled $48 million, and the Company's retirement of its outstanding treasury stock in July 2021. For more information, see Note 22, "Discontinued Operations", and Note 18, "Stockholders' Equity", respectively.

BREAD FINANCIAL HOLDINGS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (CONTINUED)

22. DISCONTINUED OPERATIONS

LoyaltyOne

On November 5, 2021, the separation of LVI from the Company was completed after market close (the Separation). The Separation, which has been classified as discontinued operations, was achieved through the Company's distribution of 81% of the shares of LVI common stock to holders of the Company's common stock as of the close of business on the record date of October 27, 2021. The Company's stockholders of record received one share of LVI common stock for every two and a half shares of the Company's common stock. Following this distribution, LVI became an independent, publicly-traded company, in which the Company has retained a 19% ownership interest.

The Company accounts for its 19% ownership interest in LVI following the equity method of accounting. As of December 31, 2022, the carrying amount of the Company's ownership interest in LVI, which totaled $6 million, is included in Other assets in the Consolidated Balance Sheets, while earnings (losses) are recorded in Other non-interest income in the Consolidated Statements of Income.

The following table summarizes the results of operations of the Company's former LoyaltyOne segment, direct costs identifiable to the former LoyaltyOne segment, and the allocation of interest expense on corporate debt, for the years ended December 31:

(Millions)	2022	2021	2020
Total interest income	$ —	$ 1	$ 1
Total interest expense [1]	—	11	17
Net interest income	—	(10)	(16)
Total non-interest income	—	574	765
Total non-interest expenses	1	519	656
Income before provision from income taxes	(1)	45	93
Provision for income taxes	—	36	6
Income from discontinued operations, net of income taxes	$ (1)	$ 9	$ 87

[1] The Company's Credit Agreement, as amended, required a $725 million prepayment of term loans in conjunction with the LoyaltyOne spinoff. As a result, the interest expense reflected above is the allocation to discontinued operations of interest on the basis of this $725 million mandatory prepayment.

The following table summarizes the depreciation and amortization, and capital expenditures of the Company's former LoyaltyOne segment for the years ended December 31:

(Millions)	2022	2021	2020
Depreciation and amortization	$ —	$ 31	$ 78
Capital expenditures	$ —	$ 15	$ 24

The Company did not have any assets or liabilities of its former LoyaltyOne segment as of December 31, 2022 or 2021.

23. PARENT COMPANY FINANCIAL STATEMENTS

The following BFH financial statements are provided in accordance with the rules of the SEC, which require such disclosure when the restricted net assets of consolidated subsidiaries exceed 25 percent of consolidated net assets. Certain

BREAD FINANCIAL HOLDINGS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (CONTINUED)

of the Company's subsidiaries may be restricted in distributing cash or other assets to BFH, which could be utilized to service its indebtedness. The stand-alone parent-only financial statements are presented below.

Parent Company – Condensed Balance Sheets

	December 31,	
	2022	2021
(Millions)		
Assets		
Cash and cash equivalents	$ 5	$ —
Investment in subsidiaries	4,159	4,446
Investment in LVI	6	50
Other assets	119	123
Total assets	**$ 4,289**	**$ 4,619**
Liabilities		
Long-term and other debt	$ 1,892	$ 1,985
Intercompany liabilities, net	86	482
Other liabilities	46	66
Total liabilities	**2,024**	**2,533**
Stockholders' equity	**2,265**	**2,086**
Total liabilities and stockholders' equity	**$ 4,289**	**$ 4,619**

Parent Company – Condensed Statements of Income

	Years Ended December 31,		
	2022	2021	2020
(Millions)			
Total interest income	$ 11	$ 12	$ 13
Total interest expense	107	103	110
Net interest expense	**(96)**	**(91)**	**(97)**
Dividends from subsidiaries	382	535	256
Loss from equity method investment	(44)	—	—
Total net interest and non-interest income	**242**	**444**	**159**
Total non-interest expenses	1	1	1
Income before income taxes and equity in undistributed net income of subsidiaries	241	443	158
Benefit for income taxes	22	36	21
Income before equity in undistributed net income of subsidiaries	263	479	179
Equity in undistributed net (loss) income of subsidiaries	(40)	322	35
Net income	**$ 223**	**$ 801**	**$ 214**

Parent Company – Condensed Statements of Comprehensive Income

	Years Ended December 31,		
	2022	2021	2020
(Millions)			
Net income	$ 223	$ 801	$ 214
Other comprehensive (loss) income, net of tax	(3)	7	—
Total comprehensive income, net of tax	$ 220	$ 808	$ 214

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BREAD FINANCIAL HOLDINGS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (CONTINUED)

Parent Company – Condensed Statements of Cash Flows

	Years Ended December 31,		
	2022	2021	2020
(Millions)			
Net cash used in operating activities	$ (219)	$ (398)	$ (138)
Investing activities:			
Investment in subsidiaries	—	—	(3)
Dividends received	383	533	256
Purchases of available-for-sale securities	—	(10)	—
Net cash provided by investing activities	383	523	253
Financing activities:			
Debt proceeds from spinoff of LVI	—	750	—
Borrowings under debt agreements	218	38	1,276
Repayments of borrowings	(319)	(864)	(1,320)
Payment of deferred financing costs	—	(4)	(9)
Dividends paid	(43)	(42)	(61)
Other	(15)	(3)	(1)
Net cash used in financing activities	(159)	(125)	(115)
Change in cash, cash equivalents and restricted cash	5	—	—
Cash, cash equivalents and restricted cash at beginning of year	—	—	—
Cash, cash equivalents and restricted cash at end of year	$ 5	$ —	$ —

Non-cash investing and financing activities related to the Parent Company – Condensed Statements of Cash Flows for the year ended December 31, 2022 included the dissolution of a subsidiary, ADS Foreign Holdings, Inc.

Non-cash investing and financing activities for the year ended December 31, 2021 included the Company's equity method investment in LVI upon spinoff, on November 5, 2021, which totaled $48 million.

Non-cash investing and financing activities related to the Parent Company – Condensed Statements of Cash Flows for the year ended December 31, 2020, included the issuance of approximately 1.9 million shares of the Company's common stock as non-cash consideration in the acquisition of Lon Inc. on December 3, 2020.

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SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, Bread Financial Holdings, Inc. has duly caused this Annual Report on Form 10-K to be signed on its behalf by the undersigned, thereunto duly authorized.

Bread Financial Holdings, Inc.

By: /S/ RALPH J. ANDRETTA
Ralph J. Andretta
President and Chief Executive Officer

DATE: February 28, 2023

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of Bread Financial Holdings, Inc. and in the capacities and on the dates indicated.

Name	Title	Date
/S/ RALPH J. ANDRETTA **Ralph J. Andretta**	President, Chief Executive Officer and Director	February 28, 2023
/S/ PERRY S. BEBERMAN **Perry S. Beberman**	Executive Vice President and Chief Financial Officer	February 28, 2023
/S/ J. BRYAN CAMPBELL **J. Bryan Campbell**	Senior Vice President and Chief Accounting Officer	February 28, 2023
/S/ ROGER H. BALLOU **Roger H. Ballou**	Chairman of the Board, Director	February 28, 2023
/S/ JOHN C. GERSPACH, JR. **John C. Gerspach, Jr.**	Director	February 28, 2023
/S/ KARIN J. KIMBROUGH **Karin J. Kimbrough**	Director	February 28, 2023
/S/ RAJESH NATARAJAN **Rajesh Natarajan**	Director	February 28, 2023
/S/ TIMOTHY J. THERIAULT **Timothy J. Theriault**	Director	February 28, 2023
/S/ LAURIE A. TUCKER **Laurie A. Tucker**	Director	February 28, 2023
/S/ SHAREN J. TURNEY **Sharen J. Turney**	Director	February 28, 2023

This is Exhibit “R” referred to in the Affidavit of Cynthia Hageman affirmed November 9, 2023.

Commissioner for Taking Affidavits (or as may be)

KIYAN JAMAL

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

FORM 10-Q

(Mark One)

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

For the quarterly period ended September 30, 2022

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)**

8235 Douglas Avenue, Suite 1200
Dallas, Texas 75225
(Address of principal executive offices, including zip code)

(972) 338-5170
(Registrant's telephone number, including area code)

Not Applicable
(Former name, former address and former fiscal year, if changed since last report)

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

Title of Each Class	Trading symbol	Name of Exchange on which registered
Common stock, par value $0.01 per share	**LYLT**	**The Nasdaq Stock Market LLC**

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 is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

As of October 27, 2022, 24,611,933 shares of common stock were outstanding.

LOYALTY VENTURES INC.
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PART I—FINANCIAL INFORMATION

Item 1. Financial Statements

LOYALTY VENTURES INC.
UNAUDITED CONDENSED CONSOLIDATED BALANCE SHEETS

	September 30, 2022	December 31, 2021
	(in thousands, except per share amounts)	
ASSETS		
Cash and cash equivalents	$ 73,307	$ 167,601
Accounts receivable, net, less allowance for doubtful accounts ($3.9 million and $4.7 million at September 30, 2022 and December 31, 2021, respectively)	245,863	288,251
Inventories, net	236,776	188,577
Redemption settlement assets, restricted	609,711	735,131
Other current assets	23,415	28,627
Total current assets	1,189,072	1,408,187
Property and equipment, net	63,742	79,959
Right-of-use assets - operating	85,057	99,515
Deferred tax asset, net	48,388	58,128
Intangible assets, net	1,913	3,095
Goodwill	177,978	649,958
Other non-current assets	25,068	24,885
Total assets	$ 1,591,218	$ 2,323,727
LIABILITIES AND EQUITY (DEFICIENCY)		
Accounts payable	$ 116,766	$ 103,482
Accrued expenses	131,242	144,997
Deferred revenue	791,208	924,789
Current operating lease liabilities	8,086	10,055
Current portion of long-term debt	50,625	50,625
Other current liabilities	120,651	118,444
Total current liabilities	1,218,578	1,352,392
Deferred revenue	87,793	97,167
Long-term operating lease liabilities	88,390	103,242
Long-term debt	567,720	603,488
Other liabilities	18,369	20,874
Total liabilities	1,980,850	2,177,163
Commitments and contingencies		
Common stock, $0.01 par value; authorized, 200,000 shares; issued, 24,612 shares and 24,585 shares at September 30, 2022 and December 31, 2021, respectively	246	246
Additional paid-in-capital	272,487	266,775
Accumulated deficit	(496,390)	(55,383)
Accumulated other comprehensive loss	(165,975)	(65,074)
Total (deficiency) equity	(389,632)	146,564
Total liabilities and (deficiency) equity	$ 1,591,218	$ 2,323,727

See accompanying notes to unaudited condensed consolidated and combined financial statements.

LOYALTY VENTURES INC.
UNAUDITED CONDENSED CONSOLIDATED AND COMBINED STATEMENTS OF OPERATIONS

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
	(in thousands, except per share amounts)			
Revenues				
Redemption, net	$ 91,852	$ 97,149	$ 273,779	$ 280,844
Services	62,757	65,806	191,830	199,244
Other	7,760	6,302	23,508	16,628
Total revenue	162,369	169,257	489,117	496,716
Operating expenses				
Cost of operations (exclusive of depreciation and amortization disclosed separately below)	133,905	119,882	407,890	372,820
General and administrative	5,090	4,018	15,907	11,608
Depreciation and other amortization	7,409	8,665	25,146	26,237
Amortization of purchased intangibles	259	433	820	1,316
Goodwill impairment	—	—	422,922	—
Total operating expenses	146,663	132,998	872,685	411,981
Operating income (loss)	15,706	36,259	(383,568)	84,735
Interest expense (income), net	11,527	(136)	29,973	(318)
Income (loss) before income taxes and income from investment in unconsolidated subsidiary	4,179	36,395	(413,541)	85,053
Provision for income taxes	4,304	16,542	27,466	31,616
Income from investment in unconsolidated subsidiary – related party, net of tax	—	(4,108)	—	(4,067)
Net (loss) income	$ (125)	$ 23,961	$ (441,007)	$ 57,504
Net (loss) income per share (Note 3):				
Basic	$ (0.01)	$ 0.97	$ (17.92)	$ 2.34
Diluted	$ (0.01)	$ 0.97	$ (17.92)	$ 2.34
Weighted average shares (Note 3):				
Basic	24,612	24,585	24,607	24,585
Diluted	24,612	24,585	24,607	24,585

See accompanying notes to unaudited condensed consolidated and combined financial statements.

LOYALTY VENTURES INC.
UNAUDITED CONDENSED CONSOLIDATED AND COMBINED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
	(in thousands)			
Net (loss) income	$ (125)	$ 23,961	$ (441,007)	$ 57,504
Other comprehensive (loss) income:				
Unrealized loss on securities available-for-sale	(1,505)	(2,769)	(32,737)	(11,245)
Tax benefit	—	—	—	693
Unrealized loss on securities available-for-sale, net of tax	(1,505)	(2,769)	(32,737)	(10,552)
Unrealized (loss) gain on cash flow hedges	(1,289)	1,206	(986)	2,134
Tax benefit (expense)	300	(298)	233	(454)
Unrealized (loss) gain on cash flow hedges, net of tax	(989)	908	(753)	1,680
Foreign currency translation adjustments	(21,417)	(21,064)	(67,411)	(40,005)
Other comprehensive (loss) income, net of tax	(23,911)	(22,925)	(100,901)	(48,877)
Total comprehensive (loss) income, net of tax	$ (24,036)	$ 1,036	$ (541,908)	$ 8,627

See accompanying notes to unaudited condensed consolidated and combined financial statements.

LOYALTY VENTURES INC.
UNAUDITED CONDENSED CONSOLIDATED AND COMBINED STATEMENTS OF EQUITY (DEFICIENCY)

	Common Stock Shares	Common Stock Amount	Additional Paid-In Capital	Accumulated Deficit	Former Parent's Net Investment	Accumulated Other Comprehensive Loss	Total Equity (Deficiency)
				(in thousands)			
Balance as of July 1, 2022	24,612	$ 246	$ 271,296	$ (496,265)	$ —	$ (142,064)	$ (366,787)
Net loss	—	—	—	(125)	—	—	(125)
Other comprehensive loss	—	—	—	—	—	(23,911)	(23,911)
Stock-based compensation	—	—	1,339	—	—	—	1,339
Other	—	—	(148)	—	—	—	(148)
Balance as of September 30, 2022	24,612	$ 246	$ 272,487	$ (496,390)	$ —	$ (165,975)	$ (389,632)

	Common Stock Shares	Common Stock Amount	Additional Paid-In Capital	Accumulated Deficit	Former Parent's Net Investment	Accumulated Other Comprehensive Loss	Total Equity
				(in thousands)			
Balance as of July 1, 2021	—	$ —	$ —	$ —	$ 1,012,586	$ (25,571)	$ 987,015
Net income	—	—	—	—	23,961	—	23,961
Other comprehensive loss	—	—	—	—	—	(22,925)	(22,925)
Change in former Parent's net investment	—	—	—	—	5,525	—	5,525
Balance as of September 30, 2021	—	$ —	$ —	$ —	$ 1,042,072	$ (48,496)	$ 993,576

	Common Stock Shares	Common Stock Amount	Additional Paid-In Capital	Accumulated Deficit	Former Parent's Net Investment	Accumulated Other Comprehensive Loss	Total Equity (Deficiency)
				(in thousands)			
Balance as of January 1, 2022	24,585	$ 246	$ 266,775	$ (55,383)	$ —	$ (65,074)	$ 146,564
Net loss	—	—	—	(441,007)	—	—	(441,007)
Other comprehensive loss	—	—	—	—	—	(100,901)	(100,901)
Net transfers from former Parent for Separation-related transactions	—	—	1,354	—	—	—	1,354
Stock-based compensation	—	—	5,248	—	—	—	5,248
Other	27	—	(890)	—	—	—	(890)
Balance as of September 30, 2022	24,612	$ 246	$ 272,487	$ (496,390)	$ —	$ (165,975)	$ (389,632)

	Common Stock Shares	Common Stock Amount	Additional Paid-In Capital	Accumulated Deficit	Former Parent's Net Investment	Accumulated Other Comprehensive Loss	Total Equity
				(in thousands)			
Balance as of January 1, 2021	—	$ —	$ —	$ —	$ 1,093,920	$ 381	$ 1,094,301
Net income	—	—	—	—	57,504	—	57,504
Other comprehensive loss	—	—	—	—	—	(48,877)	(48,877)
Change in former Parent's net investment	—	—	—	—	(109,352)	—	(109,352)
Balance as of September 30, 2021	—	$ —	$ —	$ —	$ 1,042,072	$ (48,496)	$ 993,576

See accompanying notes to unaudited condensed consolidated and combined financial statements.

LOYALTY VENTURES INC.
UNAUDITED CONDENSED CONSOLIDATED AND COMBINED STATEMENTS OF CASH FLOWS

	Nine Months Ended September 30,	
	2022	2021
	(in thousands)	
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net (loss) income	$ (441,007)	$ 57,504
Adjustments to reconcile net (loss) income to net cash (used in) provided by operating activities:		
Depreciation and amortization	25,966	27,553
Deferred income taxes	5,192	(3,594)
Non-cash stock compensation	5,248	6,322
Goodwill impairment	422,922	—
Gain on sale of investment in unconsolidated subsidiary – related party	—	(4,110)
Change in other operating assets and liabilities:		
Change in deferred revenue	(59,035)	12,775
Change in accounts receivable	10,139	(14,201)
Change in accounts payable and accrued expenses	20,748	(12,496)
Change in other assets	(71,851)	(28,982)
Change in other liabilities	9,326	62,415
Other	20,798	10,539
Net cash (used in) provided by operating activities	(51,554)	113,725
CASH FLOWS FROM INVESTING ACTIVITIES:		
Change in redemption settlement assets, restricted	10,313	(47,312)
Capital expenditures	(15,936)	(13,137)
Distributions from investment in unconsolidated subsidiary – related party	—	795
Sale of investment in unconsolidated subsidiary – related party	—	4,055
Net cash used in investing activities	(5,623)	(55,599)
CASH FLOWS FROM FINANCING ACTIVITIES:		
Borrowings under debt agreements	12,000	—
Repayments of borrowings	(49,969)	—
Payment of deferred financing costs	(1,964)	—
Dividends paid to former Parent	—	(120,000)
Net transfers to former Parent	—	(9,278)
Net transfers from former Parent for Separation-related transactions	1,569	—
Other	(557)	—
Net cash used in financing activities	(38,921)	(129,278)
Effect of exchange rate changes on cash, cash equivalents and restricted cash	(13,195)	(4,000)
Change in cash, cash equivalents and restricted cash	(109,293)	(75,152)
Cash, cash equivalents and restricted cash at beginning of year	232,602	337,525
Cash, cash equivalents and restricted cash at end of year	$ 123,309	$ 262,373
SUPPLEMENTAL CASH FLOW INFORMATION:		
Interest paid	$ 27,717	$ 200
Income taxes paid, net	$ 19,693	$ 30,781

See accompanying notes to unaudited condensed consolidated and combined financial statements.

LOYALTY VENTURES INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS

1. DESCRIPTION OF BUSINESS AND BASIS OF PRESENTATION

Description of the Business

On November 5, 2021, Bread Financial Holdings, Inc., previously named Alliance Data Systems Corporation ("former Parent"), completed the spinoff of its LoyaltyOne reportable segment (the "Separation") into an independent, publicly traded company, Loyalty Ventures Inc. (the "Company" or "Loyalty Ventures").

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.

Basis of Presentation

Prior to the Separation, the Company had operated as part of the former Parent and not as a standalone company. The unaudited condensed combined financial statements for the three and nine months ended September 30, 2021 have been derived from the former Parent's historical accounting records and are presented on a "carve-out" basis. The unaudited condensed combined financial statements for the three and nine months ended September 30, 2021 also include allocations of certain general and administrative expenses from the former Parent that directly or indirectly benefited Loyalty Ventures. 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. The former Parent's third-party long-term debt and the related interest expense was not allocated for the three and nine months ended September 30, 2021 as the Company was not the legal obligor of such debt. The former Parent's net investment represents its interest in the recorded net assets of the Company. All significant transactions between the Company and its former Parent have been included in the accompanying unaudited condensed combined financial statements. Transactions with the former Parent as contributions to the carve-out entity or distributions from the carve-out entity are reflected in the accompanying unaudited condensed consolidated and combined statements of equity (deficiency) as "Change in former Parent's net investment."

The unaudited condensed consolidated financial statements for the three and nine months ended September 30, 2022 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 unaudited condensed consolidated and combined financial statements.

The Company's unaudited condensed 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 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 consolidated and combined financial statements and accompanying notes are presented in U.S. Dollars ("USD"), the Company's reporting currency.

The unaudited condensed consolidated and 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 consolidated and combined financial statements should be read in conjunction with the consolidated and combined financial statements and the notes thereto for the year ended December 31, 2021 included in the Company's Annual Report on Form 10-K, filed with the Securities and Exchange Commission ("SEC") on February 28, 2022.

Recently Issued Accounting Standards Not Yet Adopted

In March 2020, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") 2020-04, "Facilitation of the Effects of Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting." ASU 2020-04 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 ASU 2020-04 can be applied anytime between the first quarter of fiscal 2020 and the fourth quarter of fiscal 2022. ASU 2020-04 applies 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 Company's primary association with LIBOR is through interest rates applicable under its senior secured credit agreement (the "Credit Agreement") that provides for the use of the Secured Overnight Financing Rate (SOFR) if LIBOR is no longer available. Accordingly, the impact of ASU 2020-04 on the Company's consolidated financial statements and related disclosures is not expected to be material.

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 Accounting Standards Codification ("ASC") 606. ASU 2021-08 is effective for fiscal years beginning after December 15, 2022 and early adoption is permitted. The Company expects to adopt ASU 2021-08 in the first quarter of 2023 on a prospective basis. While the impact of these amendments is dependent on the nature of any future transactions, the Company does not expect ASU 2021-08 to have a significant impact on its consolidated financial statements and related disclosures.

In September 2022, the FASB issued ASU 2022-04, "Liabilities—Supplier Finance Programs (Subtopic 405-50)." This standard requires disclosure of the key terms of outstanding supplier finance programs and a rollforward of the related obligations. The new standard does not affect the recognition, measurement or financial statement presentation of supplier finance program obligations. ASU 2022-04 becomes effective January 1, 2023, except for the rollforward requirement, which becomes effective January 1, 2024. The Company is evaluating the impact that adoption of ASU 2022-04 will have on its consolidated financial statements.

LOYALTY VENTURES INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

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 September 30, 2022	AIR MILES Reward Program	BrandLoyalty	Eliminations	Total
		(in thousands)		
Disaggregation of Revenue by Major Source:				
Coalition loyalty program	$ 63,971	$ —	$ —	$ 63,971
Campaign-based loyalty programs	—	93,413	—	93,413
Other	45	1,611	(42)	1,614
Revenue from contracts with customers	$ 64,016	$ 95,024	$ (42)	$ 158,998
Investment income	3,371	—	—	3,371
Total	$ 67,387	$ 95,024	$ (42)	$ 162,369

Three Months Ended September 30, 2021	AIR MILES Reward Program	BrandLoyalty	Eliminations	Total
		(in thousands)		
Disaggregation of Revenue by Major Source:				
Coalition loyalty program	$ 68,580	$ —	$ —	$ 68,580
Campaign-based loyalty programs	—	95,799	—	95,799
Other	10	1,530	—	1,540
Revenue from contracts with customers	$ 68,590	$ 97,329	$ —	$ 165,919
Investment income	3,338	—	—	3,338
Total	$ 71,928	$ 97,329	$ —	$ 169,257

Nine Months Ended September 30, 2022	AIR MILES Reward Program	BrandLoyalty	Eliminations	Total
		(in thousands)		
Disaggregation of Revenue by Major Source:				
Coalition loyalty program	$ 189,533	$ —	$ —	$ 189,533
Campaign-based loyalty programs	—	284,943	—	284,943
Other	125	4,654	(129)	4,650
Revenue from contracts with customers	$ 189,658	$ 289,597	$ (129)	$ 479,126
Investment income	9,991	—	—	9,991
Total	$ 199,649	$ 289,597	$ (129)	$ 489,117

LOYALTY VENTURES INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

Nine Months Ended September 30, 2021	AIR MILES Reward Program	BrandLoyalty	Eliminations	Total
		(in thousands)		
Disaggregation of Revenue by Major Source:				
Coalition loyalty program	$ 203,870	$ —	$ —	$ 203,870
Campaign-based loyalty programs	—	278,726	—	278,726
Other	12	3,867	—	3,879
Revenue from contracts with customers	$ 203,882	$ 282,593	$ —	$ 486,475
Investment income	10,241	—	—	10,241
Total	$ 214,123	$ 282,593	$ —	$ 496,716

Three Months Ended September 30, 2022	AIR MILES Reward Program	BrandLoyalty	Eliminations	Total
		(in thousands)		
Disaggregation of Revenue by Geographic Region:				
United States	$ —	$ —	$ —	$ —
Canada	67,387	4,742	(42)	72,087
Europe, Middle East and Africa	—	77,465	—	77,465
Asia Pacific	—	7,061	—	7,061
Other	—	5,756	—	5,756
Total	$ 67,387	$ 95,024	$ (42)	$ 162,369

Three Months Ended September 30, 2021	AIR MILES Reward Program	BrandLoyalty	Eliminations	Total
		(in thousands)		
Disaggregation of Revenue by Geographic Region:				
United States	$ —	$ 95	$ —	$ 95
Canada	71,928	3,894	—	75,822
Europe, Middle East and Africa	—	68,168	—	68,168
Asia Pacific	—	22,967	—	22,967
Other	—	2,205	—	2,205
Total	$ 71,928	$ 97,329	$ —	$ 169,257

Nine Months Ended September 30, 2022	AIR MILES Reward Program	BrandLoyalty	Eliminations	Total
		(in thousands)		
Disaggregation of Revenue by Geographic Region:				
United States	$ —	$ —	$ —	$ —
Canada	199,649	12,426	(129)	211,946
Europe, Middle East and Africa	—	220,658	—	220,658
Asia Pacific	—	45,367	—	45,367
Other	—	11,146	—	11,146
Total	$ 199,649	$ 289,597	$ (129)	$ 489,117

LOYALTY VENTURES INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

Nine Months Ended September 30, 2021	AIR MILES Reward Program	BrandLoyalty	Eliminations	Total
		(in thousands)		
Disaggregation of Revenue by Geographic Region:				
United States	$ —	$ 2,637	$ —	$ 2,637
Canada	214,123	15,163	—	229,286
Europe, Middle East and Africa	—	200,022	—	200,022
Asia Pacific	—	57,690	—	57,690
Other	—	7,081	—	7,081
Total	$ 214,123	$ 282,593	$ —	$ 496,716

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 programs.

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, 2022	$ 230,492	$ 791,464	$ 1,021,956
Cash proceeds	131,316	202,961	334,277
Revenue recognized [1]	(138,858)	(254,938)	(393,796)
Other	—	423	423
Effects of foreign currency translation	(19,321)	(64,538)	(83,859)
Balance at September 30, 2022	$ 203,629	$ 675,372	$ 879,001
Amounts recognized in the consolidated balance sheets:			
Deferred revenue (current)	$ 115,836	$ 675,372	$ 791,208
Deferred revenue (non-current)	$ 87,793	$ —	$ 87,793

(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 $39.8 million in 2022, $94.9 million in 2023, $52.3 million in 2024, and $16.6 million in 2025.

The contract liabilities for BrandLoyalty's campaign-based loyalty programs are recognized in other current liabilities in the Company's unaudited condensed consolidated balance sheets. The beginning balance as of January 1, 2022 was $85.4 million and the closing balance as of September 30, 2022 was $99.1 million, with the change due to cash payments received in advance of program performance, offset in part by revenue recognized of approximately $212.4 million and the effect of foreign currency translation of $14.7 million during the nine months ended September 30, 2022.

3. EARNINGS PER SHARE

A total of 24,585,237 shares of Loyalty Ventures common stock were outstanding at November 5, 2021, the date of the Separation, and this share amount was utilized for the calculation of basic and diluted earnings per share for all

periods presented prior to the Separation. For the three and nine months ended September 30, 2021, these shares are treated as issued and outstanding for purposes of calculating historical basic and diluted earnings per share.

For the three and nine months ended September 30, 2022, the calculation of basic and diluted earnings per share is based on the weighted average number of common shares outstanding. 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:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
	(in thousands, except per share amounts)			
Numerator:				
Net (loss) income	$ (125)	$ 23,961	$ (441,007)	$ 57,504
Denominator:				
Weighted average shares, basic	24,612	24,585	24,607	24,585
Weighted average effect of dilutive securities:				
Net effect of dilutive unvested restricted stock[1]	—	—	—	—
Denominator for diluted calculation	24,612	24,585	24,607	24,585
Basic net (loss) income per share:	$ (0.01)	$ 0.97	$ (17.92)	$ 2.34
Diluted net (loss) income per share:	$ (0.01)	$ 0.97	$ (17.92)	$ 2.34

(1) The dilutive calculation excludes 0.9 million and 0.6 million restricted stock units for the three and nine months ended September 30, 2022, respectively, as they were anti-dilutive for the respective periods. For the three and nine months ended September 30, 2021, there are no dilutive equity instruments as there were no equity awards of Loyalty Ventures outstanding prior to the Separation.

4. INVENTORIES, NET

Inventories, net of $236.8 million and $188.6 million at September 30, 2022 and December 31, 2021, 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.

LOYALTY VENTURES INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

5. 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 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:

	September 30, 2022	December 31, 2021
	Fair Value	Fair Value
	(in thousands)	
Restricted cash	$ 40,870	$ 58,752
Mutual funds	20,696	25,990
Corporate bonds	548,145	650,389
Total	$ 609,711	$ 735,131

The following table shows the amortized cost, unrealized gains and losses, and fair value of securities available-for-sale as of September 30, 2022 and December 31, 2021, respectively:

	September 30, 2022				December 31, 2021			
	Amortized Cost	Unrealized Gains	Unrealized Losses	Fair Value	Amortized Cost	Unrealized Gains	Unrealized Losses	Fair Value
				(in thousands)				
Corporate bonds	$ 578,741	$ —	$ (30,596)	$ 548,145	$ 648,248	$ 6,389	$ (4,248)	$ 650,389
Total	$ 578,741	$ —	$ (30,596)	$ 548,145	$ 648,248	$ 6,389	$ (4,248)	$ 650,389

The following tables show the unrealized losses and fair value for those investments that were in an unrealized loss position as of September 30, 2022 and December 31, 2021, respectively, aggregated by investment category and the length of time that individual securities have been in a continuous loss position:

	September 30, 2022					
	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	$ 369,156	$ (13,710)	$ 178,989	$ (16,886)	$ 548,145	$ (30,596)
Total	$ 369,156	$ (13,710)	$ 178,989	$ (16,886)	$ 548,145	$ (30,596)

	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)

LOYALTY VENTURES INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

The amortized cost and estimated fair value of the securities available-for-sale at September 30, 2022 by contractual maturity are as follows:

	Amortized Cost	Estimated Fair Value
	(in thousands)	
Due in one year or less	$ 122,736	$ 121,720
Due after one year through five years	456,005	426,425
Total	$ 578,741	$ 548,145

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 $0.6 million and $3.1 million for the three and nine months ended September 30, 2022, respectively. Losses associated with the change in fair value of mutual funds were de minimis and $0.6 million for the three and nine months ended September 30, 2021, respectively.

For available-for-sale debt securities in which fair value is less than cost, ASC 326, "Financial Instruments – Credit Losses," 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 invests in highly rated securities with expected low probabilities of default and has the intent and ability to hold the investments until maturity. The Company performs an assessment each period for credit-related impairment. As of September 30, 2022, the Company does not consider its investments to be impaired. The Company believes unrealized losses on investments were caused by rising interest rates rather than changes in credit quality. The Company expects to recover, through collection of all of the contractual cash flows of each security, the amortized cost basis of these securities as it does not intend to sell, and does not anticipate being required to sell, these securities before recovery of the cost basis.

There were no realized gains or losses from the sale of investment securities for the three months ended September 30, 2022 and 2021, respectively. Losses from the sale of investment securities were de minimis and $0.2 million for the nine months ended September 30, 2022 and 2021, respectively.

6. LEASES

The Company has operating leases for general office properties, warehouses, data centers, automobiles and equipment. As of September 30, 2022, the Company's leases have remaining lease terms of less than 1 year to 11 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.

LOYALTY VENTURES INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

The components of lease expense were as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
	(in thousands)			
Operating lease cost	$ 3,450	$ 3,923	$ 10,814	$ 11,929
Short-term lease cost	99	84	243	255
Variable lease cost	1,070	922	2,859	3,134
Total	$ 4,619	$ 4,929	$ 13,916	$ 15,318

Sublease income was $1.4 million and $3.2 million for the three and nine months ended September 30, 2022, respectively, and $0.6 million and $1.6 million for the three and nine months ended September 30, 2021, respectively, and is presented net of lease expense.

The Company evaluates its right-of-use assets for impairment in accordance with ASC 360, "Property, Plant and Equipment," when events or changes in circumstances indicate that a right-of-use asset's carrying amount may not be recoverable. The Company performed an impairment assessment for the right-of-use assets associated with certain subleased office space. As a result, the Company recorded asset impairment charges within its AIR MILES Reward Program segment of $0.4 million and $1.0 million in the three and nine months ended September 30, 2022, respectively, which is included in cost of operations in its unaudited condensed consolidated statements of operations.

Other information related to leases was as follows:

	September 30, 2022	September 30, 2021
Weighted-average remaining lease term (in years):		
Operating leases	10.0	10.9
Weighted-average discount rate:		
Operating leases	4.7 %	4.7 %

Supplemental cash flow information related to leases was as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
	(in thousands)			
Cash paid for amounts included in the measurement of lease liabilities:				
Operating cash flows from operating leases	$ 4,294	$ 4,062	$ 12,068	$ 13,871
Right-of-use assets obtained in exchange for lease obligations:				
Operating leases	$ 1,434	$ 16	$ 4,171	$ 200

LOYALTY VENTURES INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

Maturities of the lease liabilities as of September 30, 2022 were as follows:

Year	Operating Leases
	(in thousands)
2022 (excluding the nine months ended September 30, 2022)	$ 2,168
2023	13,560
2024	12,674
2025	12,081
2026	11,538
Thereafter	70,411
Total undiscounted lease liabilities	122,432
Less: Amount representing interest	(25,956)
Total present value of minimum lease payments	$ 96,476
Amounts recognized in the September 30, 2022 consolidated balance sheet:	
Current operating lease liabilities	$ 8,086
Long-term operating lease liabilities	88,390
Total	$ 96,476

7. INTANGIBLE ASSETS AND GOODWILL

Intangible Assets

Intangible assets consist of the following:

	September 30, 2022			
	Gross Assets	Accumulated Amortization	Net	Amortization Life and Method
		(in thousands)		
Tradenames	$ 8,233	$ (6,320)	$ 1,913	8-15 years—straight line
Total intangible assets	$ 8,233	$ (6,320)	$ 1,913	

	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	

LOYALTY VENTURES INC.
NOTES TO UNAUDITED CONDENSED 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 (excluding the nine months ended September 30, 2022)	$ 252
2023	1,006
2024	516
2025	26
2026	26
Thereafter	87

Goodwill

The changes in the carrying amount of goodwill are as follows:

	AIR MILES Reward Program	BrandLoyalty [1]	Total
		(in thousands)	
Balance at January 1, 2022	$ 194,767	$ 455,191	$ 649,958
Impairment	—	(422,922)	(422,922)
Effects of foreign currency translation	(16,789)	(32,269)	(49,058)
Balance at September 30, 2022	$ 177,978	$ —	$ 177,978

(1) The amount of goodwill as of January 1, 2022 is net of an accumulated goodwill impairment charge of $50.0 million within the BrandLoyalty segment incurred as of December 31, 2021. As of June 30, 2022, the Company recorded a goodwill impairment charge of $422.9 million within the BrandLoyalty segment. The goodwill as of September 30, 2022 is net of accumulated goodwill impairment charges of $472.9 million within the BrandLoyalty segment.

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. During the second quarter of 2022, 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, led the Company to believe that it is more likely than not the fair value of its BrandLoyalty reporting unit was less than its carrying amount. As a result, the economic disruption, coupled with increased uncertainty, indicated a material deterioration of the significant inputs used to determine the fair value of the BrandLoyalty reporting unit, resulting in the impairment of the goodwill. See Note 15, "Financial Instruments and Fair Value Measurements," for more information.

8. INVESTMENT IN UNCONSOLIDATED SUBSIDIARY – RELATED PARTY

The Company previously owned a 99.9% interest in Comenity Canada L.P., a limited partnership, which is a consolidated subsidiary of the former Parent, and was accounted for using the equity method of accounting, as the Company exercised significant influence but did not control the entity. The investment was included in the AIR MILES Reward Program segment. In March 2021, the Company received a partnership distribution from Comenity Canada L.P. of $0.8 million, and the Company's ownership interest declined from 99.9% to 98.0%.

Under the equity method, the Company's share of its investee's earnings or loss is recognized in the consolidated and combined statements of operations. The Company recognized income from investment in unconsolidated related party subsidiary of $4.1 million for each of the three and nine months ended September 30, 2021, respectively. In August 2021, the Company's investment in Comenity Canada L.P. was sold to an affiliate of the former Parent for $4.1

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NOTES TO UNAUDITED CONDENSED CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

million and a gain on sale of investment in unconsolidated related party subsidiary of $4.1 million was recorded in income from investment in unconsolidated subsidiary within the Company's unaudited condensed consolidated and combined statements of income.

9. RESTRUCTURING AND OTHER CHARGES

In the second quarter of 2022, executive management initiated a plan to simplify the organization, reduce its cost structure, and optimize its supply chain. The Company expects this plan will be implemented throughout fiscal year 2022. For the three and nine months ended September 30, 2022, the Company incurred restructuring and other charges related to reductions in force and asset impairments associated with certain leased office space as the Company reduces its real estate footprint, and other exit costs primarily related to third-party professional services. These charges were recorded to cost of operations in the Company's unaudited condensed consolidated and combined statements of operations.

The following tables summarize the restructuring and other charges incurred by reportable segment for the three and nine months ended September 30, 2022:

Three Months Ended September 30, 2022	Termination Benefits	Asset Impairments	Other Exit Costs	Total
		(in thousands)		
AIR MILES Reward Program	$ 2,934	$ 432	$ 108	$ 3,474
BrandLoyalty	1,881	—	—	1,881
Total	$ 4,815	$ 432	$ 108	$ 5,355

Nine Months Ended September 30, 2022	Termination Benefits	Asset Impairments	Other Exit Costs	Total
		(in thousands)		
AIR MILES Reward Program	$ 5,291	$ 969	$ 1,480	$ 7,740
BrandLoyalty	1,881	—	—	1,881
Total	$ 7,172	$ 969	$ 1,480	$ 9,621

There were no restructuring and other charges incurred for the three and nine months ended September 30, 2021.

The Company's liability for restructuring and other charges is recognized in accrued expenses in its consolidated 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	Other Exit Costs	Total
		(in thousands)		
Liability as of January 1, 2022	$ —	$ —	$ —	$ —
Charged to expense	7,172	969	1,480	9,621
Adjustments for non-cash charges	—	(969)	—	(969)
Cash payments	(1,471)	—	(1,465)	(2,936)
Effects of foreign currency translation	(165)	—	(15)	(180)
Liability as of September 30, 2022	$ 5,536	$ —	$ —	$ 5,536

The Company's outstanding liability related to restructuring and other charges is expected to be settled in the next twelve months. Management is continuing to undergo an evaluation of its BrandLoyalty segment with additional restructuring and other charges expected to be incurred in the fourth quarter of 2022.

LOYALTY VENTURES INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

10. DEBT

Debt consists of the following:

Description	September 30, 2022	December 31, 2021	Maturity
	(in thousands)		
Revolving credit facility [1]	$ —	$ —	November 2026
Term loan A	165,156	175,000	November 2026
Term loan B	471,875	500,000	November 2027
Total long-term debt	$ 637,031	$ 675,000	
Less: unamortized debt issuance costs	18,686	20,887	
Less: current portion	50,625	50,625	
Long-term portion	$ 567,720	$ 603,488	

(1) As of September 30, 2022, availability under the revolving credit facility was $138.2 million as a result of $11.8 million in letters of credit outstanding under the Credit Agreement. 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

The Company has a Credit Agreement which provides for a $175.0 million term loan A facility, a $500.0 million term loan B facility, and a revolving credit facility in the maximum amount of $150.0 million. The term loan A and revolving credit facility mature November 3, 2026. The term loan B matures November 3, 2027.

In July 2022, the Company entered into an amendment to its Credit Agreement, which, among other things, provides for adjustments to the financial maintenance covenant applicable to the term loan A and revolving credit facility as follows:

Four Fiscal Quarters Ending	Maximum Consolidated Total Leverage Ratio
December 31, 2021 through June 30, 2022	5.00:1.00
September 30, 2022 through September 30, 2023	5.75:1.00
December 31, 2023	5.50:1.00
March 31, 2024 through September 30, 2024	5.25:1.00
December 31, 2024 through March 31, 2025	5.00:1.00
June 30, 2025 and each fiscal quarter thereafter	4.75:1.00

In addition, the amendment reduces the amount of revolving commitments by $2.8 million per quarter beginning September 30, 2022, for each quarter in which the total leverage ratio as defined in the Credit Agreement is in excess of 4.75 to 1. The total leverage ratio was 4.5 to 1 as of September 30, 2022.

For the nine months ended September 30, 2022, the Company made its quarterly principal amortization payments totaling $38.0 million applicable to the term loan A and term loan B.

As of September 30, 2022, the Company was in compliance with its financial covenants.

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NOTES TO UNAUDITED CONDENSED CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

Uncommitted Overdraft Facility

The Company was party to an uncommitted overdraft facility with Deutsche Bank AG that provided overdraft protection in several currencies, up to a maximum amount of €10.0 million ($9.8 million as of September 30, 2022). 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. There were no amounts outstanding under the uncommitted overdraft facility as of September 30, 2022 and December 31, 2021, respectively. In October 2022, the uncommitted overdraft facility was terminated.

11. 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 Company generally hedges foreign currency exchange rate risks for periods of 12 months or less. The fair value of the Company's derivative instruments as of September 30, 2022 was $4.6 million included in other current assets and $1.3 million included in other current liabilities in the Company's unaudited condensed consolidated balance sheets. 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 unaudited condensed consolidated balance sheets.

12. SHARE-BASED PAYMENTS

Stock Compensation Expense

During the nine months ended September 30, 2022, the Company awarded 814,545 service-based restricted stock units with a weighted average grant date fair value per share of $17.62 as determined on the date of grant. Service-based restricted stock unit awards typically vest ratably over a three-year period provided that the participant is employed by the Company on each such vesting date.

The Company also awarded 88,033 performance-based restricted stock units with a weighted average grant date fair value per share of $24.19 as determined on the date of grant with pre-defined vesting criteria that permit a range from 0% to 150% to be earned. If the performance targets are met, the restrictions will lapse with respect to 33% of the award on February 15, 2023, an additional 33% of the award on February 15, 2024 and the final 34% of the award on February 15, 2025, provided that the participant is employed by the Company on each such vesting date. As of September 30, 2022, the Company believes the probable achievement is 0% and thus did not recognize stock compensation expense for these awards for the three and nine months ended September 30, 2022.

Stock-based compensation expense recognized in the Company's unaudited condensed consolidated and combined statements of operations for the three and nine months ended September 30, 2022 and 2021 is as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
	(in thousands)			
Cost of operations	$ 724	$ 1,725	$ 3,054	$ 5,009
General and administrative	615	418	2,194	1,313
Total	$ 1,339	$ 2,143	$ 5,248	$ 6,322

LOYALTY VENTURES INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

13. 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 September 30, 2022	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 July 1, 2022	$ (29,091)	$ 1,506	$ (114,479)	$ (142,064)
Changes in other comprehensive income (loss)	(1,505)	(989)	(21,417)	(23,911)
Balance at September 30, 2022	$ (30,596)	$ 517	$ (135,896)	$ (165,975)

Three Months Ended September 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 July 1, 2021	$ 10,484	$ 72	$ (36,127)	$ (25,571)
Changes in other comprehensive income (loss)	(2,769)	908	(21,064)	(22,925)
Balance at September 30, 2021	$ 7,715	$ 980	$ (57,191)	$ (48,496)

Nine Months Ended September 30, 2022	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 January 1, 2022	$ 2,141	$ 1,270	$ (68,485)	$ (65,074)
Changes in other comprehensive income (loss)	(32,737)	(753)	(67,411)	(100,901)
Balance at September 30, 2022	$ (30,596)	$ 517	$ (135,896)	$ (165,975)

Nine Months Ended September 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 January 1, 2021	$ 18,267	$ (700)	$ (17,186)	$ 381
Changes in other comprehensive income (loss)	(10,552)	1,680	(40,005)	(48,877)
Balance at September 30, 2021	$ 7,715	$ 980	$ (57,191)	$ (48,496)

(1) Primarily related to the impact of changes in the Canadian dollar and Euro foreign currency exchange rates.

Gains on cash flow hedges that were recorded to accumulated other comprehensive income (loss) during the term of the hedging relationship and reclassified into net income (loss) were $2.4 million and $1.8 million in the three and nine months ended September 30, 2022, respectively, and de minimis in the three and nine months ended September 30, 2021, respectively. Other reclassifications from accumulated other comprehensive income (loss) into net income (loss) for each of the periods presented were not material.

14. INCOME TAXES

For the three months ended September 30, 2022 and 2021, the Company utilized an effective tax rate of 103.0% and 40.8%, respectively, to calculate its provision for income taxes. For the nine months ended September 30, 2022 and

2021, the Company utilized an effective tax rate of (6.6)% and 35.5%, respectively, to calculate its provision for income taxes. The change in the effective tax rate for the three months ended September 30, 2022 compared to the prior year period was primarily a result of increased U.S. corporate expenses for which a tax benefit cannot be currently realized. The change in the effective tax rate for the nine months ended September 30, 2022 compared to the prior year period was primarily a result of non-deductibility of the write-off of goodwill, increased U.S. corporate expenses, and the write-down of certain deferred tax assets.

On August 16, 2022, the U.S. enacted the Inflation Reduction Act of 2022 (the "IRA"). The IRA contains a number of tax provisions, including, but not limited to, a new corporate alternative minimum tax, an excise tax on stock buybacks, and incentives for energy and climate initiatives. These provisions are effective for taxable years beginning after December 31, 2022. Currently, the Company does not qualify for the corporate alternative minimum tax.

15. FINANCIAL INSTRUMENTS AND FAIR VALUE MEASUREMENTS

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.

Fair Value of Financial Instruments—The estimated fair values of the Company's financial instruments are as follows:

	September 30, 2022		December 31, 2021	
	Carrying Amount	Fair Value	Carrying Amount	Fair Value
	(in thousands)			
Financial assets				
Redemption settlement assets, restricted	$ 609,711	$ 609,711	$ 735,131	$ 735,131
Other investments	353	353	471	471
Derivative instruments	4,639	4,639	2,465	2,465
Financial liabilities				
Derivative instruments	1,287	1,287	487	487
Long-term debt	618,345	359,993	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 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 of the Company's variable rate long-term debt is based upon recent trades, if available, or estimated using a discounted cash flow method based on the Company's current borrowing rates for similar types of financing.

Financial Assets and Financial Liabilities Fair Value Hierarchy

ASC 820, "Fair Value Measurement," 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 September 30, 2022 and December 31, 2021:

	Balance at September 30, 2022	Fair Value Measurements at September 30, 2022 Using		
		Level 1	Level 2	Level 3
		(in thousands)		
Mutual funds [1]	$ 20,696	$ 20,696	$ —	$ —
Corporate bonds [1]	548,145	—	548,145	—
Marketable securities [2]	353	353	—	—
Derivative instruments [3]	4,639	—	4,639	—
Total assets measured at fair value	$ 573,833	$ 21,049	$ 552,784	$ —
Derivative instruments [3]	$ 1,287	$ —	$ 1,287	$ —
Total liabilities measured at fair value	$ 1,287	$ —	$ 1,287	$ —

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	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	$ —

(1) Amounts are included in redemption settlement assets, restricted in the unaudited condensed consolidated balance sheets.

(2) Amounts are included in other current assets in the unaudited condensed consolidated balance sheets.

(3) Amounts are included in other current assets and other current liabilities in the unaudited condensed consolidated balance sheets.

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 September 30, 2022 and December 31, 2021:

	Balance at September 30, 2022	Fair Value Measurements at September 30, 2022 Using		
		Level 1	Level 2	Level 3
		(In thousands)		
Long-term debt	$ 359,993	$ —	$ 359,993	$ —
Total liabilities measured at fair value	$ 359,993	$ —	$ 359,993	$ —

	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	$ —

Assets and Liabilities Measured at Fair Value on a Nonrecurring Basis

Certain assets and liabilities are recognized or disclosed at fair value on a nonrecurring basis, including property and equipment, right-of-use assets and goodwill. These assets are not measured at fair value on an ongoing basis but are subject to fair value adjustments in certain circumstances, including when there is evidence of impairment. For the three and nine months ended September 30, 2022, as part of restructuring and other charges, the Company recorded asset impairment charges of $0.4 million and $1.0 million, respectively, related to certain fixed assets and right-of-use assets as a result of subleases associated with certain leased office space. The fair value was determined utilizing discounted cash flow models over the estimated life of each asset. The principal assumptions used in the Company's impairment analysis were forecasted future cash flows and a discount rate, which is considered Level 3 inputs. See Note 6, "Leases," and Note 9, "Restructuring and Other Charges," for more information.

For the nine months ended September 30, 2022, the Company recognized a goodwill impairment charge of $422.9 million in the BrandLoyalty segment. To determine the fair value of the reporting unit, the Company used both income-

and market-based valuation techniques to determine the fair value of the reporting unit, as opposed to just an income approach, as it provided a better representation of fair value of the reporting unit. The income-based approach utilizes 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, and the discount rate which are unobservable inputs. The market-based approach involves an analysis of market multiples of revenues and earnings to a group of comparable public companies and recent transactions, if any, involving comparable companies, with the unobservable input being the forecasted earnings of BrandLoyalty. The assumptions utilized in our quantitative analysis are unobservable inputs classified as Level 3 under the fair value hierarchy of ASC 820, "Fair Value Measurement." See Note 7, "Intangible Assets and Goodwill," for more information.

16. 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 its sponsors, who pay the AIR MILES Reward Program a fee per AIR MILES reward mile issued, in return for which it provides 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 either 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 September 30, 2022	AIR MILES Reward Program	BrandLoyalty	Corporate/ Other	Eliminations	Total
			(in thousands)		
Revenues	$ 67,387	$ 95,024	$ —	$ (42)	$ 162,369
Income (loss) before income taxes	$ 25,926	$ (4,622)	$ (17,125)	$ —	$ 4,179
Interest (income) expense, net	(449)	(45)	12,021	—	11,527
Depreciation and amortization	5,586	2,067	15	—	7,668
Stock compensation expense	195	529	615	—	1,339
Strategic transaction costs	2	292	2,721	—	3,015
Restructuring and other charges	3,474	1,881	—	—	5,355
Adjusted EBITDA [1]	$ 34,734	$ 102	$ (1,753)	$ —	$ 33,083

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Three Months Ended September 30, 2021	AIR MILES Reward Program	BrandLoyalty	Corporate/ Other	Eliminations	Total
			(in thousands)		
Revenues	$ 71,928	$ 97,329	$ —	$ —	$ 169,257
Income (loss) before income taxes	$ 33,889	$ 6,524	$ (4,018)	$ —	$ 36,395
Interest (income) expense, net	(206)	70	—	—	(136)
Depreciation and amortization	6,018	3,080	—	—	9,098
Stock compensation expense	777	948	418	—	2,143
Adjusted EBITDA [1]	$ 40,478	$ 10,622	$ (3,600)	$ —	$ 47,500

Nine Months Ended September 30, 2022	AIR MILES Reward Program	BrandLoyalty	Corporate/ Other	Eliminations	Total
			(in thousands)		
Revenues	$ 199,649	$ 289,597	$ —	$ (129)	$ 489,117
Income (loss) before income taxes	$ 68,274	$ (435,052)	$ (46,763)	$ —	$ (413,541)
Interest (income) expense, net	(833)	(27)	30,833	—	29,973
Depreciation and amortization	19,066	6,877	23	—	25,966
Stock compensation expense	1,168	1,886	2,194	—	5,248
Goodwill impairment	—	422,922	—	—	422,922
Strategic transaction costs	300	1,401	3,339	—	5,040
Restructuring and other charges	7,740	1,881	—	—	9,621
Adjusted EBITDA [1]	$ 95,715	$ (112)	$ (10,374)	$ —	$ 85,229

Nine Months Ended September 30, 2021	AIR MILES Reward Program	BrandLoyalty	Corporate/ Other	Eliminations	Total
			(in thousands)		
Revenues	$ 214,123	$ 282,593	$ —	$ —	$ 496,716
Income (loss) before income taxes	$ 94,214	$ 2,447	$ (11,608)	$ —	$ 85,053
Interest (income) expense, net	(582)	264	—	—	(318)
Depreciation and amortization	17,927	9,626	—	—	27,553
Stock compensation expense	2,126	2,883	1,313	—	6,322
Adjusted EBITDA [1]	$ 113,685	$ 15,220	$ (10,295)	$ —	$ 118,610

(1) Adjusted EBITDA is presented in accordance with ASC 280 as it is the primary performance metric utilized to assess performance of the segments and to determine the allocation of resources. Adjusted EBITDA is a non-GAAP financial measure equal to net (loss) income, the most directly comparable financial measure based on GAAP, plus income from investment in unconsolidated subsidiary – 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 goodwill impairment, strategic transaction costs, and restructuring and other charges. Strategic transaction costs represent costs associated with the Separation, which were comprised of amounts associated with the Employee Matters Agreement and Tax Matters Agreement. Strategic transaction costs also include advisory services associated with modifying the Credit Agreement and the Company's capital structure.

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NOTES TO UNAUDITED CONDENSED CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS – (CONTINUED)

17. 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 consolidated and combined statements of cash flows:

	September 30, 2022	September 30, 2021
	(in thousands)	
Cash and cash equivalents	$ 73,307	$ 198,865
Restricted cash included within other current assets [1]	9,132	5,312
Restricted cash included within redemption settlement assets, restricted [2]	40,870	58,196
Total cash, cash equivalents and restricted cash	$ 123,309	$ 262,373

(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.

18. RELATED PARTY TRANSACTIONS

Prior to the Separation, transactions between the Company and its former Parent 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 statement of cash flow as a financing activity as net transfers to the former Parent for the nine months ended September 30, 2021. In January 2021, the Company paid cash dividends to the former Parent of $124.2 million, of which $4.2 million was withheld for taxes.

The former Parent allocated $4.0 million and $11.6 million for the three and nine months ended September 30, 2021, respectively, of corporate overhead costs that directly or indirectly benefit the Company that is included in general and administrative expense within the Company's unaudited condensed combined statements of operations. 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 addition, the Company had an investment in unconsolidated subsidiary that was a consolidated subsidiary of the former Parent, which was sold to a subsidiary of the former Parent in August 2021. See Note 8, "Investment in Unconsolidated Subsidiary - Related Party," for additional information.

As part of the Separation, the Company entered into certain agreements with its former Parent, including a Transition Services Agreement, Employee Matters Agreement, and Tax Matters Agreement.

For the three and nine months ended September 30, 2022, the Company incurred $0.6 million and $1.8 million, respectively, of expenses in connection with the Transition Services Agreement for various corporate, administrative and information technology services provided by its former Parent, which have been included in general and administrative expenses in the Company's unaudited condensed consolidated statements of operations.

Pursuant to the terms of the Employee Matters Agreement, the Company received a net cash payment of $1.6 million as final settlement of the estimated prorated bonus amounts established at the time of the Separation.

Additionally, the Company has certain assets and liabilities associated with the Tax Matters Agreement. The Company has $20.3 million and $20.1 million of accounts receivable as of September 30, 2022 and December 31, 2021,

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respectively, accrued expenses of $75.8 million and $80.0 million as of September 30, 2022 and December 31, 2021, respectively, and $1.0 million of other liabilities as of September 30, 2022 and December 31, 2021 included in the Company's consolidated balance sheets.

Caution Regarding Forward-Looking Statements

This Quarterly Report on Form 10-Q 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 Quarterly Report on Form 10-Q 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, our high level of indebtedness; reductions in our credit ratings that limit our ability to access capital markets; increases in market interest rates; the potential for our common stock to be delisted from trading on Nasdaq for failure to meet minimum continuing listing standards; continuing impacts related to COVID-19, including variants, labor shortages, reduction in demand from clients, supply chain disruption for our reward suppliers and capacity constraints, rising costs or other disruptions in the airline or travel industries; changes in geopolitical conditions, including the Russian invasion of Ukraine and related global sanctions and Russian restrictions or actions with respect to local assets; fluctuation in foreign exchange rates; execution of restructuring plans and any resulting cost savings; 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; 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 Part I, Item 1A, "Risk Factors" of our Annual Report on Form 10-K for the most recently ended fiscal year as well as those factors discussed in Item 1A and elsewhere in this Quarterly Report on Form 10-Q and in the documents incorporated by reference in this Form 10-Q. Any forward-looking statements contained in this Quarterly Report on Form 10-Q 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.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

The following discussion should be read in conjunction with the unaudited condensed consolidated and combined financial statements and related notes thereto presented in this quarterly report and the consolidated and combined financial statements and related notes thereto included in our Annual Report on Form 10-K for the year ended December 31, 2021, filed with the Securities and Exchange Commission, or SEC, on February 28, 2022. This discussion contains forward-looking statements that involve risks and uncertainties. Our actual results could differ materially from those projected, forecasted, or expected in these forward-looking statements as a result of various factors, including, but not limited to, those discussed below and elsewhere in this Quarterly Report on Form 10-Q. See "Caution Regarding Forward-Looking Statements" and "Risk Factors" in this Quarterly Report on Form 10-Q, and the "Risk Factors" in Part 1, Item 1A, "Risk Factors" of our Annual Report on Form 10-K filed with the SEC on February 28, 2022.

Basis of Presentation

On November 5, 2021, Bread Financial Holdings, Inc., previously named Alliance Data Systems Corporation ("former Parent"), completed the spinoff of its LoyaltyOne reportable segment (the "Separation") into an independent, publicly traded company, Loyalty Ventures Inc. ("Loyalty Ventures," "we," or "our").

Prior to the Separation and for the three and nine months ended September 30, 2021, the unaudited combined financial statements reflected the financial position, results of operations, and cash flows which were derived from the consolidated financial statements and accounting records of our former Parent in accordance with accounting principles generally accepted in the United States, or GAAP, and were prepared on a "carve-out" basis. The combined financial statements also include allocations of certain general and administrative expenses from our former Parent. These allocations relate to information technology, finance, accounting, tax services, human resources, and other functional support and were determined based on management estimates on the number of employees and non-employee costs associated with the use of these functions by us. We were allocated $4.0 million and $11.6 million for the three and nine

months ended September 30, 2021, respectively, for such corporate expenses, which were included within general and administrative expenses in the combined statement of operations. Our former Parent's third-party long-term debt and the related interest expense were not allocated for the three and nine months ended September 30, 2021, as Loyalty Ventures was not the legal obligor of such debt. The combined financial statements for the three and nine months ended September 30, 2021, 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. The financial statements for the three and nine months ended September 30, 2022, represent the unaudited consolidated financial statements of Loyalty Ventures.

Overview

Loyalty Ventures 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 manage our business in two segments, the AIR MILES® Reward Program and BrandLoyalty.

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. Recently, the AIR MILES Rewards Program introduced a series of improvements to the program as part of its commitment to providing collectors with an enhanced loyalty program that offers more choice, flexibility and value that will continue throughout 2022. The increase in value proposition for our AIR MILES reward miles has and will continue to have an impact on our redemption revenue, as the cost of redemptions is netted against redemption revenue in accordance with ASC 606, Revenue from Contracts with Customers. In June 2022, the AIR MILES Reward Program received notice from its sponsor, Sobeys Inc., of its intent to exit the program on a region-by-region basis, with the departure of Atlantic Canada in August 2022, Western Canada in September 2022, Ontario in November 2022 and continuing through the first quarter of 2023. Sobeys represented approximately 10% of Loyalty Ventures' adjusted EBITDA in 2021. For 2022, we expect this development will primarily impact the number of AIR MILES reward miles issued and continue to negatively impact issuance thereafter. For the three and nine months ended September 30, 2022, redemptions increased 45% and 47%, respectively, as compared to the same periods in the prior year, due to the rebound of travel along with the launch of our new travel platform that provides more choices for collectors. However, redemption revenue for our AIR MILES Reward Program declined due to our investment in providing greater value to the collector. Issuance for each of the three and nine months ended September 30, 2022 increased 2%, respectively, as compared to the same periods in the prior year due to increased spend with our credit card and fuel sponsors, but growth was tempered by the grocery category after two regions transitioned in the third quarter of 2022.

BrandLoyalty is a leading global provider of campaign-based loyalty solutions for grocers and other high-frequency retailers. Revenue is significantly impacted by the number, type, and timing of programs in market, which can vary significantly year over year. BrandLoyalty's original outlook for 2022 was based on a post-covid recovery after two years of pandemic and logistics-related disruptions to the segment's operating environment. As a result of the invasion of Ukraine by Russia and sanctions imposed in response to the conflict, we have taken steps to pause business in Russia, which we estimate will result in lost revenues of approximately $16 million (€15 million). The vast majority of products we use for our campaign-based loyalty solutions in Russian grocery stores are sourced internationally, and none of the rewards for loyalty campaigns outside of Russia are sourced from Russian suppliers. As of September 30, 2022, we have approximately $8.9 million in cash and cash equivalents and $4.5 million in inventory in our Russian subsidiary. The protracted war in Ukraine has created a greater negative impact on the macroeconomic environment as European consumers are now confronted with rising food and energy prices, which has resulted in a decline in consumer confidence and changes in consumer sentiment and behavior. The ongoing supply chain issues coupled with these other inflationary and recessionary concerns has resulted in negative pressure on BrandLoyalty's adjusted EBITDA. Further, these factors resulted in the impairment of the segment's goodwill of $422.9 million for the nine months ended

September 30, 2022. See Note 7, "Intangible Assets and Goodwill," of the Notes to Unaudited Condensed Consolidated and Combined Financial Statements for additional information.

In the second quarter of 2022, executive management and the board of directors began a process to simplify the organization, reduce its cost structure, and optimize its supply chain. As a result, we incurred restructuring and other charges of $5.4 million and $9.6 million in the three and nine months ended September 30, 2022, respectively, which have been included in our cost of operations. See Note 9, "Restructuring and Other Charges," of the Notes to Unaudited Condensed Consolidated and Combined Financial Statements for additional information. We expect to execute on our operational efficiency plan throughout 2022.

While we expect the impacts of COVID-19 on our business to continue to moderate, there still remains uncertainty around the pandemic, its effect on labor or other macroeconomic factors, the severity and duration, the continued availability and effectiveness of vaccines and actions taken by government authorities, including restrictions, laws or regulations, and other third parties in response to the pandemic. We continue to actively monitor the impact of COVID-19 on all aspects of our business.

Consolidated and Combined Results of Operations

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2022	2021	% Change	2022	2021	% Change
	(In thousands, except percentages)					
Revenues						
Redemption, net	$ 91,852	$ 97,149	(5)%	$ 273,779	$ 280,844	(3)%
Services	62,757	65,806	(5)	191,830	199,244	(4)
Other	7,760	6,302	23	23,508	16,628	41
Total revenue	162,369	169,257	(4)	489,117	496,716	(2)
Operating expenses						
Cost of operations (exclusive of depreciation and amortization disclosed separately below)	133,905	119,882	12	407,890	372,820	9
General and administrative	5,090	4,018	27	15,907	11,608	37
Depreciation and other amortization	7,409	8,665	(14)	25,146	26,237	(4)
Amortization of purchased intangibles	259	433	(40)	820	1,316	(38)
Goodwill impairment	—	—	nm *	422,922	—	nm *
Total operating expenses	146,663	132,998	10	872,685	411,981	112
Operating income (loss)	15,706	36,259	(57)	(383,568)	84,735	(553)
Interest expense (income), net	11,527	(136)	nm *	29,973	(318)	nm *
Income (loss) before income taxes and income from investment in unconsolidated subsidiary	4,179	36,395	(89)	(413,541)	85,053	(586)
Provision for income taxes	4,304	16,542	(74)	27,466	31,616	(13)
Income from investment in unconsolidated subsidiary – related party, net of tax	—	(4,108)	nm *	—	(4,067)	nm *
Net (loss) income	$ (125)	$ 23,961	(101)%	$ (441,007)	$ 57,504	(867)%
Key Operating Metrics (in millions):						
AIR MILES reward miles issued	1,176.8	1,155.2	2 %	3,470.0	3,406.1	2 %
AIR MILES reward miles redeemed	1,294.9	895.8	45 %	3,584.8	2,435.5	47 %
Supplemental information:						
Average CAD to USD foreign currency exchange rate	0.77	0.79	(3)%	0.78	0.80	(3)%
Average EUR to USD foreign currency exchange rate	1.01	1.18	(14)%	1.06	1.20	(12)%

* not meaningful

Three months ended September 30, 2022 compared to the three months ended September 30, 2021

Revenue. Total revenue decreased $6.9 million to $162.4 million, or 4%, for the three months ended September 30, 2022 as compared to $169.3 million for the three months ended September 30, 2021. The net decrease was due to the following:

- *Redemption, net*. Redemption revenue decreased $5.3 million, or 5%, to $91.9 million for the three months ended September 30, 2022, as redemption revenue from our coalition loyalty program decreased $2.5 million despite an increase in AIR MILES reward miles redeemed, resulting from an increase to our value proposition and cost of redemptions that are netted against revenue in accordance with ASC 606. Redemption revenue from our campaign-based loyalty programs decreased $2.8 million due to the decline in the Euro relative to the U.S. Dollar. In Euro, redemption revenue from our campaign-based loyalty programs increased by 13% due to certain program performance in Europe. The timing and size of programs can vary between quarters in the comparative years.

- *Services*. Services revenue decreased $3.0 million, or 5%, to $62.8 million for the three months ended September 30, 2022 primarily due to the impact of the decline in AIR MILES reward miles issued in 2020 and 2021, as a portion of the consideration from those issuances is deferred and amortized into revenue over the estimated life of an AIR MILES reward mile.

- *Other revenue*. Other revenue increased $1.5 million, or 23%, to $7.8 million for the three months ended September 30, 2022, due to an increase in ancillary revenue associated with surplus inventory in our BrandLoyalty segment and ancillary revenue earned on travel bookings within our coalition loyalty program.

Cost of operations. Cost of operations increased $14.0 million, or 12%, to $133.9 million for the three months ended September 30, 2022 as compared to $119.9 million for the three months ended September 30, 2021 due to a $11.3 million increase in cost of redemptions due to higher reward and logistics costs associated with our campaign-based loyalty programs, and restructuring and other charges incurred of $5.4 million.

General and administrative. General and administrative expenses increased $1.1 million, or 27%, to $5.1 million for the three months ended September 30, 2022 as compared to $4.0 million for the three months ended September 30, 2021, due to an increase in consulting and legal expenses.

Depreciation and other amortization. Depreciation and other amortization decreased $1.3 million, or 14%, to $7.4 million for the three months ended September 30, 2022 as compared to $8.7 million for the three months ended September 30, 2021 due to certain fully depreciated property and equipment.

Amortization of purchased intangibles. Amortization of purchased intangibles decreased $0.2 million, or 40%, to $0.3 million for the three months ended September 30, 2022, as compared to $0.4 million for the three months ended September 30, 2021, as a result of the decline in foreign currency exchange rates.

Interest expense (income), net. Total interest expense (income), net increased $11.7 million due to the interest expense associated with the senior secured credit agreement, or the Credit Agreement, entered in connection with the Separation in November 2021.

Taxes. Provision for income taxes decreased $12.2 million to $4.3 million for the three months ended September 30, 2022 from $16.5 million for the three months ended September 30, 2021. The change in the effective tax rate to 103.0% for the three months ended September 30, 2022 as compared to 40.8% in the prior year period was primarily a result of increased U.S. corporate expenses for which a tax benefit cannot be currently realized.

Income from investment in unconsolidated subsidiary – related party, net of tax. Income from unconsolidated subsidiary – related party in 2021 represented our allocable share of the income from our investment in our

unconsolidated subsidiary, Comenity Canada, L.P., which was sold to an affiliate of our former Parent in August 2021 for $4.1 million and for which we recognized a gain on sale of unconsolidated subsidiary of $4.1 million.

Nine months ended September 30, 2022 compared to the nine months ended September 30, 2021

Revenue. Total revenue decreased $7.6 million to $489.1 million for the nine months ended September 30, 2022 as compared to $496.7 million for the nine months ended September 30, 2021. The net decrease was due to the following:

- *Redemption, net*. Redemption revenue decreased $7.1 million, or 3%, to $273.8 million for the nine months ended September 30, 2022, as revenue from our coalition loyalty program decreased $9.1 million despite an increase in AIR MILES reward miles redeemed because of an increase to our value proposition and cost of redemptions that are netted against revenue in accordance with ASC 606. This was partially offset by the increase in redemption revenue from our campaign-based loyalty programs of $2.0 million. In Euro, redemption revenue from our campaign-based loyalty programs increased by 13% due to certain program performance in Europe. The timing and size of programs can vary between the comparative periods.

- *Services*. Services revenue decreased $7.4 million, or 4%, to $191.8 million for the nine months ended September 30, 2022 due to the impact of the decline in AIR MILES reward miles issued in 2020 and 2021, as a portion of the consideration from those issuances is deferred and amortized into revenue over the estimated life of an AIR MILES reward mile.

- *Other revenue.* Other revenue increased $6.9 million, or 41%, to $23.5 million for the nine months ended September 30, 2022, due to an increase in ancillary revenue associated with surplus inventory in our BrandLoyalty segment and ancillary revenue earned on travel bookings within our coalition loyalty program.

Cost of operations. Cost of operations increased $35.1 million, or 9%, to $407.9 million for the nine months ended September 30, 2022 as compared to $372.8 million for the nine months ended September 30, 2021 due to a $34.5 million increase in cost of redemptions due to the increase in logistics costs associated with our campaign-based loyalty programs, and restructuring and other charges incurred of $9.6 million. These increases were partially offset by a decrease in incentive compensation.

General and administrative. General and administrative expenses increased $4.3 million, or 37%, to $15.9 million for the nine months ended September 30, 2022 as compared to $11.6 million for the nine months ended September 30, 2021, due to an increase in payroll and benefits expense, including stock compensation and other amounts associated with the Employee Matters Agreement, as well as additional consulting and legal expenses.

Depreciation and other amortization. Depreciation and other amortization decreased $1.1 million, or 4%, to $25.1 million for the nine months ended September 30, 2022 as compared to $26.2 million for the nine months ended September 30, 2021 due to certain fully depreciated property and equipment.

Amortization of purchased intangibles. Amortization of purchased intangibles decreased $0.5 million, or 38%, to $0.8 million for the nine months ended September 30, 2022, as compared to $1.3 million for the nine months ended September 30, 2021, as a result of the decline in foreign currency exchange rates.

Goodwill impairment. In the second quarter of 2022, we recognized a goodwill impairment charge of $422.9 million associated with the BrandLoyalty segment.

Interest expense (income), net. Total interest expense (income), net increased $30.3 million due to the interest expense associated with the Credit Agreement entered in connection with the Separation in November 2021.

Taxes. Provision for income taxes decreased $4.2 million to $27.5 million for the nine months ended September 30, 2022 from $31.6 million for the nine months ended September 30, 2021. The change in the effective tax rate to (6.6)% for the nine months ended September 30, 2022 as compared to 35.5% in the prior year period was primarily a result of

non-deductibility of the write-off of goodwill, the increase in U.S. corporate expenses currently non-deductible, and the write-down of certain deferred tax assets.

Loss from investment in unconsolidated subsidiary – related party, net of tax. Income from unconsolidated subsidiary – related party in 2021 represented our allocable share of the income from our investment in our unconsolidated subsidiary, Comenity Canada, L.P., which was sold to an affiliate of our former Parent in August 2021 for $4.1 million and for which we recognized a gain on sale of unconsolidated subsidiary of $4.1 million.

Use of Non-GAAP financial measures

Adjusted EBITDA is a non-GAAP financial measure equal to net (loss) income, the most directly comparable financial measure based on accounting principles generally accepted in the United States of America, or GAAP, plus income from investment in unconsolidated subsidiary – 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 also excludes goodwill impairment, strategic transaction costs, and restructuring and other charges. Strategic transaction costs represent costs associated with the Separation, which were comprised of amounts associated with the Employee Matters Agreement and Tax Matters Agreement. Strategic transaction costs also include advisory services associated with modifying the Credit Agreement and our capital structure. These items 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. 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 September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
	(in thousands)			
Net (loss) income	$ (125)	$ 23,961	$ (441,007)	$ 57,504
Income from investment in unconsolidated subsidiary – related party, net of tax	—	(4,108)	—	(4,067)
Provision for income taxes	4,304	16,542	27,466	31,616
Interest expense (income), net	11,527	(136)	29,973	(318)
Depreciation and other amortization	7,409	8,665	25,146	26,237
Amortization of purchased intangibles	259	433	820	1,316
Stock compensation expense	1,339	2,143	5,248	6,322
Goodwill impairment	—	—	422,922	—
Strategic transaction costs (1)	3,015	—	5,040	—
Restructuring and other charges (2)	5,355	—	9,621	—
Adjusted EBITDA	$ 33,083	$ 47,500	$ 85,229	$ 118,610

(1) Represents costs associated with the Separation, which were comprised of amounts associated with the Employee Matters Agreement and Tax Matters Agreement, and modifying the Credit Agreement and our capital structure.

(2) Represents costs associated with termination benefits, assets impairments and other exit costs. See Note 9, "Restructuring and Other Charges," of the Notes to Unaudited Condensed Consolidated and Combined Financial Statements for additional information.

Segment Revenue and Adjusted EBITDA

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2022	2021	% Change	2022	2021	% Change
	(In thousands, except percentages)					
Revenue:						
AIR MILES Reward Program	$ 67,387	$ 71,928	(6)%	$ 199,649	$ 214,123	(7)%
BrandLoyalty	95,024	97,329	(2)	289,597	282,593	2
Corporate/Other	—	—	—	—	—	—
Eliminations	(42)	—	nm *	(129)	—	nm *
Total	$ 162,369	$ 169,257	(4)%	$ 489,117	$ 496,716	(2)%
Adjusted EBITDA						
AIR MILES Reward Program	$ 34,734	$ 40,478	(14)%	$ 95,715	$ 113,685	(16)%
BrandLoyalty	102	10,622	(99)	(112)	15,220	(101)
Corporate/Other	(1,753)	(3,600)	(51)	(10,374)	(10,295)	1
Total	$ 33,083	$ 47,500	(30)%	$ 85,229	$ 118,610	(28)%

Three months ended September 30, 2022 compared to the three months ended September 30, 2021

Revenue. Total revenue decreased $6.9 million, or 4%, to $162.4 million for the three months ended September 30, 2022 from $169.3 million for the three months ended September 30, 2021. The decrease was due to the following:

- *AIR MILES Reward Program*. Revenue decreased $4.5 million, or 6%, to $67.4 million for the three months ended September 30, 2022, as revenue was impacted by a decline in issuance revenue, included in service revenue, of $2.6 million due to the decrease in the number of AIR MILES reward miles issued in 2020 and 2021, and a decline of $2.5 million in redemption revenue due to the increase in the value proposition that negatively impacts the cost of redemptions, which are netted against revenue in accordance with ASC 606.

- *BrandLoyalty*. Revenue decreased $2.3 million, or 2%, to $95.0 million for the three months ended September 30, 2022, due to the decline in the Euro relative to the U.S. Dollar. In Euro, revenue from our campaign-based

loyalty programs increased by 14% primarily due to certain program performance in Europe. The timing and size of programs can vary between quarters in the comparative years.

Adjusted EBITDA. Adjusted EBITDA decreased $14.4 million, or 30%, to $33.1 million for the three months ended September 30, 2022 from $47.5 million for the three months ended September 30, 2021. The net decrease was due to the following:

- *AIR MILES Reward Program*. Adjusted EBITDA decreased $5.7 million, or 14%, to $34.7 million for the three months ended September 30, 2022 due to the decrease in revenue noted above.

- *BrandLoyalty*. Adjusted EBITDA decreased $10.5 million, or 99%, to $0.1 million for the three months ended September 30, 2022 due to margin pressure attributable to an increase in cost of redemptions from higher reward and logistics costs.

- *Corporate/Other*. Adjusted EBITDA increased $1.8 million to $(1.8) million for the three months ended September 30, 2022 primarily due to the favorable impact of foreign currency exchange rates on certain tax assets and liabilities.

Nine months ended September 30, 2022 compared to the nine months ended September 30, 2021

Revenue. Total revenue decreased $7.6 million to $489.1 million for the nine months ended September 30, 2022 from $496.7 million for the nine months ended September 30, 2021. The net decrease was due to the following:

- *AIR MILES Reward Program*. Revenue decreased $14.5 million, or 7%, to $199.6 million for the nine months ended September 30, 2022, as revenue was impacted by a decline in issuance revenue, included in service revenue, of $9.1 million due to the decrease in the number of AIR MILES reward miles issued in 2020 and 2021, and a decline of $9.1 million in redemption revenue due to the increase in the value proposition that negatively impacts the cost of redemptions, which are netted against revenue in accordance with ASC 606, partially offset by an increase in ancillary revenue earned on travel bookings.

- *BrandLoyalty*. Revenue increased $7.0 million, or 2%, to $289.6 million for the nine months ended September 30, 2022, due to the size and timing of programs in market and an increase in ancillary revenue associated with surplus inventory. In Euro, revenue from our campaign-based loyalty programs increased by 15% primarily due to certain program performance in Europe. The timing and size of programs can vary between the comparative periods.

Adjusted EBITDA. Adjusted EBITDA decreased $33.4 million, or 28%, to $85.2 million for the nine months ended September 30, 2022 from $118.6 million for the nine months ended September 30, 2021. The decrease was due to the following:

- *AIR MILES Reward Program*. Adjusted EBITDA decreased $18.0 million, or 16%, to $95.7 million for the nine months ended September 30, 2022 due to the decrease in revenue noted above.

- *BrandLoyalty*. Adjusted EBITDA decreased $15.3 million, or 101%, to $(0.1) million for the nine months ended September 30, 2022 due to margin pressure attributable to an increase in cost of redemptions from higher reward and logistics costs.

- *Corporate/Other*. Adjusted EBITDA decreased $0.1 million to $(10.4) million for the nine months ended September 30, 2022 due to an increase in payroll and benefits expense and consulting and legal costs, partially offset by the favorable impact of foreign currency exchange rates on certain tax assets and liabilities.

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 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 revolving credit facility. 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. We have engaged certain advisors to assist in modifying our capital structure put in place at formation; further, the independent members of the board have been reviewing all circumstances related to our formation. During the third quarter of 2022, we received a downgrade of our corporate credit rating which could increase our future cost of financing or limit our ability to access capital. However, any downgrade of our credit rating(s) is not an event of default in our Credit Agreement. Further, both stock and bond markets in the United States are performing poorly in 2022 and our common stock has traded below the minimum bid price on the Nasdaq Global Select Market for a short period of time. See Item 1A Risk Factors for additional information about risks related to trading below the minimum bid price for 30 or more consecutive trading days. In addition, the continued volatility in the financial and capital markets due to COVID-19, or the ongoing invasion by Russia of Ukraine, 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

Operating Activities. We used cash flow from operating activities of $51.6 million for the nine months ended September 30, 2022 as compared to cash flow generated from operating activities of $113.7 million for the nine months ended September 30, 2021, primarily as a result of a decline in net income and changes in working capital, primarily from an increase in inventory in advance of programs scheduled in the fourth quarter of the year, in addition to inventory from underperforming campaigns in the first half of the year, and a decline in deferred revenue associated with our AIR MILES Reward Program as a result of an increase in redemptions.

Investing Activities. Cash used in investing activities was $5.6 million and $55.6 million for the nine months ended September 30, 2022 and 2021, respectively. Significant components of investing activities are as follows:

- *Redemption settlement assets, restricted.* Cash provided by redemption settlement assets was $10.3 million for the nine months ended September 30, 2022 as compared to cash used in redemption settlement assets of $47.3 million for the nine months ended September 30, 2021 as a result of lower investments.

- *Capital expenditures.* Cash paid for capital expenditures was $15.9 million and $13.1 million for the nine months ended September 30, 2022 and 2021, respectively.

Financing Activities. Cash used in financing activities was $38.9 million and $129.3 million for the nine months ended September 30, 2022 and 2021, respectively. In 2022, the cash used for financing was primarily attributable to principal payments on our term loans. In 2021, the Company paid a dividend to our former Parent of $124.2 million, of which $4.2 million was withheld for taxes.

Debt

Credit Agreement

In July 2022, we entered into an amendment to our Credit Agreement, which, among other things, provides for adjustments to the financial maintenance covenant applicable to the term loan A and revolving credit facility as follows:

Four Fiscal Quarters Ending	Maximum Consolidated Total Leverage Ratio
December 31, 2021 through June 30, 2022	5.00:1.00
September 30, 2022 through September 30, 2023	5.75:1.00
December 31, 2023	5.50:1.00
March 31, 2024 through September 30, 2024	5.25:1.00
December 31, 2024 through March 31, 2025	5.00:1.00
June 30, 2025 and each fiscal quarter thereafter	4.75:1.00

In addition, the amendment reduces the amount of revolving commitments by $2.8 million per quarter, beginning September 30, 2022, for each quarter in which the total leverage ratio as defined in the Credit Agreement is in excess of 4.75 to 1.

At September 30, 2022, we had $637.0 million in term loans outstanding and a $150.0 million revolving line of credit. As of September 30, 2022, we had no amounts outstanding under our revolving line of credit but a total availability of $138.2 million due to letters of credit outstanding under the Credit Agreement. Our total leverage ratio, as defined in the Credit Agreement, was 4.5 to 1 at September 30, 2022, as compared to the maximum covenant ratio of 5.75 to 1.

As of September 30, 2022, we were in compliance with our debt covenants.

See Note 10, “Debt,” of the Notes to Unaudited Condensed Consolidated and Combined Financial Statements for additional information regarding our debt.

Critical Accounting Policies and Estimates

Other than as set forth below, there have been no significant changes to our critical accounting policies and estimates from the information provided in Item 7, “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” included in our Annual Report filed on Form 10-K for the fiscal year ended December 31, 2021.

Goodwill

During the second quarter of 2022, we believed it was more likely than not that the fair value of the BrandLoyalty reporting unit was less than its carrying amount as a result of 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. As such, the economic disruption coupled with increased uncertainty indicated a material deterioration of the significant inputs used to determine the fair value of the BrandLoyalty reporting unit.

For our quantitative analysis, the fair value of the reporting units was estimated using both an income- and market-based approach. Our income-based approach utilized 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 included 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. The market-based approach involved an analysis of market multiples of revenues and earnings to a group of comparable public companies and recent transactions, if any, involving comparable companies. While the guideline companies in the market-based valuation

method have comparability to the reporting units, they may not fully reflect the market share, product portfolio and operations of the reporting units. In addition, we also consulted independent valuation experts in applying these valuation techniques. We based our measurement of the fair value of a reporting unit on a blended analysis of the present value of future discounted cash flows and the market-based valuation approach.

Based on the results of the goodwill impairment test, we recorded an impairment charge of $422.9 million, which reduced the goodwill balance of the BrandLoyalty reporting unit to zero. See Note 7, "Intangible Assets and Goodwill," of the Notes to Unaudited Condensed Consolidated and Combined Financial Statements for additional information.

Recently Issued Accounting Standards Not Yet Adopted

See Note 1, "Description of Business and Basis of Presentation," of the Notes to Unaudited Condensed Consolidated and Combined Financial Statements for a discussion of new accounting standards issued but not yet adopted.

Item 3. 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.

There have been no material changes from our Annual Report on Form 10-K for the year ended December 31, 2021 related to our exposure to market risk from foreign currency exchange rate risk and interest rate risk.

Foreign currency exchange rate risk

Foreign currency fluctuations can affect our net investments, our operations in countries other than the U.S., and earnings denominated in foreign currencies. Our primary exchange rate exposure has been with the Canadian dollar and Euro against the United States dollar. In the nine months ended September 30, 2022, changes in foreign currency exchange rates decreased our reported revenues $41.0 million but had an immaterial effect on our income (loss) before income taxes.

Interest Rate Risk

Loans under the Credit Agreement bear interest at floating rates tied to London interbank offered rate (LIBOR), or, if LIBOR is no longer available, the Secured Overnight Financing Rate (SOFR). As a result, changes in LIBOR, or in the future SOFR, can affect our operating results and liquidity to the extent we do not have effective interest rate swap arrangements in place. We have not used interest rate swap arrangements to hedge the variable interest rates under our Credit Agreement. A one percentage point increase in LIBOR for the nine months ended September 30, 2022 would have resulted in approximately $4.9 million of additional interest expense. A description of our Credit Agreement is contained in Note 10, "Debt," to the Unaudited Condensed Consolidated and Combined Financial Statements.

Item 4. Controls and Procedures

Conclusion Regarding the Effectiveness of Disclosure Controls and Procedures

As of September 30, 2022, 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 September 30, 2022 (the end of our third fiscal quarter), our disclosure controls and procedures were 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.

Changes in Internal Control Over Financial Reporting

There have been no changes in our internal control over financial reporting that occurred during our third quarter 2022 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II — OTHER INFORMATION

Item 1. 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 1A. Risk Factors

Other than as set forth below, there have been no material changes to the Risk Factors previously disclosed in our Annual Report on Form 10-K for the year ended December 31, 2021.

The invasion by Russia of Ukraine and the related global disruptions has and may continue to negatively impact our results of operations.

As a result of the invasion by Russia of Ukraine, the U.S. and certain other countries have imposed sanctions on conducting business with or in Russia and Russia has responded with similar measures, including restrictions on cash exports and regulations to nationalize the assets of foreign businesses; these parties could impose further sanctions that could damage or disrupt international commerce and the global economy. It is not possible to predict the broader or longer-term consequences of this conflict or the sanctions imposed to date, which could include further sanctions, efforts to nationalize foreign assets, embargoes, regional instability, geopolitical shifts and adverse effects on macroeconomic conditions, security conditions, currency exchange rates and financial markets. Such geopolitical instability and uncertainty could have a negative impact on our ability to sell to, ship products to, collect payments from, and support customers in certain regions based on trade restrictions, embargoes and export control law restrictions, and logistics restrictions that could increase the costs, risks and adverse impacts from additional supply chain and logistics challenges. We may also be the subject of increased cyber-attacks. The potential effects of the invasion by Russia of Ukraine also could impact many of the other risk factors described in Item 1A, Risk Factors, in our Annual Report on Form 10-K for the year ended December 31, 2021. These potential effects include, but are not limited to, variations in the level of our profitability, fluctuations in foreign currency markets, the availability of future borrowings, the cost of borrowings, and the impairment of goodwill. See Note 7, "Intangible Assets and Goodwill," of the Notes to the Unaudited Condensed Consolidated and Combined Financial Statements. Given the evolving nature of this conflict, the related sanctions, potential governmental actions and global economic fallout, such potential impacts remain uncertain. While Russia does not constitute a material portion of our business, a significant escalation of the conflict's current scope or related expansion of economic disruption to a portion or all of the global economy could have a material adverse effect on our results of operations.

We may be unable to realize some or all of the anticipated benefits of any restructuring, and the restructuring may adversely affect our business.

In response to changes in industry and market conditions, we have and may continue to undertake restructuring, reorganization, or other strategic changes to operate more efficiently, control costs and adapt our business to serve clients more effectively. The successful implementation of these changes may require us to effect business and asset dispositions, workforce reductions, management restructurings, decisions to limit investments in or otherwise exit businesses, office consolidations and closures, and other actions, each of which depend on a number of factors that may not be within our control.

These changes have and may continue to result in the recording of restructuring or other charges, such as asset impairment charges, contract and lease termination costs, inventory write-offs, exit costs, termination benefits, and other restructuring costs. Further, we may experience a loss of continuity, accumulated knowledge and/or efficiency; adverse effects on employee morale; and/or key employee retention issues. Reorganization and restructuring can impact a significant amount of management and other employees' time and focus, which may divert attention from operating our business.

Our restructuring activities, including any related charges, could present significant risks that may impair our ability to achieve operating efficiencies and effectiveness, or otherwise have a material adverse effect on our business, competitive position, operating results, and financial condition. For more information about our restructuring initiatives, see Note 9, "Restructuring and Other Charges" of the Notes to the Unaudited Condensed Consolidated and Combined Financial Statements.

There can be no assurance that we will be able to comply with the continued listing standards of the Nasdaq Global Select Market, including Nasdaq's minimum bid price, and our common stock may be subject to delisting from Nasdaq.

On November 8, 2021, our common stock began trading regular way on the Nasdaq Global Select Market under the symbol "LYLT". The Nasdaq Stock Market has qualitative and quantitative listing criteria. If we are unable to meet any of the Nasdaq continued listing requirements in the future, Nasdaq could determine to delist our common stock. For example, if the minimum bid price for our common stock falls below $1.00 per share for 30 consecutive trading days, Nasdaq could issue a deficiency notice and begin delisting procedures. If in the future Nasdaq delists our common stock from trading on its exchange for failure to meet continued listing standards, we and our securityholders could face significant material adverse consequences, including:

- a limited availability of market quotations for our securities;
- reduced liquidity for our securities;
- a deterrent for broker-dealers making a market in or otherwise seeking or generating interest in our securities;
- a deterrent for certain institutions and persons from investing in our securities at all;
- a determination that our common shares are "penny stock" which will require brokers trading in our common shares to adhere to more stringent rules and possibly result in a reduced level of trading activity in the secondary trading market for our securities;
- a limited amount of news and analyst coverage; and
- a decreased ability to issue additional securities or obtain additional financing in the future.

The minimum bid price of our common stock was below the minimum $1.00 per share beginning on October 12, 2022 and began trading above $1.00 again on October 26, 2022. The minimum bid price of our common stock on October 27, 2022 was $1.31 per share. If the minimum bid price of our common stock falls below $1.00 again and stays below $1.00 for 30 consecutive trading days, we would expect to receive a deficiency notification from the Nasdaq Stock Market that for the preceding 30 consecutive trading days, the minimum bid price of our common shares was below $1.00 per share. In accordance with Nasdaq Listing Rule 5810(c)(3)(A), we would expect to have 180 calendar days from the notice date to regain compliance. To regain compliance, the minimum bid price of our common shares must be at least $1.00 per share for a minimum of 10 consecutive trading days.

If we did not reestablish compliance in the requisite 180-day period, we may qualify to transfer to the Nasdaq Capital Market, and be eligible for additional time to regain compliance. To qualify, we would be required to meet the continued listing requirement for market value of publicly held shares and all other initial listing standards for the Nasdaq Capital Market with the exception of the minimum bid price requirement. Further, we would be required to notify Nasdaq of our intent to cure the minimum bid price deficiency.

If we do not regain compliance within the allotted timeframes, including any extensions that may be granted by Nasdaq, Nasdaq will provide notice that our common stock will be subject to delisting. We would then be entitled to appeal Nasdaq's determination, but there can be no assurance that Nasdaq would grant our request for continued listing. We intend to monitor the minimum bid price of our common stock and consider options if necessary to resolve the noncompliance with the minimum bid price requirement. There can be no assurance that we will be able to maintain compliance with the minimum bid price requirement or the other Nasdaq listing criteria.

In the event that our common stock is delisted from Nasdaq and is not eligible for quotation or listing on another market or exchange, trading of our common stock could be conducted only in the over-the-counter market or on an electronic bulletin board established for unlisted securities such as the Pink Sheets or the OTC Bulletin Board. In such event, it could become more difficult to dispose of, or obtain accurate price quotations for, our common stock, and there would likely also be a reduction in our coverage by securities analysts and the news media, which could cause the price of our common stock to decline further.

Changes in our credit ratings may limit our access to capital markets and adversely affect our liquidity.

The credit rating agencies periodically review our capital structure and the quality and stability of our earnings. In the third quarter of 2022, Moody's and S&P Global Ratings downgraded our long-term credit rating. Adverse changes by the rating agencies to our credit ratings has and may continue to negatively impact the value and liquidity of both our debt and equity securities, as well as the potential costs associated with a refinancing of our debt. Downgrades in our credit ratings could also affect the terms of any such refinancing or future financing or restrict our ability to obtain additional financing in the future which could have a material adverse effect on our business, financial condition, results of operations and liquidity.

Information available in public media that is published by third parties, including blogs, articles, message boards and social and other media may include statements not attributable to Loyalty Ventures and may not be reliable or accurate.

We have received, and may continue to receive, media coverage that is published or otherwise disseminated by third parties, including blogs, articles, message boards and social and other media. This includes coverage that is not attributable to statements made by our officers or employees. Information provided by third parties may not be reliable or accurate and could materially impact the trading price of our common stock.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

The following table presents information with respect to purchases of our common stock made during the three months ended September 30, 2022:

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 2022:				
July 1-31	—	$ —	—	$ —
August 1-31	—	—	—	—
September 1-30	—	—	—	—
Total	—	$ —	—	$ —

Item 3. Defaults Upon Senior Securities

None

Item 4. Mine Safety Disclosures

Not applicable.

Item 5. Other Information

(a) Roger H. Ballou resigned from his position as chair of the Loyalty Ventures' board of directors as well as all committee appointments effective November 5, 2022. Mr. Ballou did not resign due to any disagreement with the Company, its board of directors or its management. Effective upon Mr. Ballou's resignation as a director, the size of our board of directors was reduced from five to four directors. Also effective November 5, 2022, pursuant to our Corporate Governance Guidelines and in exercise of its business judgment, our board of directors appointed Charles L. Horn to serve as chair of the Board, and appointed Richard A. Genovese as a member of the board's corporate governance and nominating committee and Barbara L. Rayner as a member of the board's compensation committee, each until their successor is duly appointed and qualified or their earlier resignation or removal.

(b) None

Item 6. Exhibits

(a) *Exhibits:*

EXHIBIT INDEX

Exhibit No.	Description	Incorporated by Reference		
		Form	Exhibit	Filing Date
10.1%+	Fifth Amendment to Amended and Restated Program Participation Agreement by and between LoyaltyOne, Co. and Bank of Montreal, dated as of July 4, 2022.	10-Q	10.1	8/11/2022
10.2%+	Sixth Amendment to Amended and Restated Program Participation Agreement by and between LoyaltyOne, Co. and Bank of Montreal, dated as of July 5, 2022.	10-Q	10.2	8/11/2022
10.3+	Seventh Amendment to Amended and Restated Program Participation Agreement by and between LoyaltyOne, Co. and Bank of Montreal, dated as of October 27, 2022	8-K	10.1	11/2/2022
10.4	Amendment No. 1 to Credit Agreement (Financial Covenant), dated as of July 29, 2022, by and among Loyalty Ventures Inc., Brand Loyalty Group B.V. and Brand Loyalty International B.V., as borrowers, certain other subsidiaries as guarantors, Bank of America N.A., as administrative agent, and certain other lenders party thereto.	8-K	10.1	8/4/2022
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 Quarterly Report on Form 10-Q for the quarter ended September 30, 2022, formatted in Inline XBRL: (i) Condensed Consolidated Balance Sheets, (ii) Condensed Consolidated and Combined Statements of Operations, (iii) Condensed Consolidated and Combined Statements of Comprehensive Income (Loss), (iv) Condensed Consolidated and Combined Statements of Equity (Deficiency), (v) Condensed Consolidated and Combined Statements of Cash Flows and (vi) Notes to Condensed Consolidated and Combined Financial Statements.
104*	Cover Page Interactive Data File (formatted in Inline XBRL and contained in Exhibit 101).

* Filed herewith
** Furnished herewith
+ Pursuant to Item 601(b)(10)(iv) of Regulation S-K, certain identified information has been excluded from this exhibit.
% 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 and schedules upon request by the U.S. Securities and Exchange Commission.

SIGNATURES

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

LOYALTY VENTURES INC.

By: /s/ CHARLES L. HORN
Charles L. Horn
President and Chief Executive Officer

Date: November 8, 2022

By: /s/ JOHN J. CHESNUT
John J. Chesnut
Executive Vice President and Chief Financial Officer

Date: November 8, 2022

This is Exhibit “S” referred to in the Affidavit of Cynthia Hageman sworn November 9, 2023.

Commissioner for Taking Affidavits (or as may be)

KIYAN JAMAL

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

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.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

AFFIDAVIT OF CYNTHIA HAGEMAN
AFFIRMED NOVEMBER 9, 2023

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Lawyers for the Applicant

TAB 3

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 JEFFREY FAIR
(Affirmed November 9, 2023)

I, **JEFFREY FAIR**, of the city of Allen, in the State of Texas, in the United States of America, MAKE OATH AND SAY:

1. From May 2011 until November 5, 2021, I served as the Senior Vice President of Taxation for Alliance Data Systems Corporation, now known as Bread Financial Holdings, Inc. (until March 23, 2022 "**ADS**", and "**Bread**" thereafter). As such, I have personal knowledge of the circumstances and discussions regarding the Tax Matters Agreement dated November 5, 2021 (the "**TMA**"), certain other aspects of the larger Spin Transaction (defined below), and the other matters contained in this Affidavit. Where I do not have personal knowledge, I have stated the source of my information and, in all such cases, believe it to be true. Unless otherwise indicated, all references to currency in this Affidavit are references to Canadian dollars.

Background

2. Prior to the Spin Transaction, ADS was a provider of data-driven marketing and loyalty solutions. It held a comprehensive portfolio of integrated outsourced marketing services, analytics

and creative services, direct marketing services, and private label and co-brand retail credit card programs. ADS organized this broad portfolio of businesses into the following three divisions:

(a) a private label credit card and banking business (the "**Card Business**");

(b) marketing services (known as "Epsilon" and sold in 2019), which provided end-to-end, integrated marketing solutions that leveraged data, analytics, creativity, and technology to help clients more effectively acquire, retain, and grow relationships with their customers; and

(c) customer loyalty programs, including the AIR MILES® Reward Program ("**AIR MILES**") and the "BrandLoyalty" business.

3. The Card Business was located in the United States while the Applicant LoyaltyOne, Co. ("**LoyaltyOne**") was headquartered and operated the AIR MILES business in Canada.

4. During my tenure at ADS, I was generally responsible for tax matters relating to ADS and its subsidiaries and was therefore involved in managing tax matters across a number of jurisdictions for ADS and its various subsidiary businesses. To facilitate that, I also held the title of Vice President of Taxation at LoyaltyOne.

5. However, I was always an employee of ADS and was resident in the United States. I had no involvement in the day-to-day business activities of LoyaltyOne, which were managed by an executive team located in Canada.

6. Following the Spin Transaction, I was transferred to, and employed by, Loyalty Ventures Inc. ("**LVI**") as Senior Vice President, Tax, and remained in that position until July 14, 2023.

LoyaltyOne Tax Appeal

7. One of the matters I was responsible for while employed with ADS was a tax dispute between LoyaltyOne and the Canada Revenue Agency (the "**CRA**") relating to the tax treatment of monies received by LoyaltyOne from sponsors for the issuance of AIR MILES Reward Miles ("**Reward Miles**").

8. While such monies received by LoyaltyOne would normally constitute taxable income when received, Canadian tax law allows for a "reasonable reserve" to be held against that income with respect to the future costs related to the revenue. In the case of AIR MILES, that includes costs of administering the issued and outstanding Reward Miles and the fulfillment of rewards when such Reward Miles are redeemed. Following this rule, LoyaltyOne took a reserve which offset the revenue that would otherwise have been considered taxable income on its 2013 corporate income tax return.

9. In 2015, the CRA began an audit of LoyaltyOne's 2013 corporate income tax return and, in December 2019, issued a ruling disallowing the services portion of the reserve in its entirety, increasing LoyaltyOne's taxable income for the 2013 year substantially and resulting in a tax liability of approximately $110 million (inclusive of interest and penalties).

10. LoyaltyOne objected to the tax assessment and commenced an appeal to the Tax Court of Canada. If LoyaltyOne's tax appeal is successful, it will be entitled to payment of approximately $96 million (the "**CRA Claim**").

Background to the Spin Transaction

11. Prior to the Spin Transaction on November 5, 2021, LoyaltyOne was a subsidiary of ADS and a member of ADS's larger corporate group. For over three decades, LoyaltyOne, along with its subsidiary, LoyaltyOne Travel Services Co., successfully operated the AIR MILES loyalty and

marketing program. However, the loyalty-related businesses of ADS, including LoyaltyOne, had been experiencing reduced profitability over time.

12. In late 2018, ADS's board of directors made a strategic decision to focus on what it viewed as its highest growth assets, being its Card Business. An early statement of this strategy can be seen in the Third Quarter 2018 Investor Presentation, a copy of which is attached as **Exhibit "A"**. It refers at page 17 to a "strategic review" of non-card businesses, "which assets could thrive under a different steward".

13. Ultimately, ADS intended to sell its less profitable non-card businesses, including the AIR MILES business operated by LoyaltyOne, and to use the proceeds of such sales to improve the financial position of the remaining ADS businesses. I am aware that ADS undertook a comprehensive sales process to sell LoyaltyOne in 2020 but was ultimately unable to enter into a sale agreement in respect of AIR MILES.

14. In early 2021, ADS began to devise an alternative transaction (the "**Spin Transaction**") pursuant to which it would:

(a) spin-off the loyalty program entities of ADS, including LoyaltyOne, (the "**Spun-Out Subsidiaries**") which would be held by LVI, a newly incorporated company, which became publicly traded as a result of the Spin Transaction;

(b) cause LVI to enter into a loan agreement to borrow funds and transfer those funds to ADS to improve ADS's financial position; and

(c) distribute at least 80% of LVI's outstanding shares to the shareholders of ADS (the "**Distribution**").

15. The Spin Transaction was announced on May 12, 2021. A copy of the press release announcing the intended Spin Transaction is attached as **Exhibit "B"**.

The Spin Transaction and the Tax Matters Agreement

16. I was involved in the Spin Transaction with respect to its tax implications. ADS had announced that the transaction would take place on a tax-free basis and it was my responsibility to coordinate steps for obtaining the necessary rulings. Early on, it was identified that there would have to be an agreement as part of the Spin Transaction to address any such issues. As details of the Spin Transaction were sorted out, this proposed agreement became the TMA.

17. ADS engaged Davis Polk & Wardwell LLP ("**Davis Polk**") to assist it with structuring the Spin Transaction and drafting the required agreements. None of the Spun-Out Subsidiaries had independent legal counsel and I was instructed to liaise with Davis Polk in the drafting and finalization of the TMA.

18. I received the first draft of the TMA in approximately mid August 2021. That draft dealt with the administration and allocation of taxes as between ADS and LVI in the periods prior to the Distribution, and any taxes resulting from the Distribution. The purpose of the TMA was to preserve the tax-free nature of the Spin Transaction for United States federal income tax purposes and to eliminate related tax risk to ADS. While this is common in spin transactions, the TMA was notably more restrictive than necessarily required by the tax law regarding the future actions that the Spun-Out Subsidiaries could undertake. It also contained no mention of the transfer of any tax receivables or liabilities (commonly called "tax attributes") from one ADS or LVI corporation to another.

19. Toward the end of August 2021, I became aware that ADS was considering revising the draft of the TMA to require LVI and LoyaltyOne to pay over to ADS the $96 million proceeds of

the CRA Claim, if and when received from the CRA. I was concerned about this since there appeared to be no tax or business rationale for that, apart from ADS wanting to take more assets from LoyaltyOne as part of the Spin Transaction. LoyaltyOne's tax attributes (including the CRA Claim) were not related to, and did not impact, ADS's business. While ADS regularly received dividends from LoyaltyOne, it had never previously directly taken LoyaltyOne's tax attributes for its own benefit. I expressed these concerns to, among others, Perry Beberman and Julie McLaughlin of the ADS executive team, as well as William Curran of Davis Polk. I was also informed by Charles Horn that he directly discussed concerns of this nature with Roger Ballou, the chair of ADS's board of directors.

20. Around this time, on September 2, 2021, the Audit Committee of ADS made the decision to change further drafts of the TMA to require LVI and LoyaltyOne to pay the proceeds of the CRA Claim over to ADS if and when received. Davis Polk proceeded to include this provision in further drafts of the TMA. A copy of an email dated September 2, 2021 between Mr. Beberman and Joseph L. Motes III, among others, summarizing the discussion with the Audit Committee of ADS, is attached as **Exhibit "C"**.

21. I received the final execution copy of the TMA, which included me as a signatory for both ADS and LVI, directly from Davis Polk. On November 5, 2021, I executed the TMA on behalf of both entities. The TMA was also co-signed for ADS by Mr. Beberman, the Chief Financial Officer of ADS.

22. I have not seen a directors' resolution from LoyaltyOne authorizing the execution of the TMA by LVI or granting LVI the authority to bind LoyaltyOne by the TMA. To the best of my knowledge, no such resolutions were passed.

23. Until close of business on November 5, 2021, Mr. Motes, the Executive Vice President and General Counsel of ADS, was the sole director of LoyaltyOne. At that time, Mr. Motes

resigned from this position at LoyaltyOne and Cynthia Hageman was appointed the sole director of LoyaltyOne. Following the Spin Transaction, Mr. Motes continued in his prior positions with ADS, now called Bread.

AFFIRMED by videoconference by Jeffrey Fair at the City of Allen, in the State of Texas, in the United States of America, before me at the City of Toronto, in the Province of Ontario, on November 9, 2023, in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Kiyan Jamal

Commissioner for Taking Affidavits
(or as may be)

JEFFREY FAIR

Commissioner Name: Kiyan Jamal
Law Society of Ontario Number: 87594N

This is Exhibit “A” referred to in the Affidavit of Jeffrey Fair affirmed November 9, 2023.

Commissioner for Taking Affidavits (or as may be)

KIYAN JAMAL

Alliance Data NYSE: ADS

Third Quarter 2018 Results
October 18, 2018

Forward-Looking Statements

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 strategic evaluations, our expected operating results, future economic conditions including currency exchange rates, future dividend declarations and the guidance we give with respect to our anticipated financial performance.

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 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.

Agenda

- Speakers: Ed Heffernan — President and CEO
  Charles Horn — EVP and CFO

- Consolidated Results
- Segment Results & Outlook
- Guidance
- 2019: A look Ahead

Third Quarter 2018 Consolidated Results

(MM, except per share)

	Quarter Ended September 30,		
	2018	2017	% Change
Revenue	$1,947	$1,912	+2%
Pro forma revenue[1]	$2,016	$1,912	+5%
Net income	$297	$233	+27%
EPS	$5.39	$4.20	+28%
Core EPS	$6.26	$5.35	+17%
Adjusted EBITDA	$662	$622	+7%
Adjusted EBITDA, net	$563	$550	+2%
Diluted shares outstanding	55.0	55.6	

[1] ASC 606 revenue recognition, which became effective January 1, 2018, requires a net revenue recognition (gross revenue less cost of goods) for travel-related redemptions at AIR MILES®. This new presentation lowers reported revenue but does not impact net income, EPS or core EPS.

AllianceData

Third Quarter 2018 Segment Results

(MM)

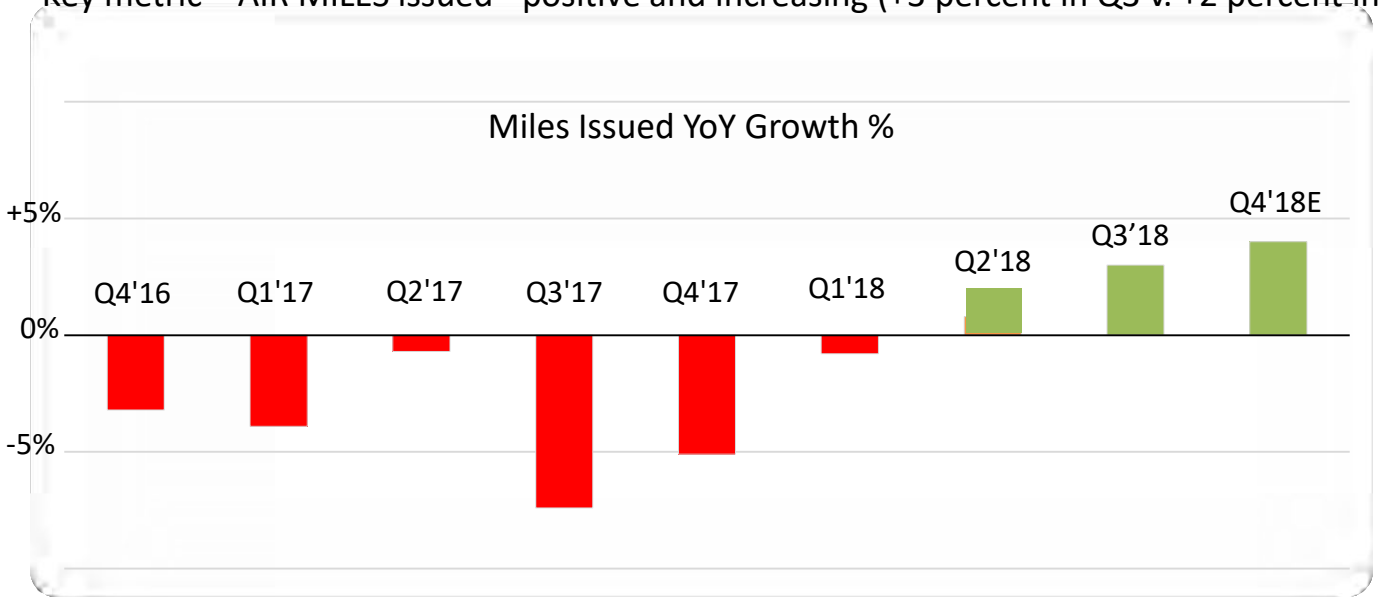
	Quarter Ended September 30,		
	2018	2017	% Change
Revenue:			
LoyaltyOne®	$260	$305	
ASC 606 adjustment	69	--	
Pro forma	329	305	+8%
Epsilon®	538	559	-4%
Card Services	1,163	1,055	+10%
Other	(14)	(7)	
	$2,016	$1,912	+5%
Adjusted EBITDA, net:			
LoyaltyOne	$63	$61	+4%
Epsilon	125	125	-%
Card Services	414	397	+4%
Other	(40)	(33)	
	$563	$550	+2%
Leverage ratio	2.42x	2.85x	

- Change to net revenue presentation

AllianceData

LoyaltyOne

- Q3:
  - Growth in both pro forma revenue and adjusted EBITDA for 2nd consecutive quarter
  - Key metric – AIR MILES issued - positive and increasing (+3 percent in Q3 v. +2 percent in Q2)



  - BrandLoyalty: double-digit growth in revenue and adjusted EBITDA for 2nd consecutive quarter

- Outlook:
  - Solid pro forma revenue and adjusted EBITDA growth to finish the year
  - Continued momentum in AIR MILES issued

AllianceData

Epsilon

- Q3:
  - Revenue down 4 percent compared to down 5 percent in 1st half of 2018
    - Still soft and below expectations
  - Mix of growing, stable and declining product offerings
  - Challenges:
    - Agency and Site-Based Display (old Valueclick) platforms
    - Several client bankruptcies
- Outlook:
  - Revenue expected to be down 3-5 percent for year, but adjusted EBITDA approximately flat with the prior year
    - Adjusted EBITDA margin expansion of approximately 100 basis points

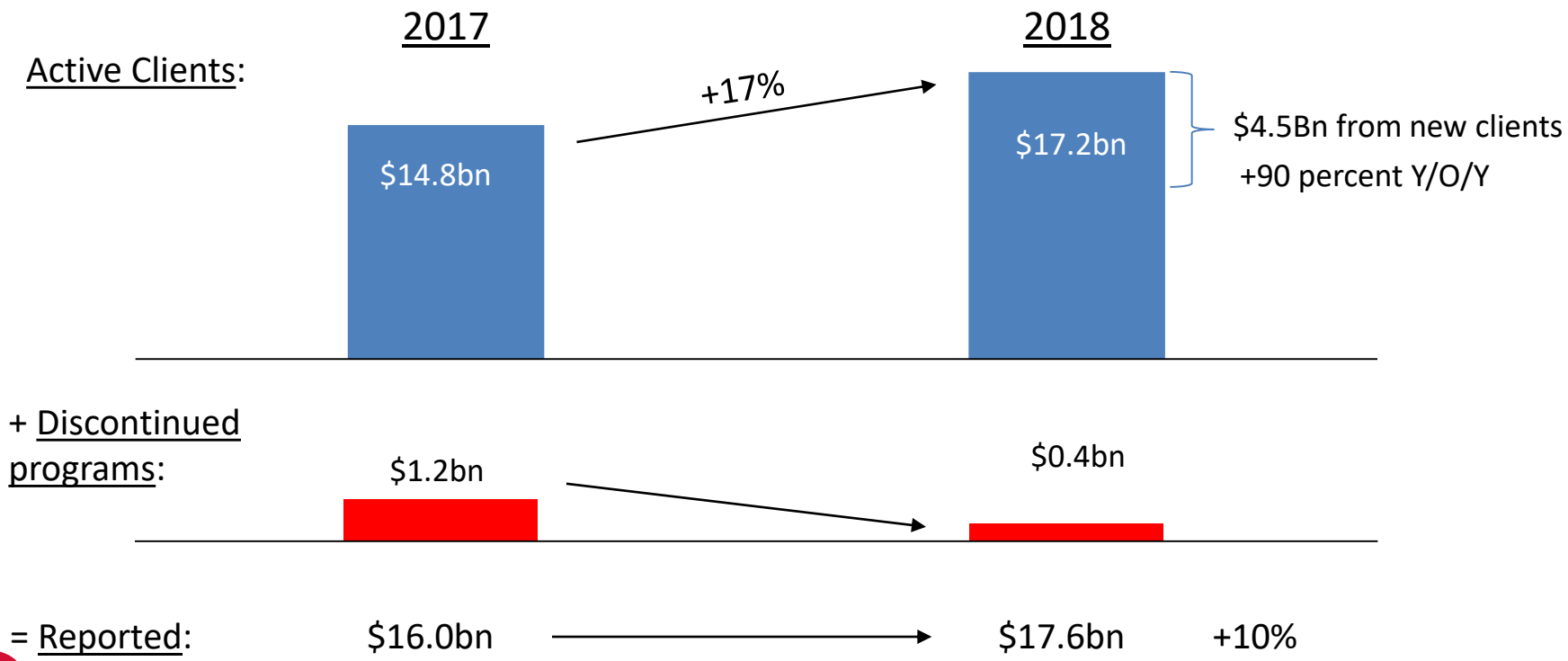
Card Services

- Q3:
  - New signings exceptionally strong
  - Continues aggressive strategy to diversify away from mall-based specialty apparel
    - Bon-Ton receivables moved to held-for-sale
  - YTD:
    - IKEA – home décor
    - Wyndham – hospitality
    - Academy Sports – sporting goods
    - Floor & Decor – home décor
    - Adorama – consumer electronics (store/e-commerce)
    - Appliances Connection – consumer electronics (e-commerce)
  - Announced signing of $2.0 billion vintage plus signed-not-yet-announced of $2.0 billion vintage puts 2018 at $4 billion vintage (2x recent record years)
    - 100 percent away from mall-based specialty apparel
  - Active client base strong
    - Credit sales +11 percent, receivables growth +17 percent
  - Continued turmoil in retail – discontinued programs reduce reported credit sales and receivables growth to 0 percent and 10 percent
  - Credit quality continues to improve
    - Q1: 6.7 percent → Q2: 6.4 percent → Q3: 5.9 percent
    - Recovery rate: Q1: ~9 percent → Q2: ~15 percent → Q3: ~18 percent (higher than Q3, 2017 rate)

AllianceData

Card Services: Q3 Receivables Growth

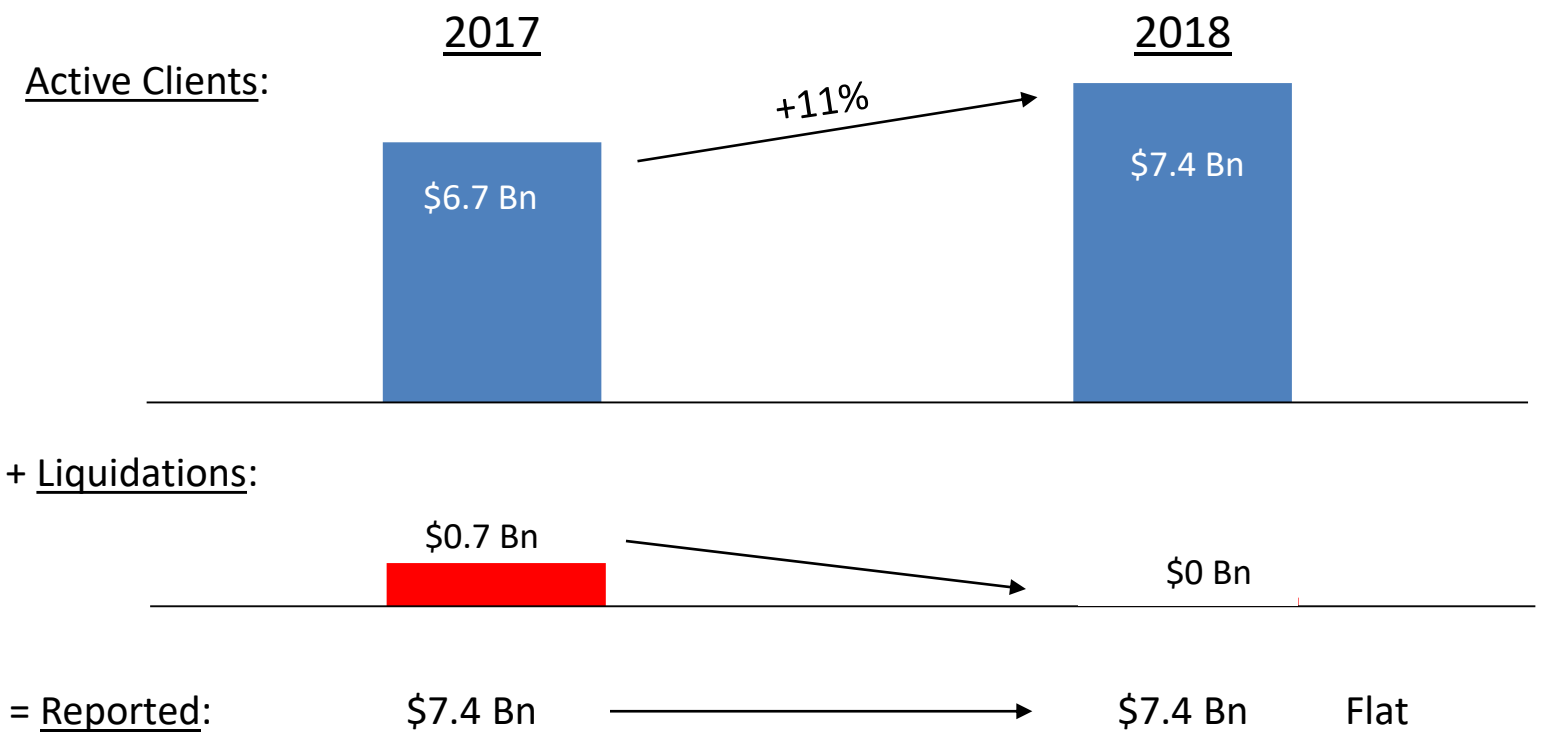
- Reported growth of +10%
  - Includes impact of discontinued programs
- Active client growth of +17%
- Pivot to healthier verticals successful
  - Clients signed 2015–2018: ~25% of total receivables vs. ~14% last year
  - Growth of 90% year-over-year



AllianceData

Card Services: Q3 Credit Sales Growth

- Active clients' credit sales up 11 percent
- Total credit sales growth masked by discontinued programs
- New clients' credit sales (2015-2018 signings) up ~70 percent and now represent ~25 percent of credit sales compared to 16 percent in prior year

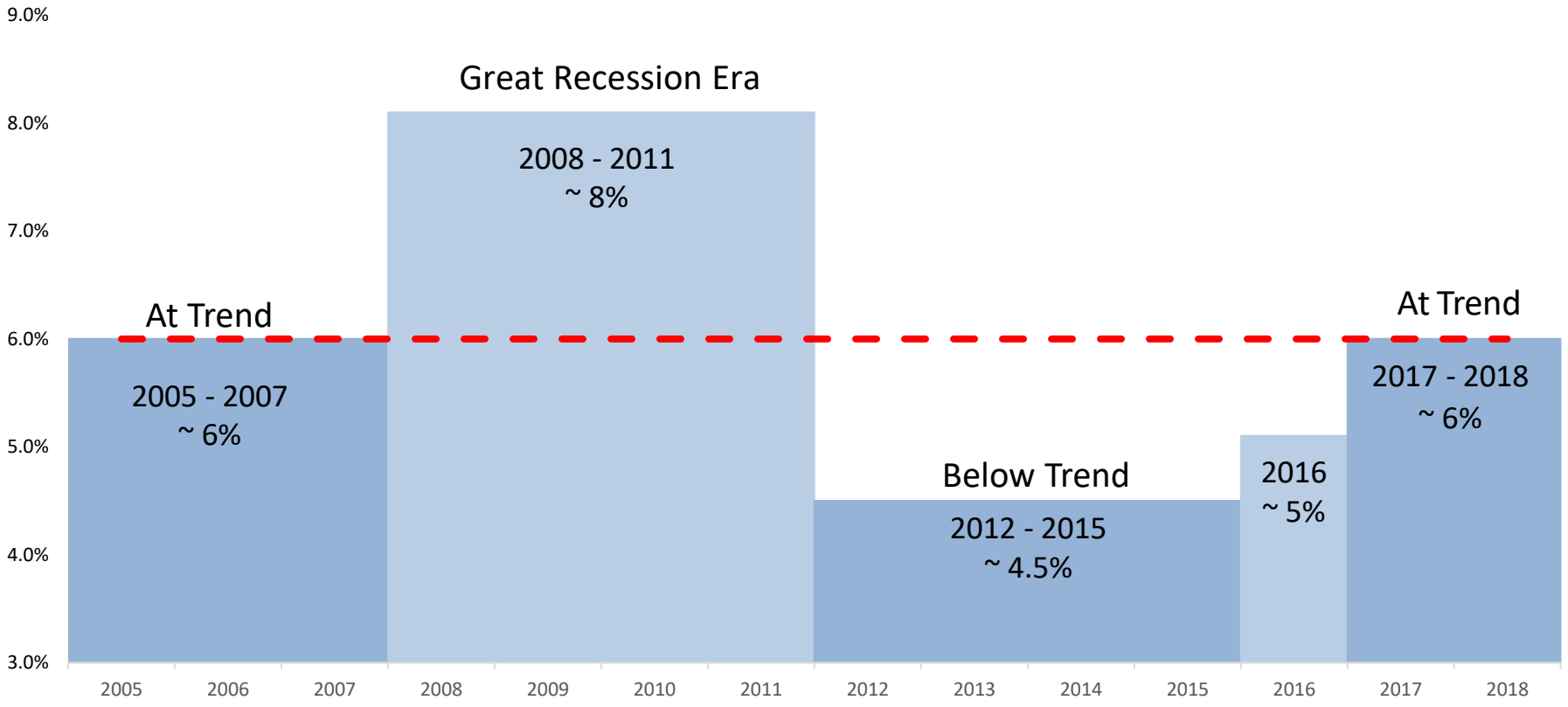


Card Services: Outlook

- Active client receivables growth in mid-teens range
  - Non-strategic clients (liquidating, bankrupt or in decline due to M&A) will be aggressively moved out of the portfolio
    - Reported growth slows and then recovers during 2019; active client growth remains strong throughout 2019
    - Frees up capital and makes room for record new vintage
- New Signings: on track for $4 billion vintage (2x recent years)
- 2015-18 Signings ~ 25 percent of portfolio; ~ 50 percent in 2 years
  - Current card receivables reflect only $4.5 billion of the expected $11 billion run-rate as ramp-up continues
- Credit Quality: we are now at our long-term annual rate of ~6 percent
  - Loss rate: Q1: 6.7 percent → Q4 forecast: mid-5's
    - Recovery rate: Q1: (50) bps headwind → Q4: 65 bps tailwind
      - Despite all the noise, the difference between Q1's rate of 6.7% and Q4's rate in mid-5's is virtually entirely due to the ramp-up in recovery rates
      - Gives us comfort looking forward

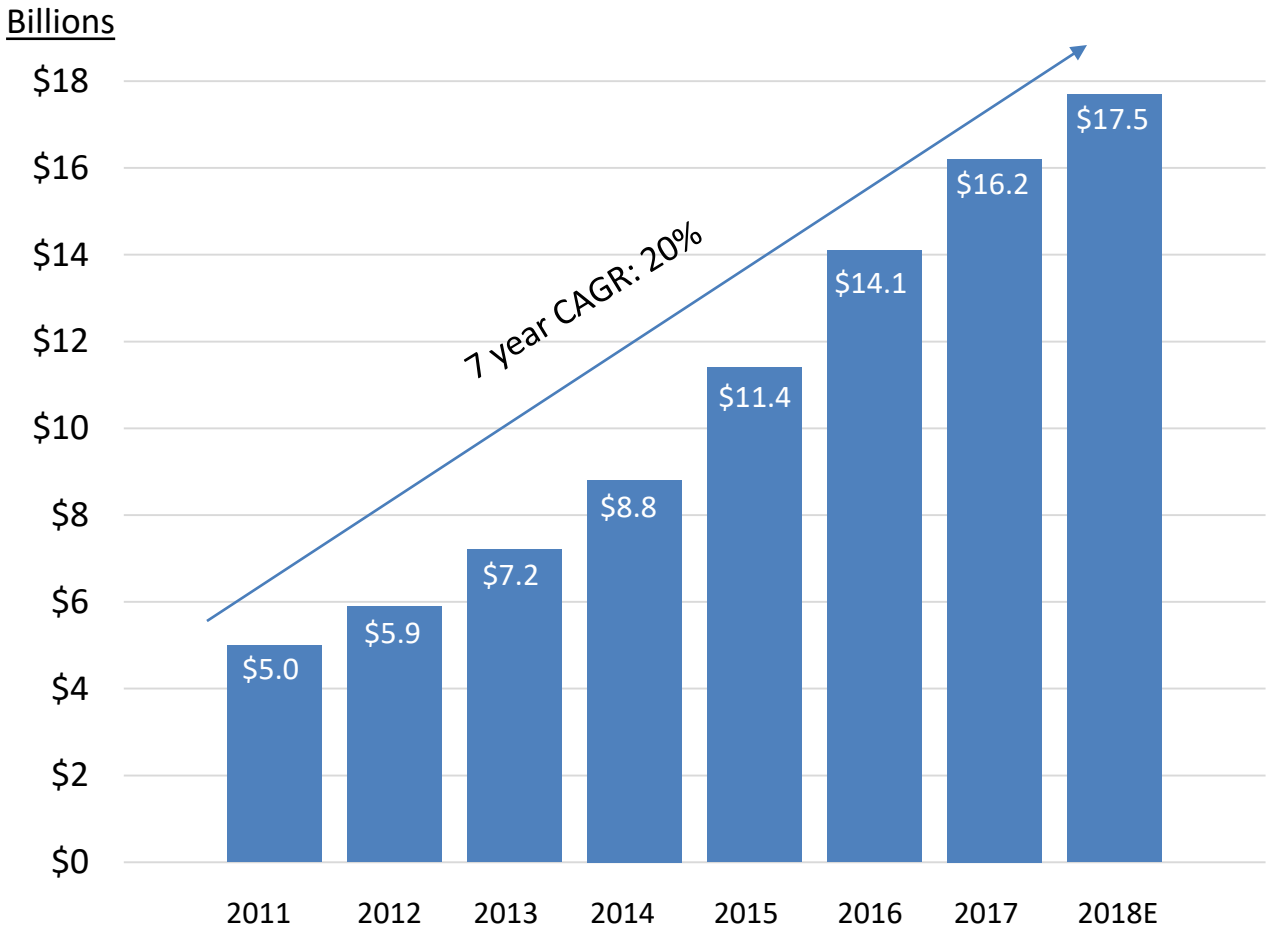
Card Services: Principal Loss Rates

- Loss rates have now returned to trend



AllianceData

Card Services: Average Card Receivables Growth



AllianceData

Card Services: Strategic Objectives

√ 1. Move recovery process in-house
- Headwind in 1st half of 2018 → tailwind in 2nd half of 2018

2. Aggressively prune portfolio of non-strategic clients
- Liquidations, bankruptcies, M&A
- Fully support remaining core clients (mobile app, e-commerce, frictionless transactions)

3. Aggressively pivot portfolio towards strong, high growth verticals
- Only $4.5 billion of $11 billion signed currently reflected in receivables
- Strong 2018 signings and a healthy pipeline

4. Maintain model and improve visibility:
- Long-term mid-teens receivables growth
- Targeted loss rate approximating 6 percent
- Return on equity target > 30 percent

AllianceData

2018 Guidance

- Revenue
  - Adjusting revenue guidance to approximately $7.9 billion and pro forma revenue to approximately $8.2 billion
    - Softness at Epsilon
    - Aggressive pruning of non-strategic Card Services' clients will dampen Q4 revenue

- Maintaining core EPS guidance of $22.50 - $23.00 +16 – 19 percent
  - Year-to-date: +20 percent

- Two part strategic effort
  1. Card Services
  2. Non-card

AllianceData

Strategic Efforts: Card Services

- Aggressively continue effort to reposition client portfolio into strongest, high growth verticals
  - Effort started in 2015
    - Receivables reflects only $4.5 billion of $11 billion vintage signed since 2015
  - Pipeline for new business remains exceptionally strong
    - "Tell me about my customer!"
- Aggressively prune clients in liquidation, bankruptcy or M&A
  - ~50 percent already addressed; remainder to be addressed in fourth quarter
  - Eliminates drag over next two years and frees up regulatory capital
  - No renewal risk in 2019 safeguards our base
- Objectives
  - Card receivables
    - Exit 2019 >$20 billion; exit 2020 >$24 billion
      - Includes the remaining $6 billion of vintages signed in 2015 to 2018
      - Any new clients signed in 2019 and 2020 offset unknown future client attrition
    - Since 2011, receivables growth of ~20 percent; 2019 to 2020 plan very reasonable
  - Credit quality
    - 2017 and 2018: ~6 percent loss rate (long-term target)
    - Similar target going forward (assuming no major macro-economic shock)
    - While rate is important, our focus is on Return on Equity
  - ROE target > 30 percent
- Summary: stronger client base, high growth and high profitability

Strategic Efforts: Non-Card

- Strategic Review of Businesses
  - We believe current stock price does not reflect intrinsic value of our business
  - We are evaluating which assets could thrive under a different steward, while also unlocking value for stockholders
  - We will have a crystallized game plan of “what & how” before year-end and will communicate this path at that time
  - Overall, this will be an aggressive and significant effort

- 2019 Guidance
  - More specific guidance will be provided on our fourth-quarter earnings call, due to the upcoming major strategic announcement
  - We believe that executing on both parts of our strategic plan will result in:
    - A much more focused and unique model
    - A model that can sustain strong double-digit growth
    - A model generating significant and growing cash flow
    - A configuration that unlocks significant value for investors

Financial Measures

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, adjusted EBITDA, adjusted EBITDA margin, adjusted EBITDA, net of funding costs, core earnings and core earnings per diluted share (core EPS). 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. The Company uses adjusted EBITDA and adjusted EBITDA, net as an integral part of internal reporting to measure the performance and operational strength of reportable segments and to evaluate the performance of senior management. Adjusted EBITDA eliminates the uneven effect across all reportable segments of 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. Similarly, core earnings and core EPS eliminate non-cash or non-operating items, including, but not limited to, stock compensation expense, amortization of purchased intangibles, amortization of debt issuance and hedging costs. The Company believes that these non-GAAP financial measures, viewed in addition to and not in lieu of the Company's reported GAAP results, provide useful information to investors regarding the Company's performance and overall results of operations. Reconciliations to comparable GAAP financial measures are available in the Company's earnings release, which is posted in both the News and Investors sections on the Company's website (www.alliancedata.com). No reconciliation is provided with respect to forward-looking annual guidance for 2018 core EPS as the Company cannot reliably predict all necessary components or their impact to reconcile core EPS to GAAP EPS without unreasonable effort. The events necessitating a non-GAAP adjustment are inherently unpredictable and may have a material impact on the Company's future results. The financial measures presented are consistent with the Company's historical financial reporting practices. Core earnings and core EPS represent performance measures and are not intended to represent liquidity measures. The non-GAAP financial measures presented herein may not be comparable to similarly titled measures presented by other companies, and are not identical to corresponding measures used in other various agreements or public filings.

Q & A

This is Exhibit “B” referred to in the Affidavit of Jeffrey Fair affirmed November 9, 2023.

Commissioner for Taking Affidavits (or as may be)

KIYAN JAMAL

EX-99.1 2 exhibit_99-1.htm EXHIBIT 99.1

Exhibit 99.1

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*

COLUMBUS, Ohio, May 12, 2021 – 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, 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.

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This is Exhibit “C” referred to in the Affidavit of Jeffrey Fair affirmed November 9, 2023.

Commissioner for Taking Affidavits (or as may be)

KIYAN JAMAL

Subject: FW: Rating Agency / AC Update

From: "Beberman, Perry" [redacted]
Date: Thursday, September 2, 2021 at 11:17 AM
To: Jeff Chesnut [redacted], "Tusa, Jeffrey" [redacted], Jeffrey Fair [redacted], Laura Santillan [redacted]
Cc: Joseph Motes [redacted], "McLaughlin, Julie" [redacted], Geoff Ellis [redacted], "K.C. Brechnitz" [redacted]
Subject: Rating Agency / AC Update

Good discussion with Audit Committee.

TMA

- Approved direction to proceed with Remainco retaining 100% current Tax Receivables / (Payables) net of Tax Reserves (~$75MM) and Spinco will retain 100% current Deferred Tax Assets (~$65MM).
- Davis Polk should draft TMA accordingly.
- Need to share actual accounting treatment of recording contra asset or liability to Spinco and how recorded on Remainco after Laura discusses with Deloitte. E-mail with transaction illustration can be sent when ready.
- Roger would like to see a summary and illustration of the Canadian tax issue (Fair).

Rating Agency Financials

- Informed AC they should expect to see revised Rating Agency financials by EOD tomorrow reflecting items they have previously seen and approved (revised forecast, debt $650MM, cash sweep $100MM, revolver $100MM, TMA per above, etc.)
- Providing financials reflect expectations, there should be no hold up in releasing next week.

Rating Agency Meetings

- AC requested that EYCA as advisors to the Board and I join the meetings.

EYCA

- See above for your requested engagement for Rating Agency meetings.
- Additionally, AC is interested in EYCA oversight to ensure debt and revolver targets are successful with BofA.

Remainco / Spinco Balance Sheet

- Once tax items are settled with how to record, need to provide updated balance sheets / financials for both.

Joe – let me know if I missed anything.

Thanks all. Hopefully these decisions keep the process moving forward at full speed.

Perry

Perry Beberman
EVP, Chief Financial Officer
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Court File No. CV-23-00696017-00CL

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.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

AFFIDAVIT OF JEFFREY FAIR
AFFIRMED NOVEMBER 9, 2023

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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

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