

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
KOGNITIV CORPORATION
OF THE CITY OF TORONTO
IN THE PROVINCE OF ONTARIO**

**MOTION RECORD (VOLUME 1 OF 2)
(Returnable February 17, 2026)**

February 9, 2026

AIRD & BERLIS LLP

Brookfield Place
181 Bay Street, Suite 1800
Toronto, ON M5J 2T9

Kyle B. Plunkett (LSO #61044N)

Tel: (416) 865-3406

Email: kplunkett@airdberlis.com

Miranda Spence (LSO #60621M)

Tel: (416) 865-3414

Email: mspence@airdberlis.com

Alex Bernicchia-Freeman (LSO #93556P)

Tel: (416) 865-7735

Email: afreeman@airdberlis.com

Lawyers for Kognitiv Corporation

TO: SERVICE LIST

ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
KOGNITIV CORPORATION
OF THE CITY OF TORONTO
IN THE PROVINCE OF ONTARIO**

INDEX

<u>TAB</u>	DOCUMENTS - VOLUME 1 OF 2
1.	Notice of Motion returnable February 17, 2026
2.	Affidavit of Grant McLeod sworn February 9, 2026
A.	Exhibit A: Corporate Profile Report of the Company
B.	Exhibit B: Corporate organizational chart
C.	Exhibit C: Certificate of Filing of a Notice of Intention to Make a Proposal
D.	Exhibit D: Proposal dated January 10, 2025
E.	Exhibit E: Ancillary Relief Order dated March 18, 2025
F.	Exhibit F: Arbitration Lift Stay Order dated April 15, 2025
G.	Exhibit G: Affidavit of Tim Sullivan sworn March 11, 2025
H.	Exhibit H: Certificate of Appointment dated October 22, 2025
I.	Exhibit I: Screenshot of Companies House website
J.	Exhibit J: Secured Indebtedness as of June 12, 2025
K.	Exhibit K: Second Amended and Restated Independent Contractor Agreement dated September 3, 2024
L.	Exhibit L: SPA Termination Agreement dated March 31, 2025

<u>TAB</u>	DOCUMENTS - VOLUME 1 OF 2
M.	Exhibit M: LSH US Written Consent dated March 31, 2025
N.	Exhibit N: Capillary APA dated March 31, 2025
O.	Exhibit O: Capillary PSA dated March 31, 2025
P.	Exhibit P: Voluntary Petition for Bankruptcy dated April 2, 2025
Q.	Exhibit Q: Bridge Loan and Security Agreement dated March 31, 2025
R.	Exhibit R: LSH US Guarantee dated March 31, 2025
S.	Exhibit S: LSH US Security Agreement dated March 31, 2025
T.	Exhibit T: Interim DIP Order dated April 4, 2025
U.	Exhibit U: Final DIP Order dated April 29, 2025
V.	Exhibit V: Sale Order dated April 29, 2025
W.	Exhibit W: Acknowledgement and Amendment Agreement dated May 1, 2025
X.	Exhibit X: Dismissal Orders dated June 11, 2025 and July 24, 2025
Y.	Exhibit Y: CORA APA dated July 5, 2024
Z.	Exhibit Z: Procedural Order No. 2 dated July 26, 2025
AA.	Exhibit AA: Partial Final Award dated October 31, 2025
BB.	Exhibit BB: Stay Execution Order dated December 14, 2025
CC.	Exhibit CC: Minutes of Settlement dated December 30, 2025
DD.	Exhibit DD: Release dated December 30, 2025
3.	Draft Ancillary Relief Order
4.	Service List

TAB 1

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
KOGNITIV CORPORATION
OF THE CITY OF TORONTO
IN THE PROVINCE OF ONTARIO**

NOTICE OF MOTION

Kognitiv Corporation (“**Kognitiv**”) will make a motion to a judge presiding over the Ontario Superior Court of Justice, Commercial List (In Bankruptcy and Insolvency) (the “**Court**”) on Tuesday, February 17, 2026 at 10:00 a.m., or as soon after that time as the motion can be heard.

PROPOSED METHOD OF HEARING: The Motion is to be heard

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

at the following location:

By Zoom details provided by the Court

THE MOTION IS FOR:

1. An order, substantially in the form of the draft Ancillary Relief Order (the “**Ancillary Relief Order**”) contained at Tab 3 of this Motion Record, *inter alia*:

- (a) approving the First Report of the Proposal Trustee dated March 14, 2025 (the “**First Report**”), and the actions, conduct and activities of the Proposal Trustee (as defined below) and its legal counsel as described therein;
- (b) approving the Second Report of the Proposal Trustee, to be filed (the “**Second Report**”), and the actions, conduct and activities of the Proposal Trustee and its legal counsel as described therein;
- (c) approving the Settlement (as defined below) and authorizing the execution by Kognitiv of the Settlement Documents (as defined below) between each of the Loyalty Canada Trustee (as defined below) on behalf of Loyalty Canada (as defined below), Aimia UAE (as defined below), Kognitiv Singapore (as defined below), Kognitiv Australia (as defined below), Kognitiv LLC (as defined below) and Kognitiv (collectively, the “**Kognitiv Parties**”), on the one hand, and each of Gary Jonas Computing Ltd., CORA Group Australia Pty Ltd., Jonas Computing (UK) Limited, and Jonas Food Holdco Inc. (collectively, the “**Jonas Parties**”), on the other hand. Each of the Jonas Parties and the Kognitiv Parties are hereinafter collectively referred to as the “**Arbitration Parties**”;
- (d) approving and authorizing the payment by Kognitiv to Roystone Capital Management LP (“**Roystone Capital**”), as restructuring advisor, of the Success Fee

(as defined below) from (i) the proceeds of the Settlement; (ii) the collection of any portion of the UAE Account Funds (as defined below); (iii) cash on hand; and (iv) the Escrow Funds (as defined below) related to the Capillary Transactions (as defined below) (collectively, the “**Remaining Assets**”), in accordance with Section 3 of the Restructuring Advisory Agreement (as defined below), which fee shall be paid in priority to all amounts owing to the Senior Secured Creditors (as defined below);

- (e) confirming that payments of the Success Fee by Kognitiv to pay to Roystone Capital shall be valid under section 97(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the “**BIA**”), and shall not be void as against any trustee in bankruptcy under section 95(1) of the BIA;
- (f) authorizing and directing the Proposal Trustee to make one or more distributions (the “**Distributions**”) from the Remaining Assets to each of Guines LLC (“**Guines**”) and Aimia Inc. (“**Aimia**” and together with Guines, the “**Senior Secured Creditors**”) on account of their respective secured indebtedness, after payment of the Success Fee and the Administrative Payments (as defined below), and subject to retaining the Reserve (as defined below);
- (g) approving the fees and disbursements of (i) the Proposal Trustee for the period between March 3, 2025 and January 30, 2026, as set out in the Proposal Trustee’s Fee Affidavit, to be sworn and filed (the “**BDO Fee Affidavit**”), and (ii) its independent legal counsel, Dentons, for the period between March 1, 2025 and January 30, 2026, as set out in the Fee Affidavit of Dentons, to be sworn and filed

(the “**Dentons Fee Affidavit**” and together with the BDO Fee Affidavit, the “**Fee Affidavits**”), each of which to be appended to the Second Report; and

(h) such further and other relief as this Court may deem appropriate.

THE GROUNDS FOR THE MOTION ARE:

Background

2. All references to monetary amounts in this Notice of Motion are in Canadian dollars unless noted otherwise. Capitalized terms not expressly defined herein are as defined in the Affidavit of Grant McLeod sworn February 9, 2026 (the “**McLeod Affidavit**”).

3. Kognitiv is an Ontario corporation formed by amalgamation on March 10, 2021, with its registered head office in Toronto, Ontario.

4. Kognitiv is the parent company of several subsidiaries, through which it operated globally. Kognitiv was in the business of providing software and services to design, build and manage loyalty programs for a global customer base.

5. Kognitiv has never operated profitably and has supported significant historical losses of its subsidiaries located in various jurisdictions through inter-company loans funded, in large part, from corporate finance activities, giving rise to extensive and unsustainable levels of debt.

6. Following losses and liquidity constraints, Kognitiv filed a notice of intention to make a proposal under the BIA on December 12, 2024, naming BDO Canada Limited (“**BDO**”) as proposal trustee (in such capacity, the “**Proposal Trustee**”) in the proceedings (the “**NOI Proceedings**”).

7. Only Kognitiv is subject to these NOI Proceedings, and not any of its subsidiaries.
8. Dentons Canada LLP (“**Dentons**”) was engaged by the Proposal Trustee as its independent legal counsel.
9. On January 10, 2025, Kognitiv filed a holding proposal (the “**Proposal**”) to allow it to (i) restructure its business and assets; (ii) continue operating; and (iii) conduct a Sale Process (with the assistance of Roystone Capital and the Proposal Trustee) for the sale of its operations and assets (the “**Sale Process**”).
10. At the first meeting of creditors held on January 31, 2025, the creditors with proven claims voted to adjourn the meeting to vote on the Proposal to permit the Proposal Trustee and Roystone Capital, with the assistance of Kognitiv, time to complete the Arbitration (as defined below) and carry out the Sale Process in the hopes of generating a better outcome for Kognitiv’s creditors.
11. The main purpose of these NOI Proceedings was to provide short-term stability to Kognitiv and a forum to pursue a restructuring of its business and operations, including consolidating all contracts, operations, and employees into fewer subsidiaries, with a view to conducting the Sale Process for consolidated operations and assets and pursuing its claim in the Arbitration, all to maximize recoveries for stakeholders.
12. On March 18, 2025, the Court made an Order (the “**March 18th Order**”) (i) granting a first-ranking \$500,000 charge on all of Kognitiv’s property to secure the fees and disbursements of the Proposal Trustee, Dentons, and counsel to Kognitiv; and (ii) approving the fees and disbursements of the Proposal Trustee and Dentons.

13. The remaining relief Kognitiv sought at the March 18th motion, including approval of a sale transaction to Capillary (as defined below) (the “**Abandoned Transaction**”) and approval of the First Report, was adjourned, as Capillary, the purchaser, requested material structural amendments to the Abandoned Transaction, which resulted in Kognitiv being removed as a party to the transaction, as the material assets were held with Kognitiv LLC and Solutions Canada (as defined below). Following negotiations, the parties pursued an alternative structure to close the sale by entering into the Capillary Sale Agreements (as defined below), thereafter resulting in the successful consummation of the Capillary Transactions.

14. On April 15, 2025, the Court made a further Order (the “**Arbitration Lift Stay Order**”), on consent, lifting the stay of proceedings imposed by section 69.1 of the BIA in favour of Kognitiv for the limited purpose of permitting the Jonas Parties to assert any of the claims, defences or counterclaims between the Arbitration Parties arising in respect of the CORA APA (as defined below) in the Arbitration.

15. The NOI Proceedings are now coming to a conclusion. The Sale Process has been completed and the Capillary Transactions have closed, the Arbitration has been settled pursuant to the Settlement, and there remain only two potential avenues of further recovery for Kognitiv’s estate, being the UAE Account Funds and the Churn Escrow and Indemnity Escrow Funds.

16. Kognitiv is now seeking to bring the NOI Proceedings to an end and address certain remaining administrative matters, including the payment of (i) certain outstanding contractor fees which are due and payable Grant McLeod, as general counsel; (ii) certain outstanding amounts owed to Secretariat Advisors (Canada) Limited (“**Secretariat**”), on account of its expert reports filed in connection with the Arbitration; (iii) outstanding fees owed to Aird & Berlis LLP and

Miller Thomson LLP, on account of legal fees rendered to the Kognitiv Parties in connection with the Arbitration; (iv) the Professional Fees (as defined below) and other outstanding legal fees incurred by Kognitiv in connection with the NOI Proceedings; (v) certain remaining amounts owed to employees accrued during the NOI Proceedings; (vi) outstanding monthly fees owed to Roystone Capital, as restructuring advisor, under the Second Amended and Restated Independent Contractor Agreement effective as of September 3, 2024 (the “**Restructuring Advisory Agreement**”); (vii) the Success Fee; and (viii) one or more final Distributions to its fulcrum creditors. Each of the payments referred to in (i) to (vi) above are collectively defined as the “**Administrative Payments**”.

Subsidiaries and Related Proceedings

17. Kognitiv’s ownership interest in its subsidiaries included, among others:

- (a) Loyalty Solutions Holdings US Inc. (“**LSH US**”), a Delaware corporation and wholly-owned subsidiary of Kognitiv;
- (b) LSH US, in turn, is the sole shareholder of each of the following indirect subsidiaries of Kognitiv: (i) Kognitiv US LLC (“**Kognitiv LLC**”), and (ii) Kognitiv Solutions Inc. (“**Solutions Canada**”, and collectively, with LSH US, the “**LSH US Companies**”). Solutions Canada was sold to Capillary pursuant to the Capillary PSA (as defined below);
- (c) Loyalty Solutions Canada Inc. (“**Loyalty Canada**”), a Canadian corporation;
- (d) Aimia Middle East Free Zone LLC (“**Aimia UAE**”), a United Arab Emirates Free Zone Limited Liability Company and indirect subsidiary of Kognitiv;

- (e) Kognitiv Singapore Pte Ltd. (“**Kognitiv Singapore**”), a Singapore private company limited by shares and indirect subsidiary of Kognitiv; and
- (f) Kognitiv Australia Pty Ltd. (“**Kognitiv Australia**”), an Australia proprietary company and indirect subsidiary of Kognitiv.

18. Kognitiv also holds direct and indirect ownership interests in certain other subsidiaries domiciled in Europe, Canada, the United States, Australia and Asia. All of these subsidiaries are inoperative and do not hold any material assets.

19. On October 22, 2025, Loyalty Canada voluntarily filed an assignment in bankruptcy under section 49 of the BIA, naming BDO as bankruptcy trustee (in such capacity, the “**Loyalty Canada Trustee**”) in the proceedings.

20. On April 2, 2025, Kognitiv LLC commenced a Chapter 11 case by filing a voluntary petition for relief (the “**US Chapter 11 Proceedings**”). The US Chapter 11 Proceedings were dismissed following the approval of the Capillary Transactions therein, which is described in more detail below.

21. In August 2025, Kognitiv Singapore voluntarily commenced liquidation proceedings to wind-up its business and assets in Singapore. Kognitiv Singapore has no material assets and minimal liabilities. There will be no recovery from the liquidation proceedings in Singapore that will flow to Kognitiv.

Creditors

22. Kognitiv has significant secured and unsecured indebtedness obligations, which it is unable to service or repay, including secured claims to Guines, Aimia, BDC Capital Inc. (“**BDC**”), Stephen M. Watt and Urbana Corporation.

23. The simplified chart below sets out a breakdown of the outstanding amounts of principal and interest owed to the secured creditors as of the date hereof:

Current Outstanding Secured Claims	
Position	Amount (CAD)
Guines <i>re</i> Roystone Note 2	\$8,453,185
Aimia Note 2	\$2,717,290
Guines <i>re</i> Roystone Second Lien	\$1,896,292
BDC Third Lien	\$5,517,861
Aimia Fourth Lien	\$2,669,812
Guines <i>re</i> Roystone Convertible	\$26,007,088
Other Convertible	\$1,811,571
TOTAL	\$49,073,098

24. The total outstanding secured indebtedness currently owing to Guines and Aimia is approximately \$36.3 million and \$5.4 million, respectively.

25. Based on recoveries in these proceedings, only the Senior Secured Creditors will receive Distributions, with no recoveries for subordinate secured creditors or unsecured creditors.

26. To date, Guines and Aimia have received distributions from the Capillary Transactions in the amount of approximately \$8.6 million and \$2.7 million, respectively, on account of their senior secured claims under the secured promissory notes, representing a significant shortfall in their respective claims, which are in excess of approximately \$43 million and \$7.5 million, respectively.

27. Payments received since the filing date until now for each of the Senior Secured Creditors are provided below and are further described in the McLeod Affidavit, which include repayment of the amounts each of them advanced under the Court-approved DIP Facility (as defined below) in the US Chapter 11 Proceedings, which totalled \$2,539,384. Contributions to the DIP Facility by each of Guines and Aimia were split 80% - 20%, respectively, which aligns with their prefiling contributions under the secured Roystone Note 2.

28. Payments to the Senior Secured Creditors were made in accordance with the Amended and Restated Pari Passu Agreement dated March 27, 2024 (the “**ARPPA**”). The total amount owed pursuant to the ARPPA with Aimia is split as between Guines and Aimia on a *pro rata* basis, proportional to the amount of their total respective indebtedness under the Roystone Note 2 and the Aimia Amended Note, which equates to an approximate 80% - 20% split in favour of Guines.

29. Accordingly, each of Guines and Aimia will receive their proportionate share of the proceeds from the Remaining Assets.

Restructuring Advisory Engagement

30. Before commencing the NOI Proceedings, Kognitiv and LSH US entered into the Restructuring Advisory Agreement with Roystone Capital, pursuant to which Roystone Capital Partners, an affiliate of Roystone Capital, was engaged to provide advisory services for Kognitiv’s restructuring, asset recovery, and the NOI Proceedings.

31. The Restructuring Advisory Agreement provides for the payment to Roystone Capital of a flat monthly advisory fee of \$60,000, as well as a success fee equivalent to ten percent (10%) of the gross value of all financial recoveries actually received by Kognitiv from its restructuring

efforts, including the gross value of any purchase price generated from any sale of Kognitiv's assets under the NOI Proceedings (the "**Success Fee**").

32. The Success Fee is limited to 10% of value of the amounts actually received by or payable to any of the Kognitiv entities. To date, Roystone Capital has received its Success Fee under the Capillary Transactions in the amount \$1,845,450, representing 10% of the actual sale proceeds received by Kognitiv LLC and Solutions Canada at the time of closing the Capillary Transactions.

33. Roystone Capital has not received its monthly advisory fee since October 2025, which it agreed to defer, and the portion of the Success Fee for the realization of the Kognitiv assets also remains outstanding. Accordingly, Roystone Capital is now owed \$300,000 for the five month period of October 2025 to and including February 2026.

34. In addition, the Success Fee that is due and payable to Roystone Capital under the Restructuring Advisory Agreement for the realizations relating to the Remaining Assets, which, subject to financial recovery actually received, could exceed \$500,000, and is comprised of:

- (a) \$500,000, representing 10% of the amount payable under the Settlement;
- (b) \$14,000, representing 10% of the amount of the UAE Account Funds, if released by HSBC, as detailed below; and
- (c) an amount equal to 10% of the amount of any remaining amounts released to Kognitiv pursuant to the Capillary PSA. The amounts to be released relate to any Escrow Funds payable to Kognitiv plus or minus any amounts payable on account of the Remittance Set-Off Amount (as defined below). The parties have indicated that the final amount is likely to be \$31,511 to be paid to Kognitiv, subject to finalizing the reconciliation.

35. The parties to the Restructuring Advisory Agreement intended the Success Fee to be proportionate to, and payable only upon, the monetary success of Roystone Capital's recovery

efforts, making it a key incentive to maximize recoveries. As the Abandoned Transaction was restructured through the Capillary Sale Agreements, only part of the Success Fee has been paid; Roystone Capital is now contractually entitled to the balance from the net sale proceeds received under the Capillary Transactions and the Arbitration payment under the Settlement.

36. Given the successful results of the Capillary Transactions and the Settlement, Kognitiv seeks Court approval to distribute the remaining Success Fee to Roystone Capital in priority to any Distributions of net sale proceeds from the Capillary Transactions to Senior Secured Creditors Aimia and Guines. If such approval is not granted, the Success Fee will be paid *pari passu* with Distributions to the Senior Secured Creditors.

37. Aimia has provided its support for the payment of the Success Fee, and BDC, as subordinate secured creditor, has been fully apprised of these proceedings, including the proposed payment of the Success Fee and the proposed Distributions from the recoveries generated from the Remaining Assets. Given the above-mentioned shortfall to the Senior Secured Creditors' claims, there will be no recovery of any kind for BDC, irrespective of the payment of the Success Fee.

Sale Process and Restructured Transaction

38. The Sale Process initially resulted in the execution of the share purchase agreement dated March 7, 2025 (the “**SPA**”) between Kognitiv, as vendor, and Capillary Pte Ltd. (“**Capillary**”), as purchaser.

39. On March 14, 2025, the Proposal Trustee filed its First Report seeking Court approval of the transaction contemplated by the SPA, the issuance of the Approval and Vesting Order (the “**Abandoned AVO**”), and related relief in the March 18th Order. Capillary subsequently requested

amendments to the Abandoned Transaction, leading to withdrawal of the request for the Abandoned AVO and amendments to the relief sought.

40. On March 31, 2025, Kognitiv and Capillary executed a termination agreement (the “**SPA Termination Agreement**”) formally terminating the SPA to pursue a revised deal structure.

41. On March 31, 2025, LSH US approved a retention and incentive pool equal to 2.5% of the gross sale price from the Capillary Transactions to retain and incentivize 12 key executives, employees, and advisors who supported restructuring efforts in both the US Chapter 11 Proceedings and these NOI Proceedings (the “**Incentivized Employees**”).

42. Following negotiations, Kognitiv and Capillary restructured the Abandoned Transaction by way of two new transactions (the “**Capillary Transactions**”):

- (a) an asset purchase agreement between Kognitiv LLC and Capillary Technologies LLC (“**Capillary LLC**”), an affiliate of Capillary (the “**Capillary APA**”), pursuant to which Capillary LLC agreed to purchase the material assets of Kognitiv LLC, including, without limitation, certain receivables and customer contracts; and
- (b) a purchase and sale agreement between LSH US and Capillary LLC, (the “**Capillary PSA**”, and together with the Capillary APA, the “**Capillary Sale Agreements**”), pursuant to which Capillary LLC agreed to purchase certain intellectual property and the shares in Solutions Canada.

43. The Capillary Sale Agreements were executed concurrently with the SPA Termination Agreement on March 31, 2025. It was a condition of the Capillary APA that the transaction contemplated therein was to be approved within the US Chapter 11 Proceedings.

44. On April 2, 2025, Kognitiv LLC commenced the US Chapter 11 Proceedings by filing a voluntary petition for bankruptcy (the “**Petition**”) in the United States Bankruptcy Court for the District of Delaware (the “**Delaware Bankruptcy Court**”).

45. Prior to the US Chapter 11 Proceedings, Kognitiv LLC, Guines and Aimia entered into a bridge loan and security agreement (the “**Bridge Loan Agreement**”) pursuant to which up to the principal amount of \$2,000,000 of financing (the “**Bridge Loan**”) was made available to fund the preparations and costs associated with the lead up to the proceedings and the completion of the Capillary Transactions.

46. At the time of the Petition, \$1.6 million of the Bridge Loan had been advanced to Kognitiv LLC.

47. As part of the US Chapter 11 Proceedings, Kognitiv LLC obtained court approval for a \$2,000,000 debtor-in-possession financing facility (the “**DIP Facility**”) from Guines and Aimia under an DIP Term Sheet dated April 1, 2025. The DIP Facility, secured by a first-priority lien on all Kognitiv LLC assets, consisted of a \$1,600,000 roll-up of the Bridge Loan and up to \$400,000 in new incremental term loans (the “**DIP Loans**”).

48. Under the approved draw allocations, Guines committed \$1,280,000 of the Roll-Up DIP Loans (as defined below) and up to \$320,000 in new-money term loans, while Aimia committed \$320,000 of the Roll-Up DIP Loans and up to \$80,000 in incremental term loans.

49. Upon entry of the Interim DIP Order (as defined below), the \$1,600,000 advanced under the Bridge Loan Agreement automatically converted into DIP Loans and was deemed “**Roll-Up DIP Loans**,” subject to the terms of the court-approved DIP Facility.

50. In respect of the DIP Loans, the Delaware Bankruptcy Court issued an interim order (the “**Interim DIP Order**”) on April 4, 2025, and a final order (the “**Final DIP Order**”) on April 29, 2025.

51. On April 29, 2025, the Delaware Bankruptcy Court also issued an Order (the “**Sale Order**”) authorizing the sale of all of the assets of Kognitiv LLC to Capillary LLC pursuant to the Capillary APA.

52. The Capillary Transactions closed on May 1, 2025 for total consideration of \$24.0 million. Under the Capillary PSA, \$4.4 million of the purchase price was placed in escrow to address post-closing adjustments, comprising the (i) Adjustment Escrow Fund, (ii) Churn Escrow Fund, and (iii) Indemnification Escrow Fund (collectively, the “**Escrow Funds**”), each as defined in the Capillary PSA.

53. Under section 7.01 of the Capillary PSA, LSH US was required to account for all cash it or its affiliates collected after closing on receivables it purchased and hold those amounts in trust for Capillary (the “**Post-Closing Purchased Receivables**”).

54. Certain aged receivables were excluded from the purchased assets but were collected by Capillary post-closing (the “**Excluded Kognitiv AR**”). Because those amounts benefited LSH US, Capillary was required to transfer them to LSH US.

55. The parties are finalizing the post-closing reconciliations for the Escrow Funds, the Post-Closing Purchased Receivables, and the Excluded Kognitiv AR. They have agreed that, after setting off the amounts owed by each party, approximately \$306,433 will be paid to Kognitiv (the

“**Remittance Set-Off Amount**”). The parties are finalizing the agreement to settle and release the Remittance Set-Off Amount, which is expected to be completed before the motion return date.

56. On June 11, 2025, and July 24, 2025, the Delaware Bankruptcy Court issued Orders (the “**Dismissal Orders**”), among other things, (i) dismissing the US Chapter 11 Proceedings; and (ii) authorizing the distribution of any remaining proceeds of the Sale to the Prepetition Lenders (as defined in the Dismissal Orders).

57. Distributions of net proceeds realized from the Capillary Transactions, including amounts applied to secured indebtedness and fees incurred in connection with the Capillary Transactions, are set out in the table below:

Application of Sale Proceeds from Capillary Transactions	Amount (CAD)
Base Acquisition Price	\$24,000,000
Estimated Working Capital Underage	(\$870,000)
Net Debt (as calculated in the Capillary APA)	(\$1,307,000)
Purchase Price Increase Amount (Severance Liabilities)	\$1,036,000
Total Consideration	\$22,859,000
Adjustment Escrow Amount	(\$250,000)
Indemnity Escrow	(\$500,000)
Customer Churn Escrow	(\$3,650,000)
Proceeds Received In Kognitiv Accounts at Closing	\$18,459,000
DIP Repayment to Aimia (principal + interest)	(\$507,877)
DIP Repayment to Guines (principal + interest)	(\$2,031,507)
Remaining Proceeds	\$15,919,616
US DIP/Chap 11 Legal Fees	(\$593,833)
Remaining Proceeds	\$15,325,783
Roystone Success Fee (10% of amount received)	(\$1,845,450)
LSH US Employee Incentive Plan	(\$458,897)

Remaining Proceeds to Distribute	\$13,021,435
Bridge Loan under Roystone Note 2 - Repayment to Guines (proportionate share) (principal + interest)	(\$1,051,948)
Bridge Loan under Roystone Note 2 - Repayment – Aimia (proportionate share) (principal + interest)	(\$587,196)
Remaining Proceeds	\$11,382,292
Catch-up Payment to Aimia under Roystone Note 2 ¹	(\$606,580)
Remaining Proceeds	\$10,775,712
Paydown to Guines re Roystone Note 2	(\$8,671,215)
Paydown to Aimia Note 2	(\$2,104,496)
Remaining Proceeds	\$0

58. These payments also include full repayment of the amounts owed to Guines and Aimia under the urgent bridge loans advanced by the Senior Secured Creditors in May and June 2024, and on a *pro rata* 80/20 basis under the fifth and sixth amendments to the Roystone Note 2, which funded critical expenses such as payroll for the Kognitiv group.

59. Upon closing the Capillary Transactions, LSH US paid the Incentivized Employees \$458,897 under the board-approved incentive plan. Capillary and LSH US have also reached an agreement in principle on the final Remittance Set-Off Amount, in accordance with the Capillary PSA.

CORA Transaction Arbitration

¹ In December 2024, prior to the commencement of the NOI Proceedings, Kognitiv made a partial repayment under the Roystone Note 2 in the amount of \$2.5 million. Aimia was entitled to receive 20% of such funds on account of its contribution thereunder but elected to defer repayment until a sale of the business. Accordingly, this payment reflects Aimia's 20% entitlement to the \$2.5 million, which was paid with the sale proceeds of the Capillary Transactions, as agreed between Guines and Aimia, the Senior Secured Creditors.

60. On April 15, 2025, the Court issued the Arbitration Lift Stay Order, lifting the stay under section 69.1 of the BIA in respect of Kognitiv to allow the Jonas Parties to continue the arbitration proceedings (the “**Arbitration**”) relating to disputes under an asset purchase agreement dated July 5, 2024 (the “**CORA APA**”) entered into by the Arbitration Parties.

61. As further described in the First Report, prior to the NOI Proceedings, Kognitiv undertook a marketing process to divest legacy assets that did not align with its core loyalty Software as a Service (“**SaaS**”) platform strategy. In July 2024, it entered into the CORA APA to transfer assets relating to its legacy Enterprise Loyalty Platform (the “**ELP**”), which, despite generating slightly more than half of group revenues, produced minimal margins due to significant overhead. The transaction (the “**CORA Transaction**”) was expected to generate cash to support Kognitiv’s focus on its SaaS platform.

62. Following the CORA Transaction, the Jonas Parties withheld approximately \$12.3 million of purchase price proceeds, alleging breaches of the CORA APA, thereby depriving Kognitiv of funds needed to maintain operations. The Arbitration Parties agreed to initiate the Arbitration, in which the Jonas Parties asserted that Kognitiv had “fraudulently and intentionally” withheld material information regarding the acquired business and refused to pay the Financial Institution Client Holdback portion of the Purchase Price (as defined in the CORA APA). Kognitiv rejected these allegations, claimed the withholding of payment breached the CORA APA and duties of good faith and honesty, alleged it was forced to commence the NOI Proceedings as a result of the breach, and claimed damages for same (the “**Insolvency Damages Claim**”), as well as punitive damages.

63. On July 26, 2025, the Arbitration Parties agreed to divide the Arbitration into two distinct phases, as confirmed by Procedural Order No. 2.

64. The first phase of the Arbitration (“**Phase 1**”) was heard by arbitrator William G. Horton on July 28-30, 2025, who released his decision on October 31, 2025 (the “**Partial Final Award**”), in which he (i) determined the Jonas Parties had incurred a loss of \$3,405,000 due to misrepresentations by the Kognitiv Parties; and (ii) ordered the Jonas Parties to pay \$6,252,819 to the Kognitiv Parties, representing the balance of the Financial Client Institution Holdback Amount after deducting the Jonas Parties’ loss arising from the Kognitiv Parties’ misrepresentations and withholding of other amounts.

65. Claims for punitive, exemplary, or aggravated damages, pre-award and post-award interest and costs were reserved to the second phase of the Arbitration (“**Phase 2**”), as were the claims reserved to Phase 2 by Procedural Order No. 2 (including, among other claims, the Insolvency Damages Claim).

66. Subsequently, the Jonas Parties argued that the Kognitiv Parties’ insolvency required a stay to preserve their alleged contractual and equitable set off rights, and thus moved to stay enforcement of the Partial Final Award pending Phase 2. On December 14, 2025, Mr. Horton issued his decision (the “**Stay Execution Order**”), ordering that if the Jonas Parties paid Kognitiv \$3,284,148 within 45 days, enforcement of the remaining \$2,392,380 of the Partial Final Award would be stayed until the completion of Phase 2 (the “**Stay**”).

67. Prior to engaging in Phase 2, the Arbitration Parties agreed to settle all issues raised or which could have been raised in relation to the CORA APA, or in the Arbitration, including the Partial Final Award and the Stay (the “**Settlement**”) for the amount of \$5,000,000 (the

“**Settlement Amount**”) to be paid by the Jonas Parties to the Kognitiv Parties. The Settlement was memorialized in certain minutes of settlement (the “**Minutes of Settlement**”) and a full and final mutual release (the “**Release**”, and together with the Minutes of Settlement, the “**Settlement Documents**”), each dated December 30, 2025.

68. The Settlement Amount has been paid by the Jonas Parties, in escrow, pending approval by this Court of the Settlement.

69. It is a condition of the Minutes of Settlement that the Court approve the Settlement, following which the Settlement Amount will be released from escrow and paid to Kognitiv.

70. Per the terms of the Settlement, the Settlement Documents are subject to Court approval, in light of the NOI Proceedings and the Loyalty Canada bankruptcy. The Settlement Documents have not yet been signed by the Loyalty Canada Trustee, who will bring a concurrent motion in its bankruptcy proceedings to seek authorization and approval to execute the Settlement Documents.

Remaining Assets or Recoveries

71. Subject to receipt of the settlement funds payable under the Settlement, Kognitiv has two remaining potential sources of recovery, being:

- (a) approximately \$140,000 (or 391,277.99 Qatari Riyal) held in an HSBC account in the name of Aimia UAE, to be released once Dubai Internet City confirms the release of an old guarantee (the “**UAE Account Funds**”). These funds represent amounts owed to Kognitiv’s Qatari subsidiary Aimia Marketing Doha LLC when the account was closed in July 2024, and the remaining steps depend on Dubai Internet City confirming that the decades-old guarantees are no longer valid; and

- (b) amounts owed to LSH US by Capillary from the final Remittance Set-Off Amount.

The total amount to be paid to Kognitiv has been agreed in principle between the parties, which is \$306,433.

72. Kognitiv should receive the UAE Account Funds in the near term, once HSBC obtains confirmation from Dubai Internet City and completes final internal approvals to release same.

73. LSH US expects to receive the Remittance Set-Off Amount under the Capillary PSA prior to the return date of this motion.

74. Upon receipt, Kognitiv proposes distributing such funds to the Senior Secured Creditors in accordance with the ARPPA, following payment of the proportionate amount of the Success Fee to Roystone Capital and any remaining Administrative Payments required to be made, with the approval of the Proposal Trustee. The total amount owed pursuant to the ARPPA is split as between Guines and Aimia on a *pro rata* basis based on the amount of their total respective indebtedness amounts under the Roystone Note 2 and the Aimia Amended Note, which equates to an approximate split of 80% to Guines and 20% to Aimia.

Authorization of Distributions to Senior Secured Creditors

75. Subject to the Court's determination with respect to approving payment of the Success Fee and Professional Fees in priority to other Distributions, Kognitiv is seeking authorization to make the Distributions from the recovery of the Remaining Assets, which includes the cash on hand, as follows:

Waterfall	Amount (CAD)
USD Cash on hand	\$49,381
CAD Cash on hand	\$7,332

Miller Thomson Trust Account	\$5,014,000
Capillary Escrow Funds	\$274,880
Capillary Remittance Set-Off	\$31,553
HSBC Bank	\$148,686
Total Funds to Distribute	\$5,525,832

Expenses

General Employee Expenses	(\$13,149)
Aird & Berlis (Arbitration and Insolvency – projected)	(\$159,357)
BDO (projected – net of invoices and retainer)	(\$8,920)
Dentons (projected – net of invoices and retainer)	(\$84,329)
Miller Thomson LLP (Counsel to Kognitiv Parties re Arbitration)	(\$61,167)
Outstanding Roystone Restructuring Fees (Oct 2025 – Feb 2026)	(\$300,000)
Roystone Success Fee (10% of Realizations Proceeds)	(\$545,511)
Secretariat (Expert Report re Arbitration)	(\$205,588)
Seven Oaks (General Counsel to Kognitiv)	(\$87,160)
Aimia Malaysia (Wind-up Costs)	(\$22,000)
Total Expenses	(\$1,487,181)

Remaining Funds to be Distributed **\$4,038,651**

Repayment to Roystone Note 2	(\$3,230,921)
Repayment to Aimia Note 2	(\$807,730)
Remaining Funds	\$0

76. To the extent Kognitiv is assigned into bankruptcy following the granting of the requested Order, Kognitiv is seeking to have the Order be binding on the bankruptcy trustee of Kognitiv and, accordingly, directing the bankruptcy trustee to make any remaining Distributions of the UAE Account Funds or Remittance Set-Off Amount, if not received before, payable directly to the Senior Secured Creditors.

77. If the Court declines to grant the relief contemplated herein authorizing payment of the Success Fee in priority of other Distributions, then the Success Fee shall be paid and distributed *pari passu* with Distributions to the Senior Secured Creditors.

78. There will be no other recovery for any creditors other than the Senior Secured Creditors.

Approval of Reports, Activities and Fees

79. The Proposal Trustee has requested that Kognitiv seek approval of the First Report and Second Report on this motion, as well as the Proposal Trustee's fees and the fees of its independent legal counsel, Dentons, as set out in the Fee Affidavits appended to the Second Report (collectively, the "**Professional Fees**").

80. The First Report fairly and accurately reflects the circumstances of Kognitiv, Kognitiv's dealings with the Proposal Trustee and the circumstances surrounding the commencement of the NOI Proceedings, while the Second Report provides the Court with a detailed update on the above matters since the First Report.

81. The Proposal Trustee has acted diligently since its appointment and has undertaken those activities described in the First Report and Second Report, which actions are lawful and proper.

82. Kognitiv is of the view that the Proposal Trustee's activities and the fees of the Proposal Trustee and its independent counsel are reasonable and appropriate in the circumstances and should be approved.

General

83. Assuming the Order is granted as requested, upon completing the terms of the Settlement and collecting the settlement payment, Kognitiv intends to use the proceeds from the Remaining Assets to pay the Success Fee, the Professional Fees, certain remaining administrative and contractor-related obligations incurred during these NOI Proceedings, and establish a small fee

reserve (the “**Reserve**”) to fund Kognitiv’s assignment into bankruptcy (the “**Bankruptcy Assignment**”) and to fund the wind-up of Kognitiv’s indirect subsidiary, Aimia Proprietary Loyalty Sendirian Berhad (“**Aimia Malaysia**”), in Malaysia. As can be seen in the chart above, it is anticipated that the costs to complete the Malaysian proceedings will be approximately \$22,000.

84. Following the Distributions, Kognitiv intends to voluntarily make the Bankruptcy Assignment, given there will be no recovery to any creditors other than the Senior Secured Creditors, who will suffer a material shortfall on their respective secured claims.

85. Kognitiv has acted diligently and in good faith and will continue to do so until the conclusion of these NOI Proceedings.

86. The secured parties with an economic interest in the Distributions have been served, and do not oppose the requested relief.

87. The BIA, including, without limitation, sections 64.2, 65.13 and 183.

88. The *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended, including, without limitation, Rules 1.04, 1.05, 2.03, 3.02 and 37.

89. Such further and other grounds as counsel for the moving parties may advise and this Court may permit.

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

90. The Affidavit of Grant McLeod, to be filed;

91. The First Report and the appendices thereto;

92. The Second Report and the appendices thereto, to be filed; and
93. Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

February 9, 2026

AIRD & BERLIS LLP
Barristers and Solicitors
Brookfield Place
181 Bay Street, Suite 1800
Toronto, ON M5J 2T9

Kyle B. Plunkett (LSO # 61044N)
Tel: (416) 865-3406
Email: kplunkett@airdberlis.com

Miranda Spence (LSO # 60621M)
Tel: (416) 865-3414
Email: mspence@airdberlis.com

Alex Bernicchia-Freeman (LSO # 93556P)
Tel: (416) 865-7735
Email: afreeman@airdberlis.com

Lawyers for Kognitiv Corporation

TO: SERVICE LIST

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF KOGNITIV CORPORATION
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

Court File No. BK-25-3165297-0031
Estate File No. 31-3165297

ONTARIO
**SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY**

PROCEEDING COMMENCED AT
TORONTO

**NOTICE OF MOTION
(RETURNABLE FEBRUARY 17, 2026)**

AIRD & BERLIS LLP

Barristers and Solicitors
Brookfield Place
181 Bay Street, Suite 1800
Toronto, ON M5J 2T9

Kyle B. Plunkett (LSO # 61044N)

Tel: (416) 865-3406

Email: kplunkett@airdberlis.com

Miranda Spence (LSO # 60621M)

Tel: (416) 865-3414

Email: mspence@airdberlis.com

Alex Bernicchia-Freeman (LSO # 93556P)

Tel: (416) 865-7735

Email: afreeman@airdberlis.com

Lawyers for Kognitiv Corporation

TAB 2

ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
KOGNITIV CORPORATION
OF THE CITY OF TORONTO
IN THE PROVINCE OF ONTARIO

AFFIDAVIT OF GRANT MCLEOD
(Sworn February 9, 2026)

I, **GRANT MCLEOD**, of the City of Toronto, in the province of Ontario, **MAKE OATH**
AND SAY AS FOLLOWS:

1. I am the General Counsel of Kognitiv Corporation (“**Kognitiv**”). I have been the Acting General Counsel of Kognitiv since August 2023. As such, I have personal knowledge of the matters to which I depose in this Affidavit except where I have obtained information from others. Where I have obtained information from others, I have stated the source of my information and, in all such cases, believe such information to be true.

I. OVERVIEW

2. Kognitiv is an Ontario corporation, formed by amalgamation on March 10, 2021, with its stated registered office at 161 Bay Street, Suite 2700, Toronto, Ontario, M5J 2S1. A copy of the Corporate Profile Report of Kognitiv is attached hereto and marked as **Exhibit “A”**.

3. Kognitiv was in the business of providing software and services to design, build and manage loyalty programs for a global customer base.

4. Kognitiv is the parent company of several subsidiaries, through which it operated globally, with back-office support having been provided by employees in Malaysia, Canada, the United States and Australia, and customer and technical employees and contractors in the United Kingdom, North America, and Asia. A copy of the corporate organizational chart as at the commencement of the NOI Proceedings (as defined below) is attached hereto and marked as **Exhibit “B”**.

5. Kognitiv has never operated profitably and has supported significant historical losses of its subsidiaries located in various jurisdictions through inter-company loans funded, in large part, from corporate finance activities, including equity and debt (injected into the subsidiaries by Kognitiv) giving rise to extensive debt levels that, absent additional funding, were not sustainable.

6. Following these persistent losses and significant liquidity constraints, Kognitiv filed a notice of intention to make a proposal under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the “**BIA**”) on December 12, 2024, naming BDO Canada Limited (“**BDO**”) as proposal trustee (in such capacity, the “**Proposal Trustee**”) in the proceedings (the “**NOI Proceedings**”). A copy of the Certificate of Filing of a Notice of Intention to Make a Proposal is attached hereto and marked as **Exhibit “C”**.

7. Only Kognitiv is subject to these NOI Proceedings, and not any of its subsidiaries.

8. Dentons Canada LLP (“**Dentons**”) was engaged by the Proposal Trustee as its independent legal counsel.

9. Kognitiv and LSH US (as defined below) entered into a Second Amended and Restated Independent Contractor Agreement effective as of September 3, 2024 (the “**Restructuring**

Advisory Agreement”) with Roystone Capital Management LP (“**Roystone Capital**”) pursuant to which Roystone Capital Partners, an affiliate of Roystone Capital, was engaged to act as contractor to provide certain advisory services related to Kognitiv’s restructuring, recovery of assets, and the NOI Proceedings.

10. On January 10, 2025, Kognitiv filed a holding proposal (the “**Proposal**”) pursuant to section 62 of the BIA to (i) allow Kognitiv to effect a corporate restructuring of its business and assets; (ii) permit Kognitiv to maintain and continue its business operations; and (iii) allow Kognitiv to carry out a sale process, with the assistance of Roystone Capital, as restructuring advisor, and the Proposal Trustee, for the orderly sale of Kognitiv’s operations and assets (the “**Sale Process**”). A copy of the Proposal lodged with Office of the Superintendent of Bankruptcy is attached hereto and marked as **Exhibit “D”**.

11. At the first meeting of creditors held on January 31, 2025, the creditors with proven claims voted to adjourn the meeting to vote on the Proposal to permit the Proposal Trustee and Roystone Capital, with the assistance of Kognitiv, time to complete the Arbitration (as defined and detailed below) and carry out the Sale Process in the hopes of generating a better outcome for Kognitiv’s creditors.

12. The main purpose of these NOI Proceedings was to provide short-term stability to Kognitiv and a forum in which to pursue a restructuring of business and operations, including consolidating all of its contracts, business operations and employees into a smaller group of subsidiaries, all with a view to conducting the Sale Process for the consolidated business, and to pursue its claim in the Arbitration, all in an effort to maximize recoveries for the benefit of all stakeholders.

13. On March 18, 2025, the Court made an Order (the “**March 18th Order**”) that, among other things:

- (a) granted a first-ranking charge on all of Kognitiv’s property, in priority to all other charges, in the maximum amount of \$500,000 (the “**Administration Charge**”), to secure the fees and disbursements of BDO in its capacity as Proposal Trustee, counsel to the Proposal Trustee, and counsel to Kognitiv; and
- (b) approved the fees and disbursements of the Proposal Trustee and Dentons, as set out in the First Report of the Proposal Trustee dated March 14, 2025 (the “**First Report**”).

14. A copy of the March 18th Order is attached hereto and marked as **Exhibit “E”**.

15. The balance of the relief originally sought by Kognitiv at the March 18th motion, including the approval of a sale transaction to Capillary (as defined below)(the “**Abandoned Transaction**”) and the approval of the First Report, was adjourned, as Capillary, the purchaser, requested material structural amendments to the Abandoned Transaction, which resulted in Kognitiv being removed as a party to the transaction, as the material assets were held with Kognitiv LLC (as defined below) and Solutions Canada (as defined below). Following negotiations, the parties pursued an alternative structure to close the sale by entering into the Capillary Sale Agreements (as defined below), thereafter resulting in the successful consummation of the Capillary Transactions (as defined below).

16. On April 15, 2025, the Court made a further Order (the “**Arbitration Lift Stay Order**”), on consent, lifting the stay of proceedings imposed by section 69.1 of the BIA in favour of Kognitiv

for the limited purpose of permitting the Jonas Parties (as defined below) to assert any of the claims, defences or counterclaims between the Arbitration Parties (as defined below) arising in respect of the CORA APA (as defined below) in the Arbitration. A copy of the Arbitration Lift Stay Order is attached hereto and marked as **Exhibit “F”**.

17. The NOI Proceedings are now coming to a conclusion. The Sale Process has been completed, the Capillary Transactions have closed, the Arbitration has been settled pursuant to the Settlement (as defined below), and there remain two avenues of further recovery for Kognitiv’s estate, being the receipt of the UAE Account Funds (as defined below) and the release of the Escrow Funds (as defined below) pursuant to the Capillary Sale Agreements.

18. Kognitiv is now seeking to bring the NOI Proceedings to an end and address certain remaining administrative matters, including the payment of (i) certain outstanding contractor fees which are due and payable to me, as general counsel; (ii) certain outstanding amounts owed to Secretariat Advisors (Canada) Limited (“**Secretariat**”), on account of its expert reports filed in connection with the Arbitration; (iii) outstanding fees owed to Aird & Berlis LLP and Miller Thomson LLP, on account of legal fees rendered to the Kognitiv Parties (as defined below) in connection with the Arbitration; (iv) the Professional Fees (as defined below) and other outstanding legal fees incurred by Kognitiv in connection with the NOI Proceedings; (v) certain remaining amounts owed to employees accrued during the NOI Proceedings; (vi) outstanding monthly fees owed to Roystone Capital, as restructuring advisor, under the Restructuring Advisory Agreement; (vii) the Success Fee (as defined below); and (viii) one or more final Distributions (as defined below) to its fulcrum creditors. Each of the payments referred to in (i) to (vi) above are collectively defined as the “**Administrative Payments**”.

II. NATURE OF RELIEF SOUGHT

19. This Affidavit is made in support of a motion by Kognitiv for relief under the BIA, seeking various relief, substantially in the form of the Order (the “**Ancillary Relief Order**”) enclosed in the Motion Record, which, consists of:

- (a) approving the First Report, and the actions, conduct and activities of the Proposal Trustee and its legal counsel as described therein;
- (b) approving the second report of the Proposal Trustee, to be filed (the “**Second Report**”), and the actions, conduct and activities of the Proposal Trustee and its legal counsel as described therein;
- (c) approving the Settlement and authorizing the execution by Kognitiv of the Settlement Documents (as defined below) between each of the Loyalty Canada Trustee (as defined below), on behalf of Loyalty Canada (as defined below), Aimia UAE (as defined below), Kognitiv Singapore (as defined below), Kognitiv Australia (as defined below), Kognitiv LLC and Kognitiv (collectively, the “**Kognitiv Parties**”), on the one hand, and each of Gary Jonas Computing Ltd., CORA Group Australia Pty Ltd., Jonas Computing (UK) Limited, and Jonas Food Holdco Inc. (collectively, the “**Jonas Parties**”), on the other hand. Each of the Jonas Parties and the Kognitiv Parties are hereinafter collectively referred to as the “**Arbitration Parties**”;
- (d) approving and authorizing the payment by Kognitiv to Roystone Capital, as restructuring advisor, of the Success Fee from (i) the proceeds of the Settlement;

- (ii) the collection of any portion of the UAE Account Funds; (iii) cash on hand; and
- (iv) the Escrow Funds related to the Capillary Transactions (collectively, the “**Remaining Assets**”), in accordance with Section 3 of the Restructuring Advisory Agreement, which fee shall be paid in priority to all amounts owing to the Senior Secured Creditors (as defined below);
- (e) confirming that the payments of the Success Fee by Kognitiv to Roystone Capital shall be valid under section 97(1) of the BIA, and shall not be void as against any trustee in bankruptcy under section 95(1) of the BIA;
- (f) authorizing and directing the Proposal Trustee to make one or more distributions (the “**Distributions**”) from the Remaining Assets to each of Guines LLC (“**Guines**”) and Aimia Inc. (“**Aimia**” and together with Guines, the “**Senior Secured Creditors**”) on account of their respective secured indebtedness, after payment of the Success Fee and the Administrative Payments, and subject to retaining the Reserve (as defined below);
- (g) approving the fees and disbursements of (i) the Proposal Trustee for the period between March 3, 2025 and January 30, 2026, as set out in the Proposal Trustee’s Fee Affidavit, to be sworn and filed (the “**BDO Fee Affidavit**”), and (ii) its independent legal counsel, Dentons, for the period between March 1, 2025 and January 30, 2026, as set out in the Fee Affidavit of Dentons, to be sworn and filed (the “**Dentons Fee Affidavit**” and together with the BDO Fee Affidavit, the “**Fee Affidavits**”), each of which to be appended to the Second Report; and

(h) such further and other relief as this Court may deem appropriate.

20. I understand that the Proposal Trustee has reviewed the relief sought in the proposed Ancillary Relief Order and will be providing its recommendations in the Second Report.

21. I can further advise that Aimia, one of the Senior Secured Creditors, has indicated that it is supportive of the relief being sought, including payment of the Success Fee to Roystone Capital in accordance with the Restructuring Advisory Agreement and the Administrative Payments. Draft copies of this Affidavit and the Ancillary Relief Order were shared with Aimia prior to their finalization.

22. I have also provided to BDC Capital Inc. (“**BDC**”), a subordinate secured lender, a written email summary of the status of the realization efforts and the proposed relief to be sought by Kognitiv at this Motion, including the payment of the Success Fee. In their email response, they acknowledged receipt and did not indicate that they would be taking any position on this Motion.

III. BACKGROUND

23. Further information concerning Kognitiv and its business, as well as the events leading up to the filing are set out in detail in the First Report and in the Affidavit of Tim Sullivan sworn March 11, 2025 (the “**Sullivan Affidavit**”). Accordingly, this Affidavit refers to, and should be read in conjunction with, the Sullivan Affidavit and the First Report. A copy of the Sullivan Affidavit, without exhibits, is attached hereto and marked as **Exhibit “G”**.

24. As mentioned above, Kognitiv is the parent company of several subsidiaries, through which it operated globally.

25. Kognitiv does not have (and has never had) any client contracts or revenue streams, and has funded its activities, the activities of its subsidiaries, and its resulting historical losses, with equity and third-party debt financing.

26. Kognitiv's ownership interest in its subsidiaries included, among others:

- (a) Loyalty Solutions Holdings US Inc. ("**LSH US**"), a corporation existing under the laws of the State of Delaware, which is a wholly-owned subsidiary of Kognitiv;
- (b) LSH US, in turn, is the sole shareholder of each of the following indirect subsidiaries of Kognitiv: (i) Kognitiv US LLC ("**Kognitiv LLC**") and (ii) Kognitiv Solutions Inc. ("**Solutions Canada**", and together with LSH US, the "**LSH US Companies**"). Solutions Canada was sold to Capillary pursuant to the Capillary PSA (as defined below);
- (c) Loyalty Solutions Canada Inc. ("**Loyalty Canada**"), a corporation incorporated under the laws of Canada;
- (d) Aimia Middle East Free Zone LLC ("**Aimia UAE**"), a Free Zone Limited Liability Company formed under the laws of the United Arab Emirates, which is an indirect subsidiary of Kognitiv;
- (e) Kognitiv Singapore Pte Ltd. ("**Kognitiv Singapore**"), a private company limited by shares formed under the laws of Singapore, which is an indirect subsidiary of Kognitiv; and

- (f) Kognitiv Australia Pty Ltd. (“**Kognitiv Australia**”) a proprietary company formed under the laws of Australia, registered in the state of New South Wales, which is an indirect subsidiary of Kognitiv.

27. Each of Kognitiv Singapore and Kognitiv Australia are wholly-owned subsidiaries of Kognitiv Europe Holdings Ltd. (“**Kognitiv Europe**”), which in turn is a wholly-owned subsidiary of Kognitiv. Kognitiv Europe holds no materials assets, and its shares have no value.

28. Aimia UAE is a wholly-owned subsidiary of Loyalty Solutions Holdings LLC (“**LSH LLC**”), which in turn is a wholly-owned subsidiary of Kognitiv. LSH LLC has no assets other than its shares in Aimia UAE.

29. Through its subsidiaries, Kognitiv was in the business of providing software and services to design, build and manage loyalty programs for a global customer base.

30. Kognitiv also holds direct and indirect ownership interests in certain other subsidiaries domiciled in Europe, Canada, the United States, Australia and Asia. All of these subsidiaries are inoperative and do not hold any material assets.

31. On October 22, 2025, Loyalty Canada voluntarily filed an assignment in bankruptcy under section 49 of the BIA, naming BDO as bankruptcy trustee (in such capacity, the “**Loyalty Canada Trustee**”) in the bankruptcy proceedings. A copy of the Certificate of Appointment is attached hereto and marked as **Exhibit “H”**.

32. On April 2, 2025, Kognitiv LLC commenced a Chapter 11 case by filing a voluntary petition for relief under chapter 11 of title 11 of the *United States Code*, 11 U.S.C. §§ 101-1532 (bearing Case No. 25-10648 – District of Delaware) (the “**US Chapter 11 Proceedings**”). The

main purpose of the US Chapter 11 Proceedings was to complete the Capillary Transactions and to terminate certain third party claims. The US Chapter 11 Proceedings were dismissed following the approval of the Capillary Transactions therein, which is described in more detail below.

33. In August 2025, Kognitiv Singapore voluntarily commenced liquidation proceedings to wind-up its business and assets in Singapore. A screenshot of the Companies House website evidencing Kognitiv Singapore's liquidation proceedings is attached hereto and marked as **Exhibit "I"**. Kognitiv Singapore has no material assets and minimal liabilities. There will be no recovery from the liquidation proceedings in Singapore that will flow to Kognitiv.

IV. CREDITORS

34. Kognitiv has significant secured and unsecured indebtedness obligations, which it was (and is) unable to service or repay.

35. In 2022, Kognitiv raised approximately \$31,000,000 of secured convertible notes from various creditors, including Aimia, Guines, Urbana Corporation and Stephen M. Watt. Some of these amounts were converted in 2023 pursuant to an equity conversion. A chart summarizing Kognitiv's outstanding secured indebtedness as of June 12, 2025, prior to completion of the Capillary Transactions, is attached hereto and marked as **Exhibit "J"**.

36. As detailed in paragraphs 56 to 106 of the Sullivan Affidavit, Kognitiv has material secured claims it cannot repay, including to each of Guines, Aimia, BDC, Stephen M. Watt and Urbana Corporation. The priorities amongst these secured creditors is set out at paragraph 106 of the Sullivan Affidavit.

37. I have include a simplified chart below that sets out a breakdown of the outstanding amounts of principal and interest owed to the secured creditors as of the date hereof:

Current Outstanding Secured Claims	
Position	Amount (CAD)
Guines <i>re</i> Roystone Note 2	\$8,453,185
Aimia Note 2	\$2,717,290
Guines <i>re</i> Roystone Second Lien	\$1,896,292
BDC Third Lien	\$5,517,861
Aimia Fourth Lien	\$2,669,812
Guines <i>re</i> Roystone Convertible	\$26,007,088
Other Convertible	\$1,811,571
TOTAL	\$49,073,098

38. The total outstanding secured indebtedness owing to Guines and Aimia is approximately \$36.3 million and \$5.4 million, respectively.

39. Based on recoveries during these proceedings, only the Senior Secured Creditors will receive Distributions. The Senior Secured Creditors are expected to suffer a material shortfall on their claims. Accordingly, there will not be any recovery for the subordinate secured creditors or unsecured creditors.

40. To date, Guines and Aimia have received distributions from the Capillary Transactions in the amount of approximately \$8.6 million and \$2.7 million, respectively, on account of their senior secured claims under the secured promissory notes, representing a significant shortfall in their respective claims, which are in excess of approximately \$43 million and \$7.5 million, respectively. Details of the payments received since the filing date until now for each of the Senior Secured Creditors are provided below at paragraphs 70-74, which include repayment of the amounts each of them advanced under the Court-approved DIP Facility (as defined below) in the US Chapter 11

Proceedings, which totalled \$2,539,384. Contributions to the DIP Facility by each of Guines and Aimia were split 80% - 20%, respectively, which aligns with their prefiling contributions under the secured Roystone Note 2, as described at paragraphs 56 to 106 of the Sullivan Affidavit.

41. Payments to the Senior Secured Creditors were made in accordance with the Amended and Restated Pari Passu Agreement dated March 27, 2024 (the “ARPPA”), as more particularly described at paragraph 77 of the Sullivan Affidavit, which provides as follows:

“77. Specifically, the ARPPA contemplates the following priority:

- (a) First, Guines and Aimia, respectively, shall share pro rata on amounts owing under each of the Roystone Note 2 and the Aimia Amended Note (up to its principal amount of \$4,500,000 plus interest and expenses);*
- (b) Second, once the amounts in (a) above are paid in full, Guines shall be paid all amounts owing under the Roystone Note 1; and*
- (c) Lastly, once all amounts owing under Roystone Note 1 and Roystone 2 have been paid in full, the balance to Aimia on account of any remaining amounts owing under the Aimia Amended Note above the cap mentioned in (a) above.”*

42. As stated in the Sullivan Affidavit, the total amount owed pursuant to the ARPPA with Aimia is split as between Guines and Aimia on a *pro rata* basis, proportional to the amount of their total respective indebtedness under the Roystone Note 2 and the Aimia Amended Note, which equates to an approximate 80% - 20% split in favour of Guines.

43. Accordingly, each of Guines and Aimia will receive their proportionate share of the proceeds from the Remaining Assets.

V. RESTRUCTURING ADVISORY ENGAGEMENT

Restructuring Advisory Agreement Terms

44. As detailed in the First Report, a few months prior to Kognitiv commencing the NOI Proceedings, Kognitiv entered into the Restructuring Advisory Agreement. Roystone Capital is a related party to Guines, one of the Senior Secured Creditors, and, accordingly, has in-depth knowledge of the Kognitiv group's business and assets, and an interest in making sure the restructuring and/or Sale Process was a success. A copy of the Restructuring Advisory Agreement is attached hereto and marked as **Exhibit "K"**.

45. As further described in the Sullivan Affidavit, the Restructuring Advisory Agreement provides for the payment to Roystone Capital of a flat monthly advisory fee of \$60,000, as well as a success fee equivalent to ten percent (10%) of the gross value of all financial recoveries actually received by Kognitiv from its restructuring efforts, including the gross value of any purchase price generated from any sale of Kognitiv's assets under the NOI Proceedings (the "**Success Fee**").

46. The Success Fee is limited to 10% of value of the amounts actually received by or payable to any of the Kognitiv entities. To date, Roystone Capital has received its Success Fee under the Capillary Transactions in the amount \$1,845,450, representing 10% of the actual sale proceeds received by Kognitiv LLC and Solutions Canada at the time of closing the Capillary Transactions.

47. As of the date hereof, Roystone Capital has not received its monthly advisory fee since October 2025, which it agreed to defer until realization efforts had been advanced and completed.

Accordingly, Roystone Capital is now owed \$300,000 for the five month period of October 2025 to and including February 2026.

48. In addition, the Success Fee that is due and payable to Roystone Capital under the Restructuring Advisory Agreement for the realizations relating to the Remaining Assets, which, subject to financial recovery actually received, could exceed \$500,000, and is comprised of:

- (a) \$500,000, representing 10% of the amount payable under the Settlement;
- (b) \$14,000, representing 10% of the amount of the UAE Account Funds, if released by HSBC, as detailed below; and
- (c) an amount equal to 10% of the amount of any remaining amounts released to Kognitiv pursuant to the Capillary PSA. The amounts to be released relate to any Escrow Funds payable to Kognitiv plus or minus any amounts payable on account of the Remittance Set-Off Amount (as defined below). The parties have indicated that the final amount is likely to be \$31,511 to be paid to Kognitiv, subject to finalizing the reconciliation.

Approval of Payment of Remaining Success Fee

49. The intention of the parties to the Restructuring Advisory Agreement was for Roystone Capital to receive a Success Fee proportionate to, and only payable upon, the monetary success of its recovery efforts, so as to serve as a key incentive to maximize recoveries. Accordingly, the Success Fee was contingent on the successful sale or realization of Kognitiv's assets, including recovery under the Arbitration.

50. To date, Roystone Capital has received a portion of the Success Fee from sale proceeds attributable to the LSH US Companies under the Capillary Transactions.

51. Roystone Capital is now contractually entitled to its Success Fee from the balance of net proceeds paid to Kognitiv from the Remaining Assets upon receipt by Kognitiv.

52. I understand from Kognitiv's insolvency counsel, Aird & Berlis LLP, that the amount of the Success Fee falls within the range previously approved in other insolvency proceedings before this Court. No Court charge is being requested, and Kognitiv has received support from the Senior Secured Creditors for the payment of the Success Fee as contemplated herein.

53. Given the successful results of the Capillary Transactions and the Settlement, Kognitiv now seeks approval to make a distribution or distributions to Roystone Capital on account of the Success Fee due and payable from the net proceeds recovered by Kognitiv from the Remaining Assets. For greater certainty, Court approval of the Success Fee is required to ensure that Roystone Capital is paid its Success Fee in priority to other prior ranking claims, including those of the fulcrum creditors, being the Senior Secured Creditors.

54. If, for whatever reason, the Court were to decline to grant the relief contemplated herein (or in the Ancillary Relief Order) authorizing payment of the Success Fee in priority, then the amounts attributable to the Success Fee will be paid and distributed *pari passu* with the Distributions to the Senior Secured Creditors.

55. As mentioned above, Aimia, the only other creditor with an entitlement or economic interest to such proceeds, has provided its support for the payment of the Success Fee to Roystone Capital on account of the positive work and value provided by Roystone Capital in these proceedings, including the financial and advisory support that led to the closing of the Capillary Transactions and the Settlement. Aimia was also fully aware of the Restructuring Advisory Agreement during the negotiation of its terms at the time of its execution by Kognitiv.

56. Additionally, BDC, as subordinate secured creditor, has been fully apprised of these proceedings, including the proposed payment of the Success Fee and the proposed Distributions from the recoveries generated from the Remaining Assets.

57. To the best of my knowledge, BDC does not oppose any of the relief sought in the proposed Ancillary Relief Order, but has requested that I inform them once the proceedings are brought to a conclusion.

58. Furthermore, and given the above-mentioned shortfall to the Senior Secured Creditors' claims, there will be no recovery of any kind for BDC, irrespective of the payment of the Success Fee.

59. For the reasons set out above, I am of the view that it is fair and reasonable that the Success Fee be paid to Roystone Capital and that no creditor is materially prejudiced by such payment being made, other than Aimia, who supports such payment.

60. Kognitiv is requesting that the Court approve the payment of the Success Fee due and payable to Roystone Capital under the Restructuring Advisory Agreement from the net proceeds generated from the Remaining Assets, after payment of the Professional Fees and the Reserve.

VI. SALE PROCESS AND RESTRUCTURED TRANSACTION

Abandoned Transaction

61. As described above, Kognitiv, with the assistance of the Proposal Trustee, filed the Proposal and initiated the Sale Process. The Sale Process initially resulted in the execution of a share purchase agreement (the "SPA") between Kognitiv, as vendor, and Capillary Pte Ltd.

(“**Capillary**”), as purchaser, dated March 7, 2025. The Capillary bid was determined by the Proposal Trustee and Kognitiv to be the highest and best offer received during the Sale Process.

62. On March 14, 2025, the Proposal Trustee filed its First Report. The purpose of the First Report was, among other things, to outline the outcome of the Sale Process and to seek, among other things, the Court’s approval of the transaction contemplated by the SPA and the issuance of an Approval and Vesting Order (the “**Abandoned AVO**”), together with certain ancillary relief reflected in the March 18th Order.

63. However, Capillary subsequently requested certain amendments to the Abandoned Transaction, which resulted in Kognitiv withdrawing the request for the Abandoned AVO and proceeding to amend the relief sought at the March 18th motion, as described above.

64. On March 31, 2025, Kognitiv and Capillary executed a termination agreement (the “**SPA Termination Agreement**”) to formally terminate the SPA in order to pursue a revised deal structure to address certain concerns raised by Capillary under the SPA. A copy of the SPA Termination Agreement is attached hereto and marked as **Exhibit “L”**.

65. In addition, on March 31, 2025, LSH US approved the establishment of a retention and incentive pool comprising two and a half percent (2.5%) of the gross sale price from the Capillary Transactions to retain and incentivize key executives, employees, and advisors (the “**Incentivized Employees**”). The Incentivized Employees were comprised of 12 employees who worked across a number of the operative Kognitiv entities, and played an important role in carrying out the restructuring initiatives, both under the US Chapter 11 Proceedings and these NOI Proceedings. A copy of the Written Consent of the Sole Director of LSH US approving the employee incentive program is attached hereto and marked as **Exhibit “M”**.

Capillary Transactions and US Proceedings

66. Following negotiations, Kognitiv and Capillary decided to restructure the Abandoned Transaction and effect the sale by way of two new transactions (the “**Capillary Transactions**”) by entering into (i) an asset purchase agreement between Kognitiv LLC and Capillary Technologies LLC (“**Capillary LLC**”), an affiliate of Capillary (the “**Capillary APA**”), pursuant to which Capillary LLC agreed to purchase the material assets of Kognitiv LLC, including, without limitation, certain receivables and customer contracts; and (ii) a purchase and sale agreement between LSH US and Capillary LLC, (the “**Capillary PSA**”, and together with the Capillary APA, the “**Capillary Sale Agreements**”), pursuant to which Capillary LLC agreed to purchase certain intellectual property and the shares in Solutions Canada.

67. The Capillary Sale Agreements were executed concurrently with the SPA Termination Agreement on March 31, 2025. Copies of the Capillary APA and the Capillary PSA are attached hereto and marked as **Exhibit “N”** and **Exhibit “O”**, respectively.

68. It was a condition of the Capillary APA that the transaction contemplated therein was to be approved within the US Chapter 11 Proceedings.

69. On April 2, 2025, Kognitiv LLC commenced the US Chapter 11 Proceedings by filing a voluntary petition for bankruptcy (the “**Petition**”) in the United States Bankruptcy Court for the District of Delaware (the “**Delaware Bankruptcy Court**”). A copy of the Petition is attached hereto and marked as **Exhibit “P”**.

70. Prior to commencement of the US Chapter 11 Proceedings, Kognitiv LLC, Guines and Aimia entered into a bridge loan and security agreement (the “**Bridge Loan Agreement**”) pursuant

to which up to the principal amount of \$2,000,000 of financing (the “**Bridge Loan**”) was made available to fund the preparations and costs associated with the lead up to the proceedings and the completion of the Capillary Transactions. A copy of the Bridge Loan Agreement is attached hereto and marked as **Exhibit “Q”**. Additionally, copies of the associated LSH US guarantee and security agreement are attached hereto and marked as **Exhibit “R”** and **Exhibit “S”**, respectively.

71. At the time of the Petition, \$1.6 million of the Bridge Loan had been advanced to Kognitiv LLC.

72. As part of the US Chapter 11 Proceedings, Kognitiv LLC sought and obtained court approval for a \$2,000,000 debtor-in-possession financing facility (the “**DIP Facility**”) to be provided by Guines and Aimia pursuant to a DIP Term Sheet dated April 1, 2025. The DIP facility was secured by a first-priority lien on all Kognitiv LLC assets and consisted of (i) a roll-up of \$1,600,000 advanced under the Bridge Loan and (ii) up to \$400,000 in new incremental term loans (collectively, the “**DIP Loans**”).

73. Under the approved draw allocations, Guines committed to provide \$1,280,000 of the Roll-Up DIP Loans (as defined below) and up to \$320,000 of incremental new-money term loans, while Aimia committed to provide \$320,000 of the Roll-Up DIP Loans and up to \$80,000 of incremental term loans.

74. Upon entry of the Interim DIP Order (as defined below), the existing \$1,600,000 in loans advanced under the Bridge Loan Agreement were automatically converted into DIP Loans and deemed “**Roll-Up DIP Loans**” subject to the terms and conditions of the court-approved DIP Facility.

75. In respect of the DIP Loans, the Delaware Bankruptcy Court issued an interim order (the “**Interim DIP Order**”) on April 4, 2025, and a final order (the “**Final DIP Order**”) on April 29, 2025. Copies of the Interim DIP Order and Final DIP Order are attached hereto and marked as **Exhibit “T”** and **Exhibit “U”**, respectively.

76. On April 29, 2025, the Delaware Bankruptcy Court also issued an Order (the “**Sale Order**”) authorizing and approving, among other things, the sale (the “**Sale**”) of all of the assets of Kognitiv LLC to Capillary LLC pursuant to the Capillary APA. A copy of the Sale Order is attached hereto and marked as **Exhibit “V”**.

77. The Capillary Transactions ultimately closed on May 1, 2025, and the total consideration paid was \$24.0 million. Under the terms of the Capillary PSA, a total amount of \$4.4 million of the purchase price proceeds were required to be posted in escrow, pursuant to an escrow arrangement, to address certain post-closing adjustments or determinations. These escrow payments included an (i) Adjustment Escrow Fund; (ii) Churn Escrow Fund; and (iii) Indemnification Escrow Fund, each as defined and described in the Capillary PSA (collectively, the “**Escrow Funds**”). The calculation and Release Date (as defined in the Capillary PSA) differed among the Escrow Funds.

78. Pursuant to section 7.01 of the Capillary PSA, LSH US was required to account for all cash collected by LSH US or any of its affiliates on or after the closing in respect of receivables it purchased and hold such receipts in trust for the benefit and the account of Capillary (the “**Post-Closing Purchased Receivables**”).

79. In addition, certain aged receivables were excluded from the purchased assets but were collected by Capillary post-closing (the “**Excluded Kognitiv AR**”). Those amounts or collections

were to the benefit of LSH US, and accordingly were required to be transferred by Capillary to LSH US.

80. The parties are in the process of finalizing the post-closing reconciliations and adjustments on account of the Escrow Funds, Post-Closing Purchased Receivables and the Excluded Kognitiv AR. I understand that the parties have agreed that the total amount to be paid to Kognitiv, following set-off of the applicable amounts owed to each party from the aforementioned amounts, is approximately \$306,433 (the “**Remittance Set-Off Amount**”). The parties are in the process of finalizing the agreement to settle and release the Remittance Set-Off Amount, which we expect to occur prior to the motion return date.

81. A detailed description of the payments that were made following closing of the Capillary Transactions is set out in the Acknowledgement and Amendment Agreement dated May 1, 2025 between Capillary LLC, Kognitiv LLC and LSH US, which is attached hereto and marked as **Exhibit “W”**.

82. On June 11, 2025, and July 24, 2025, the Delaware Bankruptcy Court issued Orders (the “**Dismissal Orders**”), among other things, (i) dismissing the US Chapter 11 Proceedings; and (ii) authorizing the distribution of any remaining proceeds of the Sale to the Prepetition Lenders (as defined in the Dismissal Orders). Copies of the Dismissal Orders are collectively attached hereto and marked as **Exhibit “X”**.

83. Distributions of net proceeds realized from the Capillary Transactions, including amounts applied to secured indebtedness and fees incurred in connection with the Capillary Transactions, are set out in the table below:

Application of Sale Proceeds from Capillary Transactions	Amount (CAD)
Base Acquisition Price	\$24,000,000
Estimated Working Capital Underage	(\$870,000)
Net Debt (as calculated in the Capillary APA)	(\$1,307,000)
Purchase Price Increase Amount (Severance Liabilities)	\$1,036,000
Total Consideration	\$22,859,000
Adjustment Escrow Amount	(\$250,000)
Indemnity Escrow	(\$500,000)
Customer Churn Escrow	(\$3,650,000)
Proceeds Received In Kognitiv Accounts at Closing	\$18,459,000
DIP Repayment to Aimia (principal + interest)	(\$507,877)
DIP Repayment to Guines (principal + interest)	(\$2,031,507)
Remaining Proceeds	\$15,919,616
US DIP/Chap 11 Legal Fees	(\$593,833)
Remaining Proceeds	\$15,325,783
Roystone Success Fee (10% of amount received)	(\$1,845,450)
LSH US Employee Incentive Plan	(\$458,897)
Remaining Proceeds to Distribute	\$13,021,435
Bridge Loan under Roystone Note 2 - Repayment to Guines (proportionate share) (principal + interest)	(\$1,051,948)
Bridge Loan under Roystone Note 2 - Repayment – Aimia (proportionate share) (principal + interest)	(\$587,196)
Remaining Proceeds	\$11,382,292
Catch-up Payment to Aimia under Roystone Note 2 ¹	(\$606,580)
Remaining Proceeds	\$10,775,712
Paydown to Guines re Roystone Note 2	(\$8,671,215)
Paydown to Aimia Note 2	(\$2,104,496)
Remaining Proceeds	\$0

¹ In December 2024, prior to the commencement of the NOI Proceedings, Kognitiv made a partial repayment under the Roystone Note 2 in the amount of \$2.5 million. Aimia was entitled to receive 20% of such funds on account of its contribution thereunder but elected to defer repayment until a sale of the business. Accordingly, this payment reflects Aimia's 20% entitlement to the \$2.5 million, which was paid with the sale proceeds of the Capillary Transactions, as agreed between Guines and Aimia, the Senior Secured Creditors.

84. The above payments also include the full repayment of the amounts owed to each of Guines and Aimia under the urgent bridge loans the Senior Secured Creditors advanced in May and June 2024, and a *pro rata* basis (80/20), under the fifth and sixth amendments to the Roystone Note 2, which funds were used to pay critical payments such as payroll for the Kognitiv group.

85. Upon closing the Capillary Transactions, LSH US paid the Incentivized Employees, which payment totalled \$458,897, in accordance with the board-approved incentive plan.

86. Capillary and LSH US have now reached an agreement in principle on the calculation of the final Remittance Set-Off Amount, in accordance with the Capillary PSA.

VII. CORA TRANSACTION ARBITRATION

Nature of Claim

87. As described above, on April 15, 2025, the Court issued the Arbitration Lift Stay Order, thereby lifting the stay of proceedings established by section 69.1 of the BIA in respect of Kognitiv to allow the Jonas Parties to, among other things, continue the arbitration proceedings (the “**Arbitration**”) to resolve disputes arising from claims under an asset purchase agreement dated July 5, 2024 (the “**CORA APA**”) entered into by the Arbitration Parties. A copy of the CORA APA is attached hereto and marked as **Exhibit “Y”**.

88. As previously discussed in the Sullivan Affidavit and the First Report, prior to the NOI Proceedings, Kognitiv sought to divest legacy assets that did not align with its core loyalty Software as a Service (“**SaaS**”) platform strategy. Kognitiv undertook an extensive marketing

process and, in July 2024, entered into the CORA APA for the transfer of certain Kognitiv assets, including all software, intellectual property, and contracts relating to its legacy Enterprise Loyalty Platform (“**ELP**”).

89. ELP represented slightly more than half of total revenues of the Kognitiv group. However, with significant operating overhead, the ELP business provided minimal operating margins. The sale transaction contemplated by the CORA APA was expected to generate cash proceeds to support and allow Kognitiv to focus entirely on its remaining core business, its SaaS platform.

90. A dispute arose following the closing of the transaction contemplated by the CORA APA (the “**CORA Transaction**”), which resulted in the Jonas Parties withholding approximately \$12.3 million of the purchase price proceeds payable to the Kognitiv group — claiming certain breaches of the CORA APA — thereby depriving Kognitiv of the funds to maintain operations and execute on its business plans.

91. The Arbitration Parties agreed to the Arbitration to adjudicate the claims. The Jonas Parties asserted that Kognitiv had “fraudulently and intentionally” withheld material information integral to the business and in regard to the nature of its relationship with certain clients and consequently refused to pay Kognitiv the Financial Institution Client Holdback portion of the Purchase Price (as defined in the CORA APA).

92. In response to the above allegations and lack of payment by the Jonas Parties, Kognitiv rejected the Jonas Parties’ position and alleged that the Jonas Parties’ withholding of payment constituted a breach of their obligations under the CORA APA and of their duties of good faith and honesty. Kognitiv asserted that as a result of this breach, Kognitiv was forced to commence

the NOI Proceedings, and claimed damages for same (the “**Insolvency Damages Claim**”), as well as punitive damages.

Arbitration Process

93. On July 26, 2025, the Arbitration Parties agreed to divide the Arbitration into two distinct phases, as confirmed by Procedural Order No. 2 (“**Procedural Order No. 2**”). A copy of Procedural Order No. 2 is attached hereto and marked as **Exhibit “Z”**.

94. The first phase of the Arbitration (“**Phase 1**”) was heard by arbitrator William G. Horton on July 28-30, 2025. On October 31, 2025, Mr. Horton released his decision and reasons pertaining to Phase 1 (the “**Partial Final Award**”). In the Partial Final Award, Mr. Horton (i) determined the Jonas Parties had incurred a loss of \$3,405,000 as a result of certain misrepresentations by the Kognitiv Parties; and (ii) ordered the Jonas Parties to pay \$6,252,819 to the Kognitiv Parties, representing the balance of the Financial Client Institution Holdback Amount after deducting the Jonas Parties’ loss arising from the Kognitiv Parties’ misrepresentations and withholding of other amounts.

95. As further described in the Partial Final Award, claims for punitive, exemplary, or aggravated damages, pre-award and post-award interest and costs were reserved to the second phase of the Arbitration (“**Phase 2**”), as were the claims reserved to Phase 2 by Procedural Order No. 2 (including, among other claims, the Insolvency Damages Claim). A copy of the Partial Final Award is attached hereto and marked as **Exhibit “AA”**.

96. Following the release of the Partial Final Award, the Jonas Parties took the position that, given the Kognitiv Parties’ insolvency, the failure to stay enforcement of the Partial Final Award

would effectively defeat their claimed rights to contractual, legal and equitable set off. The Jonas Parties thus moved to stay enforcement of the Partial Final Award pending Phase 2, with Mr. Horton releasing his decision on the Motion to Stay Execution of Partial Final Award in Phase 1 (the “**Stay Execution Order**”) on December 14, 2025, in which he found that, on the condition that the Jonas Parties pay the Kognitiv Parties \$3,284,148 within 45 days of the Stay Execution Order, enforcement of the balance of the Partial Final Award, in the amount of \$2,392,380, is stayed until the completion of Phase 2 (the “**Stay**”). A copy of the Stay Execution Order is attached hereto and marked as **Exhibit “BB”**.

97. Prior to engaging in Phase 2, the Arbitration Parties agreed to settle all issues raised or which could have been raised in relation to the CORA APA, or in the Arbitration, including the Partial Final Award and the Stay (the “**Settlement**”) for the amount of \$5,000,000 (the “**Settlement Amount**”) to be paid by the Jonas Parties to the Kognitiv Parties.

98. The Settlement was memorialized in certain minutes of settlement (the “**Minutes of Settlement**”) and a full and final mutual release (the “**Release**”, and together with the Minutes of Settlement, the “**Settlement Documents**”), both dated December 30, 2025. Copies of the settled execution versions of the Minutes of Settlement and the Release are attached hereto and marked as **Exhibit “CC”** and **Exhibit “DD”**, respectively.

99. The Settlement Amount has been paid by the Jonas Parties, in escrow, pending approval by this Court of the Settlement.

100. It is a condition of the Minutes of Settlement that the Court approve the Settlement, following which the Settlement Amount will be released from escrow and paid to Kognitiv.

Settlement and Release Approval

101. As of the date of this Affidavit, the Settlement Documents have been executed by all of the Arbitration Parties other than Loyalty Canada, and the executed signature pages are being held in escrow by each party's respective counsel.

102. In light of these proceedings, the Loyalty Canada bankruptcy, and the fact that no inspectors are currently appointed under the BIA, the execution of the Settlement Documents by the Loyalty Canada Trustee on behalf of Loyalty Canada is subject to Court approval. Subject to such relief being in the best interests of the stakeholders of Loyalty Canada, I understand that the Loyalty Canada Trustee intends to bring a concurrent motion in the Loyalty Canada bankruptcy proceeding to seek authorization and approval to execute the Settlement Documents on behalf of Loyalty Canada.

103. It is proposed that the Loyalty Canada Trustee's motion will be heard together with Kognitiv's motion.

104. Kognitiv has been in constant communication with the Senior Secured Creditors to provide progress updates throughout the entire Arbitration. Now that the Arbitration has run its course and all Arbitration Parties have agreed to execute the Settlement Documents, Court approval of same will formally bring this dispute to an end, and, as mentioned above, is a condition to the Minutes of Settlement.

105. Finalization of the Settlement Documents will result in a material recovery to Kognitiv's estate and, accordingly, I believe it is in the best interest of the stakeholders, in particular the Senior

Secured Creditors, that this Settlement be approved by the Court and the dispute be brought to a conclusion.

VIII. REMAINING ASSETS OR RECOVERIES

106. Subject to receipt of the settlement funds payable under the Settlement, Kognitiv has two remaining potential sources of recovery, being:

- (a) approximately \$140,000 (or approximately 391,277.99 Qatari Riyal) of cash in a HSBC bank account held in the name of Aimia UAE that will be released upon confirmation of the release of a guarantee registered against the funds by Dubai Internet City (the “**UAE Account Funds**”). These funds represent a balance owed to Kognitiv’s Qatari subsidiary, Aimia Marketing Doha LLC, that was due to Kognitiv when the account was closed by HSBC in July 2024. At this point, the remaining steps to release the funds relate to obtaining confirmation from Dubai Internet City that certain guarantees posted in connection with UAE Account Funds are no longer valid as they date back over 20 years. It is possible that this process could take months to resolve; and
- (b) amounts owed to LSH US by Capillary from the final Remittance Set-Off Amount. The total amount to be paid to Kognitiv has been agreed in principle between the parties, which is \$306,433.

107. It is hoped that Kognitiv will receive the UAE Account Funds in the near term, once HSBC obtains confirmation from Dubai Internet City and completes final internal approvals to release same.

108. LSH US expects to receive the Remittance Set-Off Amount under the Capillary PSA prior to the return date of this motion.

109. Upon receipt of any of the amounts from the above-referenced remaining sources of recovery, Kognitiv is proposing that such funds be paid directly to the Senior Secured Creditors, in accordance with the terms of the ARPPA entered into between Aimia and Guines, following payment of the proportionate amount of the Success Fee to Roystone Capital and any remaining Administrative Payments required to be made, with the approval of the Proposal Trustee. The total amount owed pursuant to the ARPPA is split as between Guines and Aimia on a *pro rata* basis based on the amount of their total respective indebtedness amounts under the Roystone Note 2 and the Aimia Amended Note, which equates to an approximate split of 80% to Guines and 20% to Aimia.

IX. AUTHORIZATION OF DISTRIBUTIONS TO SENIOR SECURED CREDITORS

110. Subject to the Court's determination with respect to approving payment of the Success Fee and Professional Fees in priority to other Distributions, Kognitiv is seeking authorization to make the Distributions from the recovery of the Remaining Assets, which includes the cash on hand, as follows:

Waterfall	Amount (CAD)
USD Cash on hand	\$49,381
CAD Cash on hand	\$7,332
Miller Thomson Trust Account	\$5,014,000
Capillary Escrow Funds	\$274,880
Capillary Remittance Set-Off	\$31,553
HSBC Bank	\$148,686
Total Funds to Distribute	\$5,525,832

Expenses

General Employee Expenses	(\$13,149)
Aird & Berlis (Arbitration and Insolvency – projected)	(\$159,357)
BDO (projected – net of invoices and retainer)	(\$8,920)
Dentons (projected – net of invoices and retainer)	(\$84,329)
Miller Thomson LLP (Counsel to Kognitiv Parties re Arbitration)	(\$61,167)
Outstanding Roystone Restructuring Fees (Oct 2025 – Feb 2026)	(\$300,000)
Roystone Success Fee (10% of Realizations Proceeds)	(\$545,511)
Secretariat (Expert Report re Arbitration)	(\$205,588)
Seven Oaks (General Counsel to Kognitiv)	(\$87,160)
Aimia Malaysia (Wind-up Costs)	(\$22,000)
Total Expenses	(\$1,487,181)
 Remaining Funds to be Distributed	 \$4,038,651
 Repayment to Roystone Note 2	 (\$3,230,921)
Repayment to Aimia Note 2	(\$807,730)
Remaining Funds	\$0

111. To the extent Kognitiv is assigned into bankruptcy following the granting of the requested Order, Kognitiv is seeking to have the Order be binding on the bankruptcy trustee of Kognitiv and, accordingly, directing the bankruptcy trustee to make any remaining Distributions of the UAE Account Funds or Remittance Set-Off Amount, if not received before, payable directly to the Senior Secured Creditors.

112. As described above, if the Court declines to grant the relief contemplated herein (or in the Ancillary Relief Order) authorizing payment of the Success Fee in priority of other Distributions, then the amount of the Success Fee that would otherwise be paid to Roystone Capital would be paid and distributed *pari passu* to the Senior Secured Creditors on account of their respective secured claims.

113. There will be no other recovery for any creditors other than the Senior Secured Creditors.

X. APPROVAL OF REPORTS, ACTIVITIES AND FEES

114. Kognitiv and the Proposal Trustee are also seeking approval of the First Report and the Second Report, and the activities, conduct and decisions set out therein, which I understand from counsel is consistent with the practice in insolvency proceedings.

115. The First Report fairly and accurately reflects the circumstances of Kognitiv, Kognitiv's dealings with the Proposal Trustee and the circumstances surrounding the commencement of the NOI Proceedings.

116. Kognitiv further requests the approval of the fees and disbursements of the Proposal Trustee and the Proposal Trustee's counsel, Dentons (collectively, the "**Professional Fees**"), as set out in the Second Report and the Fee Affidavits to be appended thereto.

117. I understand that the Second Report and the Fee Affidavits will set out in detail the total fees and disbursements of the Proposal Trustee and its legal counsel, Dentons.

118. On behalf of Kognitiv, I have reviewed the fees and disbursements of the Proposal Trustee and its legal counsel, Dentons, since the First Report. I believe that their accounts are fair and reasonable in the circumstances and respectfully request that the Court approve the Proposal Trustee's and its legal counsel's fees and disbursements, which are to be set out in the Fee Affidavits.

XI. OTHER CONSIDERATIONS AND REMAINING STEPS

119. Assuming the Order is granted as requested, upon completing the terms of the Settlement and collecting the settlement payment, Kognitiv intends to use the proceeds from the Remaining

Assets to pay the Success Fee, the Professional Fees, certain remaining administrative and contractor-related obligations incurred during these NOI Proceedings, and establish a small fee reserve (the “**Reserve**”) to fund Kognitiv’s assignment into bankruptcy (the “**Bankruptcy Assignment**”) and to fund the wind-up of Kognitiv’s indirect subsidiary, Aimia Proprietary Loyalty Sendirian Berhad (the “**Aimia Malaysia**”), in Malaysia.

120. It is anticipated, as set out in the chart at paragraph 110 above that the costs to complete the Malaysian proceedings will be approximately \$22,000. The application to have Aimia Malaysia voluntarily stricken off was submitted on December 31, 2025. The associated costs outlined above relate to audit and accounting, tax filings, corporate secretarial fees, government fees, and other fees required to maintain Aimia Malaysia until it is stricken off, or to complete the process.

121. It is contemplated that Kognitiv will name BDO as bankruptcy trustee. BDO is a Licensed Insolvency Trustee and familiar with the company and its stakeholders given its current role as Proposal Trustee.

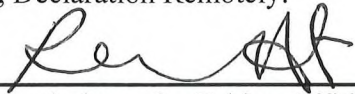
122. As mentioned above, there will be no recoveries for creditors other than the Senior Secured Creditors, who themselves will suffer a material shortfall on their respective secured claims. Kognitiv intends to continue under the stay of proceedings while the appropriate next steps are finalized and it completes the final administrative steps. Subject to completion of those final steps, Kognitiv intends to proceed to a voluntary assignment in bankruptcy at the appropriate time.

123. All of Kognitiv’s secured creditors will be served with a copy of the Motion Record.

XII. CONCLUSION

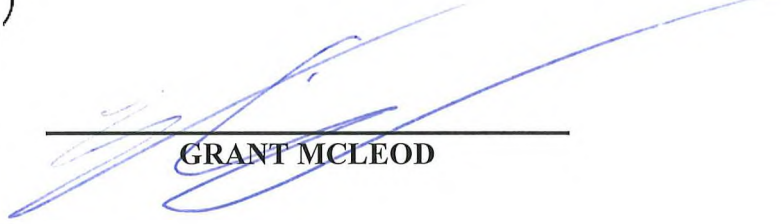
124. I swear this Affidavit in support of Kognitiv's motion under the BIA for the Ancillary Relief Order contained at **Tab 3** of the Motion Record, and for no other or improper purpose.

SWORN remotely by **GRANT MCLEOD**,
via videoconference, stated as being located
in the City of Toronto, in the Province of
Ontario, before me at the City of Toronto, in
the Province of Ontario, this 9th day of
February 2026, in accordance with O. Reg
431/20, Declaration Remotely.



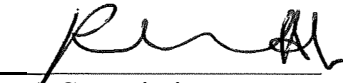
Commissioner for Taking Affidavits

Reem Atallan, a
Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 28, 2026.



GRANT MCLEOD

This is Exhibit "A" of
the Affidavit of **GRANT MCLEOD**
Sworn before me this 9th day of February 2026


A Commissioner, etc.

Reem Atallah, a
Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 28, 2026.



Ministry of Public and
Business Service Delivery

Profile Report

KOGNITIV CORPORATION as of February 08, 2026

Act	Business Corporations Act
Type	Ontario Business Corporation
Name	KOGNITIV CORPORATION
Ontario Corporation Number (OCN)	5046292
Governing Jurisdiction	Canada - Ontario
Status	Active
Date of Amalgamation	March 10, 2021
Registered or Head Office Address	161 Bay Street, Suite 2700, Toronto, Ontario, M5J2S1, Canada

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Minimum Number of Directors 1
Maximum Number of Directors 10

Active Director(s)

Name	GRIFFIN ROTMAN
Address for Service	Attention/Care of Kognitiv Corporation, 161 Bay Street, Suite 2700, Toronto, Ontario, M5J2S1, Canada
Resident Canadian	No
Date Began	October 18, 2024

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Active Officer(s)

Name	GRIFFIN ROTMAN
Position	Chair
Address for Service	Attention/Care of Kognitiv Corporation, 161 Bay Street, Suite 2700, Toronto, Ontario, M5J2S1, Canada
Date Began	October 21, 2024

Name	GRIFFIN ROTMAN
Position	Chief Executive Officer
Address for Service	Attention/Care of Kognitiv, 161 Bay Street, Suite 2700, Toronto, Ontario, M5J2S1, Canada
Date Began	August 26, 2025

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Corporate Name History

Name

KOGNITIV CORPORATION

Effective Date

March 10, 2021

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Amalgamating Corporations

Corporation Name
Ontario Corporation Number

KOGNITIV HOLDINGS INC.
5034209

Corporation Name
Ontario Corporation Number

KOGNITIV CORPORATION
2195578

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Active Business Names

This corporation does not have any active business names registered under the Business Names Act in Ontario.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Expired or Cancelled Business Names

This corporation does not have any expired or cancelled business names registered under the Business Names Act in Ontario.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Document List

Filing Name	Effective Date
CIA - Notice of Change PAF: GRANT MCLEOD	August 26, 2025
CIA - Notice of Change PAF: GRANT MCLEOD	May 01, 2025
CIA - Notice of Change PAF: GRANT MCLEOD	January 17, 2025
CIA - Notice of Change PAF: GRANT MCLEOD	December 13, 2024
CIA - Notice of Change PAF: GRANT MCLEOD	November 22, 2024
CIA - Notice of Change PAF: GRANT MCLEOD	November 08, 2024
CIA - Notice of Change PAF: GRANT MCLEOD	October 22, 2024
CIA - Notice of Change PAF: GRANT MCLEOD	July 31, 2024
CIA - Notice of Change PAF: GRANT MCLEOD	January 25, 2024
CIA - Notice of Change PAF: GRANT MCLEOD	November 24, 2023
CIA - Notice of Change PAF: GRANT MCLEOD	November 23, 2023
Archive Document Package	August 09, 2023
CIA - Notice of Change PAF: ALEXANDRU GHITA-DUMINICA	August 02, 2023

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

BCA - Articles of Amendment	July 20, 2023
CIA - Notice of Change PAF: ALEXANDRU GHITA-DUMINICA	April 19, 2023
CIA - Notice of Change PAF: Matthew ROSEN	August 10, 2022
Annual Return - 2021 PAF: Matthew ROSEN	July 27, 2022
CIA - Notice of Change PAF: Matthew ROSEN	July 26, 2022
CIA - Notice of Change PAF: MATTHEW ROSEN - OFFICER	May 18, 2021
CIA - Initial Return PAF: MATTHEW ROSEN - OFFICER	April 19, 2021
BCA - Articles of Amalgamation	March 10, 2021

All "PAF" (person authorizing filing) information is displayed exactly as recorded in the Ontario Business Registry. Where PAF is not shown against a document, the information has not been recorded in the Ontario Business Registry.

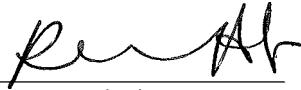
Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

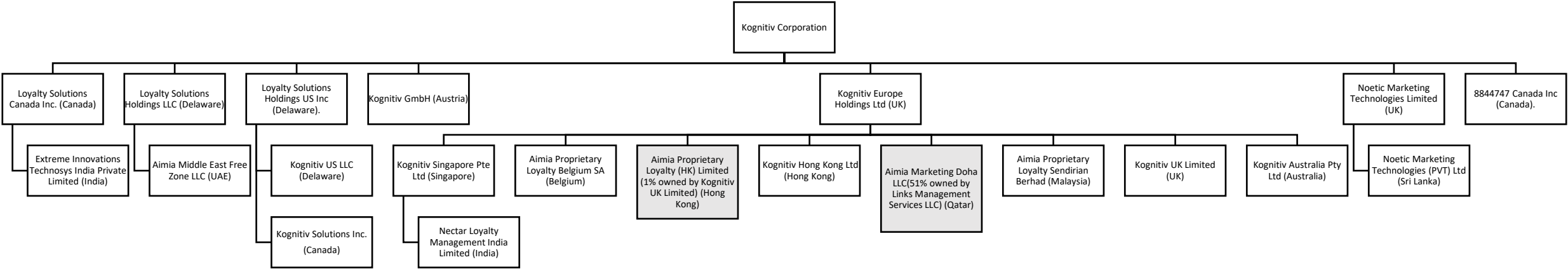
This is Exhibit "B" of
the Affidavit of **GRANT MCLEOD**
Sworn before me this 9th day of February 2026

A handwritten signature in black ink, appearing to read 'Reem Atallah', written over a horizontal line.

A Commissioner, etc.

Reem Atallah, a
Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 28, 2026.

Kognitiv Corporation



Confidential draft. Not for distribution or attribution.

This is Exhibit "C" of
the Affidavit of **GRANT MCLEOD**
Sworn before me this 9th day of February 2026

A handwritten signature in black ink, appearing to read 'Reem Atallah', written over a horizontal line.

A Commissioner, etc.

Reem Atallah, a
Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 28, 2026.



Industry Canada
Office of the Superintendent
of Bankruptcy Canada

Industrie Canada
Bureau du surintendant
des faillites Canada

District of Ontario
Division No. 09 - Toronto
Court No. 31-3165297
Estate No. 31-3165297

In the Matter of the Notice of Intention to make a proposal of:

Kognitiv Corporation

Insolvent Person

BDO CANADA LIMITED / BDO CANADA LIMITÉE

Licensed Insolvency Trustee

Date of the Notice of Intention:

December 12, 2024

CERTIFICATE OF FILING OF A NOTICE OF INTENTION TO MAKE A PROPOSAL
Subsection 50.4 (1)

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify that the aforementioned insolvent person filed a Notice of Intention to Make a Proposal under subsection 50.4 (1) of the Bankruptcy and Insolvency Act;

Pursuant to subsection 69. (1) of the Act, all proceedings against the aforementioned insolvent person are stayed as of the date of filing of the Notice of Intention.

Date: December 19, 2024, 13:13

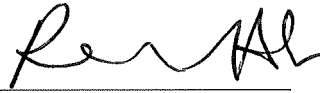
E-File/Dépôt Electronique

Official Receiver

151 Yonge Street, 4th Floor, Toronto, Ontario, Canada, M5C2W7, (877)376-9902

Canada 

This is Exhibit "D" of
the Affidavit of **GRANT MCLEOD**
Sworn before me this 9th day of February 2026

A handwritten signature in black ink, appearing to read 'Reem Atallah', written over a horizontal line.

A Commissioner, etc.

Reem Atallah, a
Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 28, 2026.

District of Ontario
Division No. 09 - Toronto
Estate No. 31-3165297
Court No. BK-24-3165297-0031

SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
KOGNITIV CORPORATION
OF THE CITY OF TORONTO
IN THE PROVINCE OF ONTARIO

RECITALS:

WHEREAS Kognitiv Corporation (the “**Company**”) filed a Notice of Intention to Make a Proposal (“**NOI**”) with the Office of the Superintendent of Bankruptcy on December 12, 2024 pursuant to the Act;

AND WHEREAS BDO Canada Limited agreed to act as proposal trustee of the Company in the NOI proceedings (in such capacity, the “**Trustee**”);

AND WHEREAS the NOI filing was necessary to provide stability to the Company and allow the Company, with the assistance of the Trustee, to develop and present a proposal to its Creditors, which contemplates corporate restructuring and the Company carrying out a sale process (the “**Sale Process**”) for the sale of the Company’s operations and assets;

AND WHEREAS the Trustee intends to make a distribution to Ordinary Unsecured Creditors in accordance with the terms of this Proposal in the event there are proceeds of sale generated from the Sale Process that exceed the Claims of any Secured Creditors.

PROPOSAL

The Company hereby submits the following Proposal to all of its Creditors pursuant to Part III of the *Bankruptcy and Insolvency Act* (Canada), R.S.C. 1985, c. B-3, as amended (the “**Act**”).

1. Defined Terms

In and for the purposes of the Proposal (including in the recitals above), the following terms shall have the following meanings:

- 1) **"Administration Fees and Expenses"** means the fees and expenses incurred by or on behalf of the Trustee, as more particularly described in Paragraph 15 of this Proposal;
- 2) **"Affected Claims"** means all Claims which are not Unaffected Claims;
- 3) **"Affected Creditor"** means a Creditor having an Affected Claim;
- 4) **"Claim"** means any indebtedness, liability, action, lien, cause of action, suit, debt, due account, bond, covenant, contract, counterclaim, demand, claim, right and obligation of any nature whatsoever of the Company to any Person, whether liquidated, unliquidated, fixed, contingent, matured, legal, equitable, secured, unsecured, present, future, known or unknown, and whether by guarantee, surety or otherwise, incurred or arising or relating to the period prior to the Date of Filing;
- 5) **"Court"** means the Ontario Superior Court of Justice, in Bankruptcy and Insolvency;
- 6) **"Court Approval Date"** means the date on which the Court makes an Order approving this Proposal pursuant to the provisions of the Act, all appeal periods having expired and no appeal having been filed, or any appeal therefrom having been dismissed and such dismissal having become final;
- 7) **"Creditor"** means any Person having a Claim and may, if the context requires, mean a trustee, receiver, receiver-manager or other Person acting on behalf of or in the name of such Person;
- 8) **"Creditors' Meeting"** means any meeting of the Affected Creditors called for the purpose of considering and voting upon the Proposal;
- 9) **"Date of Filing"** means December 12, 2024, being the date on which the Company filed the Notice of Intention to make a Proposal under the Act;

- 3 -

- 10) **"Date of the Proposal"** means January 10, 2025, being the date on which this Proposal is filed with the Official Receiver in accordance with the Act;
- 11) **"Director"** means Griffin Rotman;
- 12) **"Event of Default"** means a default in the performance of any provision in the Proposal;
- 13) **"Inspector"** means the Person(s) appointed or elected as inspector(s) under and pursuant to the Act, in respect of the Company;
- 14) **"Levy"** means the levy payable to the Superintendent of Bankruptcy pursuant to section 147 of the Act;
- 15) **"Ordinary Unsecured Creditors"** means those Persons with unsecured claims as at the Date of Filing which are proven in accordance with the Act and which are not secured or preferred under or pursuant to the Act, save and except shareholders of and other Persons related to the Company;
- 16) **"Person"** means any individual, partnership, joint venture, trust, corporation, unincorporated organization, government or any agency or instrumentality thereof, or any other entity howsoever designated or constituted;
- 17) **"Preferred Creditors"** means those Creditors of the Company whose claims are entitled to be paid in priority to the claims of Ordinary Unsecured Creditors as provided in section 136 of the Act;
- 18) **"Proof of Claim"** means the proof of claim required by the Act to be mailed to each known Creditor prior to the Creditors' Meeting;
- 19) **"Proposal"** means this Proposal;
- 20) **"Proposal Period"** means the period commencing on the Date of Filing and ending on the date when the final dividend is paid to the Ordinary Unsecured Creditors pursuant to Paragraph 12 below;

- 21) **"Proven Claim"** of a Creditor means the amount of the Affected Claim of such Creditor finally determined in accordance with Act;
- 22) **"Required Employee Amount"** means an amount equal to the amount employees and former employees of the Company, not to include independent commissioned sales agents or contractors, would be qualified to receive under paragraph 136(1)(d) of the Act if the Company became bankrupt on the Date of Filing, as well as wages, salaries, commissions or compensation for services rendered after that date and before the Court approval of the Proposal, together with, in the case of travelling salespersons, disbursements properly incurred by those salespersons in and about the Company's business during the same period;
- 23) **"Required Crown Amount"** means all amounts outstanding at the time of the filing of the NOI to His Majesty in Right of Canada or a Province and that are of a kind that could be subject to a demand under,
- a) subsection 224(1.2) of the *Income Tax Act*;
 - b) any provision of the Canada Pension Plan or of the *Employment Insurance Act* that refers to subsection 224(1.2) of the *Income Tax Act* and provides for the collection of a contribution, as defined in the Canada Pension Plan, or an employee's premium, or employer's premium, as defined in the *Employment Insurance Act*, and of any related interest, penalties or other amounts; or
 - c) any provision of provincial legislation that has a similar purpose to subsection 224(1.2) of the *Income Tax Act*, or that refers to that subsection, to the extent that it provides for the collection of a sum, and of any related interest, penalties or other amounts, where the sum:
 - i) has been withheld or deducted by a person from a payment to another person and is in respect of a tax similar in nature to the income tax imposed on individuals under the *Income Tax Act*, or
 - ii) is of the same nature as a contribution under the Canada Pension Plan if the province is a "province providing a comprehensive pension plan" as defined in subsection 3(1) of the Canada Pension Plan and the provincial legislation establishes a "provincial pension plan" as defined in that subsection;
- 24) **"Secured Creditors"** means "secured creditors" as defined in Section 2 of the Act;

25) **"Trustee"** has the meaning ascribed to it in the Recitals above; and

26) **"Unaffected Claims"** means any claim that is not a Claim of an Ordinary Unsecured Creditors.

2. General Intent

The purpose of this Proposal is to (i) allow the Company to effect a restructuring of its business and affairs, (ii) permit the Company to maintain and continue its business operations, and (iii) carry out the Sale Process, all so as to maximize recoveries and facilitate a possible distribution of any proceeds of its estate generated from the Sale Process that exceed the Claims of any Secured Creditors or the net proceeds, to the Affected Creditors with Proven Claims in the expectation that all Affected Creditors will derive greater benefit from this Proposal than they would otherwise receive from a bankruptcy of the Company.

The Proposal applies to all Affected Creditors, whether or not any such Affected Creditor proves a Claim against the Company under this Proposal. This Proposal provides for the payment in full of Required Crown Amounts, if any, as required by s. 60(1.1) of the Act, and of Required Employee Amounts, if any, required by s. 60(1.3) of the Act. This Proposal does not provide for the payment of any equity claims. This Proposal does not affect Unaffected Claims.

3. Effect of the Proposal

This Proposal restructures the Company's affairs and may amend the terms of any and all agreements between the Company and the Creditors existing as at the Date of Filing, and further provides that the treatment of all Claims under the Proposal shall be final and binding on the Company and all Creditors (along with their respective heirs, executors, administrators, legal personal representatives, successors and assigns) and the Proposal shall constitute (i) a full, final and absolute settlement of all rights of the holders of the Claims affected hereby; and (ii) an absolute release and discharge of all indebtedness, liabilities and obligations of the Company of or in respect of such Claims.

During the term of this Proposal, and provided that an event of default has not occurred and is continuing hereunder, all Creditors will be stayed from commencing or continuing any

proceeding or remedy against the Company or any of its property or assets in respect of a claim including, without limitation, any proceeding or remedy to recover payment of any monies owing to Creditors, to recover or enforce any judgment against the Company in respect of a claim or to commence any formal proceedings against it other than as provided for under this Proposal. This Proposal will be binding on the Company and all Creditors.

4. Classes of Creditors

There shall be only one class of Creditors whose claims are being compromised under this Proposal, which shall consist of the Ordinary Unsecured Creditors.

5. Canada Revenue Agency/Crown Claim

All amounts owing on account of Required Crown Amounts that were outstanding at the Date of Filing, if any, shall be paid within six (6) months following the Court Approval Date.

6. Canada Revenue Agency Compliance Requirements

- a) The Company will file Harmonized and Sales Tax returns on a current basis as required by the *Excise Tax Act*, R.S.C., 1985, c. E-15 during the Proposal Period;
- b) The Company will remit post-filing payroll deductions returns (Employment Insurance premiums, Canada Pension Plan contributions, and Income Tax deductions) on a current basis as required by law;
- c) Should the Company fail to meet any of the terms set out in Paragraph 6 (a) through (b) inclusive, then such failure shall constitute an Event of Default in the performance of this Proposal.

7. Secured Creditors

During the Proposal Period, and as long as no Event of Default has occurred, the claims of the Secured Creditors shall, subject to the provisions of the Act, be paid in accordance with the arrangements between the Company and the holders of such claims which were in effect on the

- 7 -

Date of Filing, or such other terms as may be mutually agreed between them following the Date of the Proposal.

8. Preferred Creditors

The claims of the Preferred Creditors will be paid in full and in priority to the claims of the Ordinary Unsecured Creditors in accordance with the Act.

The claims of any Person for any arrears of wages, such Person being a Preferred Creditor as defined by the Act, shall be paid in preference to the Ordinary Unsecured Creditors immediately following the Court Approval Date of this Proposal and in accordance with the Act. However, the Trustee is not aware of any arrears of wages due as at the Date of Filing.

9. Security

As security for payment of the proposal pursuant to section 59 (3) of the Act, the Company agrees to execute and deliver a general security agreement in favour of the Trustee.

10. Post-Filing Creditors

Goods and services provided to the Company after the Date of Filing shall be paid by the Company in the ordinary course of business, on regular trade terms.

11. Payments to the Trustee

The Company shall cause to be paid to the Trustee the sum equal to any surplus realized from the sale of its assets after the Company has satisfied its obligations to its Secured Creditors.

The Company shall sell its assets in total. Any surplus proceeds as set out above will be paid to the Trustee after the Court Approval Date.

12. Dividends

Provision for the payment of dividends shall be as follows:

- a) The Trustee shall make the payment of all dividends in accordance with the Act at least every twelve months, beginning with the twelfth month following the Court Approval Date or at the discretion of the Trustee and Inspector(s), when substantial fund are available;
- b) All distributions under the Proposal shall be issued by the Trustee and, notwithstanding any other provisions therefor, any distributions made by the Trustee in respect of any claims pursuant to the terms hereof shall be made net of the Levy required to be made, if applicable.

13. Directors and Officers

Upon the issuance of the Certificate of Full Performance of the Proposal, as defined in section 65.3 of the Act, each and every present and former officer and director of the Company (collectively, the “**Released Parties**”) shall be released and discharged from any and all demands, claims, actions, causes of action, counterclaims, suits, debts, sums of money, accounts, covenants, damages, judgments, expenses, executions, liens and other recoveries on account of any liability, obligation, demand or cause of action of whatever nature which any Creditor or Person may be entitled to assert as of the Date of Filing in respect of the potential statutory liabilities of the Released Parties arising in their capacity as former and present directors or officers of the Company, provided that nothing herein shall release or discharge any of the Released Parties from claims that:

- a) relate to contractual rights of one or more Creditors arising from contracts with one or more of the Released Parties; or
- b) are based on allegations of misrepresentation made by the Released Parties to Creditors or of wrongful or oppressive conduct by the Released Parties.

This release shall have no force or effect if the Company becomes bankrupt before the terms of the Proposal are performed.

14. Reviewable Transactions

Section 91 through and including section 101 of the Act do not apply to this Proposal.

15. Administrative Fees and Expenses

Notwithstanding anything contained herein, all proper Administration Fees and Expenses shall be paid in priority to all claims of the Preferred Creditors and Ordinary Unsecured Creditors. The Company hereby grants to the Trustee a security interest in any funds delivered to it pursuant to this Proposal as security for payment of all Administration Fees and Expenses.

The Trustee may take interim draws of his fees and disbursements in a total amount which shall not exceed the total reasonable and actual time and charges and disbursements at the date of the interim draw, subject to final taxation by the Court and independent of the powers of the Inspector(s), if any Inspector(s) is/are appointed. Such draws shall remain as Trustee's fees, whether or not the Proposal is fully performed.

16. Time and Manner of Meeting

The Creditors' Meeting shall be held at a time and in a manner, including by video-conference, to be established by the Trustee in consultation with the Official Receiver, or the nominee thereof, and confirmed in its notice of meeting to be mailed by the Trustee pursuant to the Act. All Proofs of Claim shall be delivered in accordance with the provisions of the Proposal, the Act and any Order which may be issued by the Court in respect of the procedure governing the Creditors' Meeting, but in any event shall be no later than twenty-one (21) days following the filing of the Proposal with the Official Receiver.

17. Appointment of Inspectors

At a meeting of Ordinary Unsecured Creditors and Preferred Creditors to consider this Proposal, such Creditors may appoint up to five Inspectors whose power shall be:

- a) To advise the Trustee from time to time on any matter the Trustee may refer to them;
- b) To approve the making of dividend distributions to the Ordinary Unsecured Creditors as recommended by the Trustee; and
- c) To approve, on behalf of the Creditors of the Company, any decision of the Trustee relating to any matter not contained in this Proposal which the Trustee may refer to them from time to time, including any extension of time of payment or any other obligation required under this Proposal.

The Trustee shall notify the Inspectors of any Event of Default of which the Trustee becomes aware and the Trustee shall hold a meeting of Inspectors following such notice for the purpose of obtaining the instruction of the Inspectors with respect to such Event of Default. Any decision, direction or act of the Inspectors may be referred to the Court by the Trustee and the Court may confirm, reverse or modify the decision, direction or act of the Inspectors and make such other order as it thinks just.

18. Proposal Trustee

BDO Canada Limited shall be the Trustee under this Proposal and is acting solely in its capacity as the Trustee under this Proposal and not in its personal or corporate capacity and shall not be responsible or liable for any obligations of the Company. Upon payment of the dividends provided for in this Proposal, the Trustee will be entitled to be discharged from its obligations under the terms of this Proposal.

19. Valuation of Claims

The Trustee retains the right to disallow any Proof of Claim and challenge the validity of any secured claims as in any bankruptcy proceeding. The Company and/or the Trustee reserve the right to seek the assistance of the Court in valuing the Claim of any Ordinary Unsecured Creditor,

- 11 -

if required, to ascertain the result of any vote on the Proposal or the amount payable or to be distributed to such Ordinary Unsecured Creditor under the Proposal, as the case may be.

20. Currency

Unless otherwise stated herein, all references to currency or distribution in the Proposal are to lawful money of Canada.

21. Foreign Currency Obligations

For purposes of this Proposal, Claims denominated in a currency other than Canadian funds will be converted to Canadian Dollars at the closing spot rate of exchange of the Bank of Canada on the Date of Filing.

DATED at _____, Ontario this 10th day of January, 2025

Kognitiv Corporation

Per:



Witness

DocuSigned by:
Griffin Rotman
8FA4DA44415F495...

Griffin Rotman

This is Exhibit "E" of
the Affidavit of **GRANT MCLEOD**
Sworn before me this 9th day of February 2026

A handwritten signature in black ink, appearing to read 'Reem Atallah', written over a horizontal line.

A Commissioner, etc.

Reem Atallah, a
Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 28, 2026.

Court File No. BK-25-3165297-0031
Estate File No. 31-3165297

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY**

THE HONOURABLE MADAM	)	TUESDAY, THE 18 th
	)	
JUSTICE J. DIETRICH	)	DAY OF MARCH, 2025

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
KOGNITIV CORPORATION
OF THE CITY OF TORONTO
IN THE PROVINCE OF ONTARIO**

**ANCILLARY RELIEF ORDER
(re Admin Charge and Approval of Fees)**

THIS MOTION, made by Kognitiv Corporation (the “**Company**”), for certain relief pursuant to the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3 was heard this day at 330 University Avenue, Toronto, Ontario by Zoom videoconference.

ON READING the Motion Record of the Company, including the Affidavit of Tim Sullivan sworn March 11, 2025 (the “**Sullivan Affidavit**”), the First Report of BDO Canada Limited, in its capacity as the Trustee acting *in re* the proposal of the Company (in such capacity, the “**Proposal Trustee**”), dated March 14, 2025 (“**First Report**”), and the Aide-Mémoire of the Company dated March 17, 2025, and on hearing the submissions of counsel to the Company, counsel to the Proposal Trustee and those other parties listed on the Counsel Slip, no one else appearing although duly served as evidenced by the Affidavit of Service of Daisy Jin sworn March 11, 2025 and the Affidavit of Service of Matilda Lici sworn March 17, 2025, as filed:

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms used but not defined in this Order shall have the respective meanings given to them in the Sullivan Affidavit or the First Report.

PROFESSIONAL FEES

3. **THIS COURT ORDERS** that the Proposal Trustee, counsel to the Proposal Trustee, and counsel to the Company (collectively, the “**Professionals**”) shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Company as part of the costs of these proceedings. The Company is hereby authorized and directed to pay the accounts of the Professionals.
4. **THIS COURT ORDERS** that the Proposal Trustee and its legal counsel shall pass their accounts from time to time and, for this purpose, the accounts of the Proposal Trustee and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.
5. **THIS COURT ORDERS** that the fees and disbursements of the Proposal Trustee up to and including February 28, 2025, as set out in the First Report as well as the fee affidavit of Christopher Mazur sworn March 11, 2025, appended to the First Report, be and are hereby approved.
6. **THIS COURT ORDERS** that the fees and disbursements of the Proposal Trustee’s counsel, Dentons Canada LLP, up to and including February 28, 2025, as set out in the First Report as well as the fee affidavit of John Salmas sworn March 7, 2025, appended to the First Report, be and are hereby approved.

ADMINISTRATION CHARGE

7. **THIS COURT ORDERS AND DECLARES** that the Professionals shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the assets, undertakings and properties of the Company, including all proceeds thereof (the “**Property**”), which charge shall not exceed an aggregate amount of \$500,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Professionals both before and after the granting of this Order in respect of these proceedings.

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

9. **THIS COURT ORDERS** the Administration Charge shall constitute a charge on the Property and shall rank in priority as against any and all other validly perfected security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise, granted by the Company or to which the Company is subject as of the date of this Order.

10. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Proposal Trustee under the BIA or as an officer of this Court, the Proposal Trustee shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded to the Proposal Trustee under the BIA or any applicable legislation.

GENERAL

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

12. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, or any other jurisdiction, to give effect to this Order and to assist the Proposal Trustee and its agents in carrying out the terms of

this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Proposal Trustee in any foreign proceeding, or to assist the Proposal Trustee and its agents in carrying out the terms of this Order.

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

14. **THIS COURT ORDERS** that this Order is effective as of 12:01 a.m. from the date that it is made and is enforceable without any need for entry and filing.

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF KOGNITIV CORPORATION
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

Court File No. BK-25-3165297-0031
Estate File No. 31-3165297

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY**

PROCEEDING COMMENCED AT
TORONTO

**ANCILLARY RELIEF ORDER
(re Admin Charge and Approval of Fees)**

AIRD & BERLIS LLP

Brookfield Place
181 Bay Street, Suite 1800
Toronto, ON M5J 2T9

Kyle Plunkett (LSO #61044N)

Tel: (416) 865-3406

Email: kplunkett@airdberlis.com

Miranda Spence (LSO #60621M)

Tel: (416) 865-3414

Email: mspence@airdberlis.com

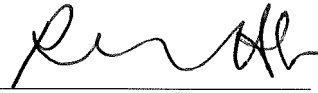
Matilda Lici (LSO #79621D)

Tel: (416) 865-3428

Email: mlici@airdberlis.com

Lawyers for Kognitiv Corporation

This is Exhibit "F" of
the Affidavit of **GRANT MCLEOD**
Sworn before me this 9th day of February 2026

A handwritten signature in black ink, appearing to read 'Reem Atallah', written over a horizontal line.

A Commissioner, etc.

Reem Atallah, a
Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 28, 2026.

ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY

THE HONOURABLE
JUSTICE CAVANAGH

)
)
)

TUESDAY, THE 15TH
DAY OF APRIL, 2025

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF KOGNITIV CORPORATION
OF THE CITY OF TORONTO
IN THE PROVINCE OF ONTARIO**

ORDER
(re Arbitration Lift Stay)

THIS MOTION, made jointly by Gary Jonas Computing Ltd., Cora Group Australia Pty Ltd., Jonas Computing (UK) Limited, and Jonas Food Holdco Inc. (collectively the “**Jonas Parties**”) and Kognitiv Corporation (the “**Company**”) for an Order pursuant to section 69.4 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c B-3 (the “**BIA**”), lifting the stay of proceedings (the “**Stay of Proceedings**”) imposed by section 69.1 of the BIA in respect of the Company, and granting leave to the Jonas Parties to, *inter alia*, enter into arbitration proceedings (the “**Arbitration**”) to resolve disputes arising from an asset purchase agreement dated July 5, 2024 (the “**APA**”) entered into between the Jonas Parties and the Company, Loyalty Solutions Canada Inc., Kognitiv US LLC, Aimia Middle East Free Zone LLC, Kognitiv Singapore Pte Ltd, and Kognitiv Australia Pty Ltd (together, the “**Kognitiv Parties**”), was heard this day in Toronto, Ontario.

UPON READING the Notice of Motion dated April 11, 2025, the Aide-Mémoire of the Company, and the Consent signed by each of the Company, the Jonas Parties, and BDO Canada Limited, in its capacity as the Trustee acting *in re* the proposal of the Company (in such capacity, the “**Proposal Trustee**”), and on hearing submissions of counsel for the Jonas Parties, counsel for the Company and counsel for the Proposal Trustee, and those other parties listed on the counsel slip.

1. **THIS COURT ORDERS** that the time and method for service of this motion is abridged and validated, and the Court hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that the Stay of Proceedings established by section 69.1 of the BIA shall be and is hereby lifted as against the Company, solely to permit the Jonas Parties to assert any of the claims, defences or counterclaims between the Jonas Parties and Kognitiv Parties arising in respect of the APA in the Arbitration;

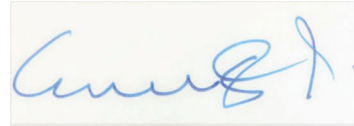
3. **THIS COURT ORDERS** that, subject to further Order of this Court, the Proposal Trustee shall not be required to participate in or defend any of the claims or counterclaims among the Jonas Parties and the Kognitiv Parties in the Arbitration, or to incur any costs in respect of any of the Arbitration, nor be subject to discovery or production in the Arbitration, and there shall be no costs, damages or other such relief awarded in the Arbitration against the Proposal Trustee, provided that nothing in this Order shall be construed to amend the Proposal Trustee’s compliance in connection with Section 135 of the BIA in respect of the claim filed by the Jonas Parties against the Company in these proceedings;

4. **THIS COURT ORDERS** that the relief sought in this Order shall be effective *nunc pro tunc* to the date of the Arbitration agreement between the Kognitiv Parties and the Jonas Parties;

5. **THIS COURT ORDERS** that the Company shall serve a copy of this Order on all the parties including the Proposal Trustee via email and e-file this Order with the Superintendent of Bankruptcy, and that service so effected is valid immediately upon transmission;

6. **THIS COURT ORDERS** that there shall be no enforcement of any arbitral award obtained by the Jonas Parties against the Company in the Arbitration without further leave of this Court; and

7. **THIS COURT ORDERS** that there shall be no costs awarded in respect of this motion if it is not contested.

A handwritten signature in blue ink, appearing to read "Cavanagh, J.", is enclosed in a light gray rectangular box.

Cavanagh, J.

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
KOGNITIV CORPORATION
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

Court File No. BK-25-3165297-0031
Estate File No. 31-3165297

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY**

PROCEEDING COMMENCED AT
TORONTO

**ORDER
(RE ARBITRATION LIFT STAY)**

CASSELS BROCK & BLACKWELL LLP

Bay Adelaide Centre - North Tower
40 Temperance Street, Suite 3200
Toronto, ON M5H 0B4

Natalie E. Levine LSO# : 64908K

Tel: 416-860-6568

Email: nlevine@cassels.com

Alan Mersky LSO# : 41377I

Tel: 416-860-2948

Email: amerskey@cassels.com

Lawyers for Jonas Parties

AIRD & BERLIS LLP

Brookfield Place
181 Bay Street, Suite 1800
Toronto, ON M5J 2T9

Kyle B. Plunkett (LSO #61044N)

Tel: (416) 865-3406

Email: kplunkett@airdberlis.com

Miranda Spence (LSO #60621M)

Tel: (416) 865-3414

Email: mspence@airdberlis.com

Matilda Lici (LSO #79621D)

Tel: (416) 865-3428

Email: mlici@airdberlis.com

Lawyers for Kognitiv Corporation

This is Exhibit "G" of
the Affidavit of **GRANT MCLEOD**
Sworn before me this 9th day of February 2026

A handwritten signature in black ink, appearing to read 'Reem Atallah', written over a horizontal line.

A Commissioner, etc.

**Reem Atallah, a
Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 28, 2026.**

ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
KOGNITIV CORPORATION
OF THE CITY OF TORONTO
IN THE PROVINCE OF ONTARIO

AFFIDAVIT OF TIM SULLIVAN
(Sworn March 11, 2025)

I, **TIM SULLIVAN**, of the City of Oakland, in the State of California, **MAKE OATH**
AND SAY AS FOLLOWS:

1. I am the Chief Executive Officer of Kognitiv Corporation (the “**Company**” or “**Kognitiv**”). I have been the Chief Executive Officer of Kognitiv since December 5, 2022. As such, I have personal knowledge of the matters to which I depose in this Affidavit except where I have obtained information from others. Where I have obtained information from others, I have stated the source of my information and, in all such cases, believe such information to be true.

Background:

2. The Company is an Ontario corporation, formed by amalgamation on March 10, 2021, with its stated registered office at 161 Bay Street, Suite 2700, Toronto, Ontario, M5J 2S1. A copy of the Corporate Profile Report of the Company is attached hereto and marked as **Exhibit “A”**.

3. Kognitiv is the parent company of several subsidiaries, through which it operates globally.

4. Kognitiv's ownership interest in its subsidiaries include:
 - (a) Loyalty Solutions Holdings US Inc. ("**LSH US**"), a corporation existing under the laws of the State of Delaware, which is a wholly-owned subsidiary of the Company;
and
 - (b) LSH US, in turn, is the sole shareholder of each of the following indirect subsidiaries of the Company: (i) Kognitiv US LLC, and (ii) Kognitiv Solutions Inc. (collectively, with the LSH US, the "**Acquired Companies**").
5. Kognitiv also holds direct and indirect ownership interests in certain other subsidiaries domiciled in Europe, the US, Australia and Asia. A copy of the corporate organizational chart is attached hereto and marked as **Exhibit "B"**.
6. Primarily through the Acquired Companies, Kognitiv is in the business of providing software and services to design, build and manage loyalty programs for a global customer base.
7. Following persistent losses and significant liquidity constraints, Kognitiv filed a notice of intention to make a proposal under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the "**BIA**"), on December 12, 2024, naming BDO Canada Limited ("**BDO**") as proposal trustee (in such capacity, the "**Proposal Trustee**") in the proceedings (the "**NOI Proceedings**"). A copy of the Certificate of Filing of a Notice of Intention to Make a Proposal is attached hereto and marked as **Exhibit "C"**.
8. Only the Company is subject to the NOI Proceedings, and not any of its subsidiaries.

9. Kognitiv is a holding company, whose primary assets are (i) its direct and indirect ownership interest in its various subsidiaries, including the Acquired Companies, and (ii) the Cora Claim (which is defined and discussed in more detail below).

10. The Company does not have (and has never had) any client contracts or revenue streams, and has funded its and its subsidiaries' activities and historical losses with equity and third-party debt financing.

11. The purpose of these NOI Proceedings was to provide short-term stability to the Company and a forum in which to pursue a restructuring of business and operations, including consolidating all of its contracts, business, operations and employees into a smaller group of subsidiaries, all with a view to conducting a sale of the consolidated operations and assets of the Company to maximize recoveries for the benefit of all stakeholders.

Relief Sought:

12. This Affidavit is made in support of a motion by the Company for relief under the BIA, seeking various relief, substantially in the forms of the orders enclosed in the Motion Record, which, consists of:

(a) an approval and vesting order (the “**AVO**”), substantially in the form attached as **Tab 3** to the Company’s Motion Record herein, among other things:

(i) approving the sale transaction (the “**Transaction**”) contemplated by the share purchase agreement (the “**SPA**”) between the Company, as vendor, and Capillary Pte. Ltd., as purchaser (the “**Purchaser**”), pursuant to which the

Purchaser will purchase the Purchased Shares (as defined in the SPA) from the Company, and authorizing the Company to complete the Transaction;

(ii) upon delivery by the Proposal Trustee of a certificate (the “**Proposal Trustee’s Certificate**”) to the Company and the Purchaser, certifying that all applicable conditions of closing under the SPA (other than delivery of the Proposal Trustee’s Certificate) have been satisfied and/or waived, as applicable, vesting in and to the Purchaser all of Company’s right, title and interest in and to the Purchased Shares free and clear of any and all Claims and Encumbrances (each as defined in the AVO); and

(iii) sealing Confidential Appendices 1, 2 and 3, appended to the first report of the Proposal Trustee to be filed (the “**First Report**”), until the earlier of the closing of the Transaction or further Order of the Court, in order to retain confidentiality over certain commercially sensitive information contained therein;

(b) an ancillary order (the “**Ancillary Relief Order**”), substantially in the form at **Tab 4** to the Company’s Motion Record, among other things:

(i) granting the Administration Charge (as defined below) in the amount not to exceed \$500,000 to secure the fees and disbursements of the Proposal Trustee, the Proposal Trustee’s counsel and the Company’s counsel;

(ii) approving the First Report, and the actions, conduct and activities of the Proposal Trustee and its legal counsel as described therein;

- (iii) approving the fees and disbursements of the Proposal Trustee, as set out in the Proposal Trustee's Fee Affidavit, to be sworn and filed (the "**BDO Fee Affidavit**"), and its independent legal counsel, Dentons Canada LLP ("**Dentons**"), as set out in the Fee Affidavit of Dentons, to be sworn and filed (the "**Dentons Fee Affidavit**" and together with the BDO Fee Affidavit, the "**Fee Affidavits**"), each of the Fee Affidavits to be appended to the First Report;
- (iv) approving the terms of the Amended and Restated Independent Contractor Agreement made as of September 3, 2024 (the "**Restructuring Advisory Agreement**"), pursuant to which the Company engaged Roystone Capital Management LP ("**Roystone Capital**") to act as contractor to provide certain services to the Company related to the Company's restructuring, recovery of assets, and the NOI Proceedings;
- (v) approving and authorizing the payment by the Company to Roystone Capital of the Success Fee (as defined below), from the gross sale proceeds generated from the Transaction, in accordance with Section 3 of the Restructuring Advisory Agreement, which amounts shall be paid as Transaction costs in priority to amounts owing to the Senior Secured Creditors (as defined below);
- (vi) approving a key employee retention plan (the "**KERP**"), attached as **Confidential Appendix "1"** to this Affidavit, and authorizing the Company to make the payments contemplated by the terms of the KERP to the KERP beneficiaries from the gross sale proceeds generated from the Transaction;

- (vii) authorizing and directing the Proposal Trustee to make one or more distributions (the “**Distributions**”) from the net sale proceeds from the Transaction to each of Guines LLC (“**Guines**”) and Aimia Inc. (“**Aimia**” and together with Guines, the “**Senior Secured Creditors**”) on account of their respective secured indebtedness, subject to retaining a Reserve (as defined below) and after deducting the payments of the Success Fee and the KERP, each as set out in the First Report, and any other necessary reserves as determined by the Proposal Trustee;
- (viii) sealing **Confidential Appendix “1”** to this Affidavit until further order of the Court; and
- (ix) such further and other relief as to this Court may deem appropriate.

13. I understand that the Proposal Trustee is supportive of the relief sought in each of the Approval and Vesting Order and Ancillary Relief Order.

History of Financial Challenges:

14. The Kognitiv group has never been profitable operationally and the Company has had to support significant historical losses from its subsidiaries, including the Acquired Companies, located in various jurisdictions through various inter-company loans, which have been funded, in large part, from corporate finance activities, including equity and debt (injected in the subsidiaries by Kognitiv). These loans have given rise to extensive debt levels that, absent additional funding, are not sustainable.

15. In an effort to generate cash to sustain operations, the Company previously sought to divest legacy assets that did not align with the core loyalty Software as a Service (“**SaaS**”) platform strategy.

16. In the recent years leading up to the filing, the Company undertook an extensive sale process and, in July 2024, completed a sale of its legacy Enterprise Loyalty Platform (“**ELP**”).

17. ELP represented slightly over half of Kognitiv group’s total revenues. However, with the significant operating overhead, the ELP business was not the focus of the Company’s growth strategy.

18. The ELP sale was expected to generate cash proceeds to support and allow Kognitiv to focus entirely on its remaining core business, being its tailored SaaS platform. However, despite the sale of the ELP business, purchase price proceeds in the amount of approximately \$12.3 million have been withheld by the purchaser, giving rise to an arbitration process as further discussed below (the “**Cora Claim**”).

19. In the meantime, the withholding of these purchase price proceeds has deprived Kognitiv of the funds needed to maintain operations, which has necessitated the filing under the BIA.

Cora Claim:

20. On July 5, 2024, Kognitiv entered into an Asset Purchase Agreement (the “**ELP APA**”) for the transfer of certain Kognitiv assets, including all software, intellectual property, and contracts relating to the ELP business.

21. Pursuant to the ELP APA, \$12,000,000 CAD of the purchase price was to be paid to Kognitiv following receipt of all Customer Consent Agreements.

22. The Customer Consent Agreements were received in November 2024, but Kognitiv was advised that the purchase funds were being withheld by the ELP purchaser.

23. On December 3, 2024, and pursuant to the APA, Kognitiv served a Dispute Notice on the ELP purchaser due to the purchaser's failure to remit the purchase funds. Attempts to reach an amicable resolution of the dispute failed and the parties agreed to pursue arbitration as provided by the ELP APA.

24. The parties have agreed to a timetable for the exchange of pleadings and evidence, and a date for the hearing. It is anticipated that the arbitration process will be concluded by August 2025.

Indebtedness and Enforcement by Creditors:

25. The Company has significant secured and unsecured indebtedness obligations, which it is unable to service.

26. Among other things, the NOI Proceedings were precipitated by the enforcement steps commenced by Guines, one of the Company's senior secured creditors.

27. On October 15, 2024, Guines, as security agent for itself and on behalf of certain lenders or noteholders, issued demand for payment to the Company, along with a Notice of Intention to Enforce Security pursuant to s. 244 of the BIA. A copy of the demand letter and NITES is attached hereto and marked as **Exhibit "D"**.

28. As a result of the significant losses incurred, the resultant negative retained earnings, the inability to raise additional funding, particularly as a result of the actions giving rise to the Cora Claim, and in the face of enforcement steps by creditors, the Company determined it was not able to continue to meet ongoing obligations as they became due, and commenced these NOI Proceedings on December 12, 2024.

Filing of Holding Proposal and Sale Process:

29. On January 10, 2025, the Company filed a holding proposal pursuant to section 62 of the BIA to (i) allow the Company to effect a corporate restructuring of its business and assets, (ii) permit the Company to maintain and continue its business operations, and (iii) allow the Company to carry out a sale process, with the assistance of Roystone Capital and the Proposal Trustee, for the sale of the Company's operations and assets (the "**Sale Process**"). A copy of the Proposal lodged with Office of the Superintendent of Bankruptcy is attached hereto and marked as **Exhibit "E"**.

30. At the first meeting of creditors, the creditors with proven claims voted to adjourn the meeting to vote on the Proposal to permit the Proposal Trustee and Roystone Capital, with the assistance of the Company, time to carry out the Sale Process in the hopes of generating a better outcome for the Company's creditors.

31. The Sale Process was intended to solicit interest in, and opportunities for, a sale of all or part of the Company's assets and business operations, including its direct or indirect shares in various subsidiaries and business operations as a going concern or otherwise, or some combination thereof. A copy of the Bidding Procedures is attached hereto and marked as **Exhibit "F"**.

32. The Proposal Trustee and Roystone Capital, with the assistance of the Company, conducted the Sale Process. The Proposal Trustee's activities in this regard are more particularly described in the First Report of the Proposal Trustee.

33. On March 3, 2025, the Proposal Trustee reconvened a creditors' meeting and advised the creditors that the Sale Process had concluded and a successful bidder had been identified. Accordingly, on a motion by the Proposal Trustee, the creditors with proven claims voted to further adjourn the meeting to permit the Company to complete the Transaction.

34. I understand that the Sale Process will be discussed in greater detail in the First Report to be filed by the Proposal Trustee in connection with the Company's motion.

Appointment of Restructuring Advisor:

35. In September 2024, the Company entered into the Restructuring Advisory Agreement with Roystone Capital for the provision of services related to the Company's restructuring, recovery of assets, and proceedings under the BIA. A copy of the Restructuring Advisory Agreement is attached hereto and marked as **Exhibit "G"**.

36. In addition to serving as a restructuring advisor to the Company, Roystone Capital is a significant secured creditor of the Company. Specifically, Guines (which advanced significant funds to the Company as further detailed below) is an entity related to and controlled by Roystone Capital.

37. To date, Roystone Capital has been, and continues to be, integral in leading the Company through these NOI Proceedings and its restructuring. The continued involvement of Roystone Capital is essential to the completion of a successful Transaction, and Roystone Capital will be

leading the Company's ongoing recovery efforts for its remaining assets after the Sale Process is completed.

38. Roystone Capital's involvement began at a time when the Company was burning approximately \$1,500,000 per month, and was on the verge of running out of money and facing a probable liquidation. After sustaining \$30 million of losses in 2023 and \$10-12 million of losses in the first half of 2024, all other financial backers and investors had essentially abandoned the Company, with significant shareholders writing down the value in their accounts. No other suitable professionals or stakeholders sought to take on the responsibility of restructuring the Company or investing any additional time or money.

39. Roystone Capital rose to the challenge and was a key driver in stabilizing the Company, and developing, directing, and executing the restructuring plan, resulting in the business breaking even within four months of its involvement.

40. Roystone Capital played a role in every aspect of the business, including as a restructuring advisor, sell-side banker, executive chairman, and exercised the functions typical of a chief financial officer. The restructuring plan included significant renegotiation of liabilities, day-to-day scrutinizing of the Company's expenditures, negotiating settlements with former employees, monetization of assets, strategizing and negotiating disputes, and development of complex financial models.

41. Roystone Capital's duties have included, but have not been limited to:

- (a) the development of a strategic approach and technical restructuring plan for the maximization of value for stakeholders;

- (b) reviewing, analyzing, and developing corporate and financial data and financial models;
- (c) directing and coordinating professional service providers, including legal, and accounting, as well as the Company's board, executive, and employees;
- (d) cash management planning, oversight and direction;
- (e) directly engaging in negotiations with vendors, resulting in millions of dollars of settlements that improved the Company's balance sheet;
- (f) directly engaging and leading dispute resolution processes with the Kognitiv group's stakeholders;
- (g) devising and directing the strategy to facilitate the customer consent process needed to close of the ELP transaction;
- (h) running the Sale Process, including:
 - (i) contacting bidders;
 - (ii) preparing marketing materials;
 - (iii) preparing due diligence materials;
 - (iv) soliciting letters of intent;
 - (v) directly negotiating all facets of the proposed Transaction; and

(vi) supporting the development of preparation of the Court materials and responses to the Proposal Trustee's requests.

42. Given the significant complexity of the Company's organizational and financial structure (comprising over 23 entities across 10 jurisdictions around the world), Roystone Capital played an instrumental role by applying its intimate understanding of the business of the Company (gained through its role as a lender, participation as an observer on the Company's board for several years, and past involvement in intensive negotiations to restructure millions of dollars of liabilities and secure client consents) to complete, among other restructuring initiatives, the ELP transaction.

43. Roystone Capital brings significant restructuring and industry experience with distressed companies spanning decades, including with Fortune 500 companies.

44. Roystone Capital was instrumental in leveraging its contacts in the industry and constructing the list of interested parties in the Sale Process, developed marketing materials, contacted potential bidders, coordinated the due diligence process with multiple parties and led significant negotiation with buyers in the sale process.

45. The Restructuring Advisory Agreement provides for the payment to Roystone Capital of a flat monthly advisory fee of \$60,000, as well as a success fee equivalent to ten percent (10%) of the gross value of all financial recoveries actually received by the Company from its restructuring efforts, including the gross value of any purchase price generated from the sale of the Company's assets under the NOI Proceedings (the "**Success Fee**").

46. Roystone Capital has received its advisory fee for the months of September 2024 through to March 2025.

47. At closing, it is anticipated that an initial distribution will be made on account of the Success Fee with the cash at closing, net of any escrow amounts outlined at paragraph 117 below.

48. The parties' intention was for Roystone Capital to receive a Success Fee proportionate to, and only payable upon, the monetary success of its recovery efforts, so as to serve as a key incentive to maximize recoveries. Accordingly, the Success Fee was contingent on the successful sale or realization of the assets of the Company.

49. The Company is of the view that the quantum of the Success Fee is reasonable and appropriately incentivizes Roystone Capital. The Company supports the engagement of Roystone Capital and the quantum of the Success Fee.

50. I understand from the Company's insolvency counsel that the amount of the Success Fee falls with the range previously approved in other insolvency proceedings before this Court.

51. Given the successful results of the Sale Process and the proposed Transaction, the Company now seeks to make a distribution to Roystone Capital in respect of the Success Fee from the sale proceeds of the Transaction, as more particularly described in the First Report.

52. Each of the creditors with an economic interest, namely Aimia and BDCC, have been notified and, to my knowledge, neither party has objected to the payment of the Success Fee.

53. I understand that the Proposal Trustee has reviewed the terms of the Restructuring Advisory Agreement and contemplated fee structure, and will set out its rationale for the payment of the Success Fee in the First Report.

54. If the Success Fee was not paid to Roystone Capital, the sale proceeds proposed to be used to pay the Success Fee would, nevertheless, flow to Guines, its investment vehicle, pursuant to the secured indebtedness owing by the Company, as the senior secured indebtedness owing to Guines is significant, and Guines is expected to suffer a substantial shortfall.

55. Therefore, the Company does not believe that any other creditor is prejudiced by the payment of the Success Fee to Roystone Capital.

The Company's Creditors:

56. A search of the Company pursuant to the *Personal Property Security Act* (Ontario) (the “**PPSA**”) discloses registrations in favour of each of The Toronto-Dominion Bank (“**TD Bank**”), BDC Capital Inc. (“**BDCC**”), Guines, Stephen Michael Watt (“**Watt**”), Aimia and Urbana Corporation (“**Urbana**”).

57. In 2022, the Company raised approximately \$31,000,000 of secured convertible notes from various creditors, including Aimia, Guines, Urbana and Watt. Some of these amounts were converted in 2023 pursuant to an equity conversion.

58. Particulars of the amounts funded, and now owing as of the date of this Affidavit, to its secured creditors are detailed below.

BDC Capital Inc.

59. The Company entered into a letter agreement with BDCC dated July 7, 2020 (as amended, replaced, restated or supplemented on November 3, 2023, December 19, 2023 and from time to time, the “**BDCC Agreement**”), in connection with the Company's issuance of a convertible

promissory note dated July 7, 2020 in the aggregate principal amount of up to \$2,000,000 USD (the “**BDCC Note**”). The current interest rate under the BDCC Note is 13.5% per annum subject to any applicable default rate. A copy of the BDCC Agreement is attached as **Exhibit “H”** to this Affidavit.

60. Pursuant to a Consent and Subordination Agreement with Aimia dated December 19, 2023, BDCC agreed to subordinate all of the Company’s indebtedness and obligations owing to BDCC in respect of the BDCC Note, whether presently existing or arising in the future in connection therewith, to the Company’s indebtedness and obligations to Aimia owing pursuant to the Aimia Amended Note (as defined below) up to the amount of \$4,500,000 plus accrued interest and fees. A copy of the Consent and Subordination Agreement is attached hereto and marked as **Exhibit “I”**.

61. Pursuant to a Consent and Subordination Agreement with Guines dated December 19, 2023 (the “**2023 Guines-BDCC Subordination Agreement**”), BDCC agreed to subordinate all of the Company’s indebtedness and obligations owing to BDCC in respect of the BDCC Note to the Company’s indebtedness and obligations to Guines owing pursuant to the Roystone Note 1 and the Roystone Note 2 (each as defined below), provided that the Company’s indebtedness and obligations to Guines owing pursuant to the Roystone Note 3 (as defined below) would subordinate to the Company’s indebtedness and obligations owing to BDCC in respect of the BDCC Note. A copy of the Consent and Subordination Agreement is attached hereto and marked as **Exhibit “J”**.

62. BDCC filed a Proof of Claim dated February 14, 2025 with the Proposal Trustee for a secured claim in the amount of \$5,337,624 CAD, a copy of which is attached hereto and marked as **Exhibit “K”**.

Guines LLC

Roystone Note 3

63. The Company issued a secured subordinated convertible note to Guines dated January 31, 2022 in the aggregate principal amount of up to \$15,000,000 (as amended, replaced, restated or supplemented pursuant to the Amending Agreement dated July 31, 2023 between the Company and Guines, the “**Roystone Note 3**”). A copy of Roystone Note 3 is attached hereto and marked as **Exhibit “L”**.

64. The current interest rate under the Roystone Note 3 is 15% per annum subject to any applicable default rate.

Roystone Note 1

65. The Company also issued a secured promissory note to Guines dated January 17, 2023 in the aggregate principal amount of \$6,000,000 USD (as amended by an Amendment to Secured Promissory Note dated May 5, 2023, a Second Amendment to Secured Promissory Note dated June 5, 2023, a Third Amendment to Secured Promissory Note dated June 20, 2023, a Fourth Amendment to Secured Promissory Note dated July 5, 2023, a Fifth Amendment to Secured Promissory Note dated July 28, 2023, a Sixth Amendment to Secured Promissory Note dated effective as of August 15, 2023, a Seventh Amendment to Secured Promissory Note dated effective as of August 31, 2023, an Eighth Amendment to Secured Promissory Note dated effective as of December 31, 2023, a Ninth Amendment to Secured Promissory Note dated effective as of March 27, 2024, a Tenth Amendment to Secured Promissory Note dated effective as of March 31, 2024, and an Eleventh Amendment to Secured Promissory Note dated effective as of July 1, 2024, and

collectively, the “**Roystone Note 1**”). A copy of the Roystone Note 1 (together with all amendments thereto) is attached hereto and marked as **Exhibit “M”**.

66. The Roystone Note 1 was also amended pursuant to a Maturity Date extension letter dated March 31, 2023.

67. The current interest rate under the Roystone Note 1 is 12% per annum subject to any applicable default rate.

68. As of the date hereof, the amount owing under Roystone Note 1 is approximately \$1,250,000 USD.

Roystone Note 2

69. The Company also issued a secured promissory note to Guines dated March 7, 2023 in the initial aggregate principal amount of up to \$3,650,000 USD (as amended and restated in its entirety by the First Amended and Restated Promissory Note issued on April 24, 2023; the Second Amended and Restated Secured Promissory Note dated as of May 30, 2023; the First Amendment to Second Amended and Restated Secured Promissory Note dated as of June 30, 2023; the Second Amendment to Second Amended and Restated Secured Promissory Note dated as of July 31, 2023; the Third Amendment to Second Amended and Restated Secured Promissory Note dated as of December 31, 2023; the Fourth Amendment to Second Amended and Restated Secured Promissory Note dated as of March 27, 2024; the Fifth Amendment to Second Amended and Restated Secured Promissory Note dated as of March 31, 2024; the Sixth Amendment to Second Amended and Restated Secured Promissory Note dated as of June 1, 2024, and the Seventh Amendment to Second Amended and Restated Secured Promissory Note dated as of July 1, 2024, collectively,

the “**Roystone Note 2**”). Under certain of the amendments referenced above, Guines made additional advances for a total principal amount advanced of approximately \$8,500,000 USD. A copy of the Roystone Note 2 (together with all amendments thereto) is attached hereto and marked as **Exhibit “N”**.

70. In May 2024, pursuant to certain of the amendments referenced above, Guines was required to make additional principal advances to cover payroll and critical payments to support the Company’s liquidity constraints. Consequently, the principal amount advanced under the Roystone Note 2 increased from approximately \$7,800,000 to \$8,500,000.

71. As stated in paragraph 92 below, Aimia participated in that advance under the Roystone Note 2.

72. Pursuant to the Seventh Amendment to Second Amended and Restated Secured Promissory Note dated July 1, 2024 referenced above, the Company acknowledged being indebted to Guines under the Roystone Note 2 in the amount of \$14,648,600 USD plus \$755,481 USD on account of the unpaid amending fee.

73. Guines filed a Proof of Claim dated January 29, 2025 with the Proposal Trustee for a claim in the aggregate amount of \$41,909,751, of which \$4,000,000 is unsecured and the balance is secured. A copy of which is attached hereto and marked as **Exhibit “O”**.

74. The current interest rate under the Roystone Note 2 is 12% per annum subject to any applicable default rate.

75. Guines' security interest vis-à-vis Roystone Note 1, Roystone Note 2 and Roystone Note 3 is subject to the 2023 Guines-BDCC Subordination Agreement, which is described at paragraph 61 above.

76. Guines' security interest vis-à-vis Roystone Note 1 and Roystone Note 2 is subject to an inter-creditor Amended and Restated Pari Passu Agreement with Aimia dated March 27, 2024, which sets out the extent to which the respective security of Aimia (in connection with the Aimia Amended Note, as defined below) and Guines shall rank rateably and *pari passu*, and the extent to which the obligations of the Company to one party shall subordinate to the obligations of the Company to the other party. A copy of the Amended and Restated Pari Passu Agreement is attached as **Exhibit "P"** to this Affidavit.

77. Specifically, the Amended and Restated Pari Passu Agreement contemplates the following priority:

- (a) First, Guines and Aimia, respectively, shall share pro rata on amounts owing under each of the Roystone Note 2 and the Aimia Amended Note (up to its principal amount of \$4,500,000 plus interest and expenses);
- (b) Second, once the amounts in (a) above are paid in full, Guines shall be paid all amounts owing under the Roystone Note 1; and
- (c) Lastly, once all amounts owing under Roystone Note 1 and Roystone 2 have been paid in full, the balance to Aimia on account of any remaining amounts owing under the Aimia Amended Note above the cap mentioned in (a) above.

78. The total amount owed pursuant to the Amended and Restated Pari Passu Agreement with Aimia is split as between Guines and Aimia on a pro rata basis based on the amount of their total respective indebtedness amounts under the Roystone Note 2 and the Aimia Amended Note, which equates to an approximate 80% - 20% split in favour of Guines. Accordingly, as part of the proposed Distributions, the sale proceeds from the Transaction will be distributed to each of Guines and Aimia accordingly.

79. The First Report will speak to the amount of proposed capital Distributions to be made to each of Guines and Aimia from the net sale proceeds of the Transaction.

80. The total amounts now owed to Guines under the Roystone Note 1, the Roystone Note 2, and the Roystone Note 3 are subject to accrued interest and unpaid fees.

Aimia Inc.

Aimia Note 1

81. The Company issued a secured convertible promissory note to Aimia dated January 31, 2022 in the aggregate principal amount of up to \$10,000,000 (as amended, replaced, restated or supplemented from time to time the “**Aimia Note 1**”). A copy of Aimia Note 1 is attached hereto and marked as **Exhibit “Q”**.

82. All amounts owing under the Aimia Note 1 have been converted to equity.

Aimia Note 2

83. The Company also issued a secured promissory note to Aimia dated January 17, 2023 in the aggregate principal amount of up to \$5,000,000 (as amended, replaced, restated or

supplemented from time to time the “**Aimia Note 2**”). A copy of the Aimia Note 2 is attached hereto and marked as **Exhibit “R”**.

84. The Aimia Note 2 was repaid from proceeds advanced under the Roystone Note 2 on March 7, 2023.

Aimia Amended Note (Aimia Note 3)

85. The Company issued another secured promissory note to Aimia, dated July 31, 2023 in the aggregate principal amount of up to \$4,500,000, which was subsequently amended and restated in its entirety pursuant to a First Amended and Restated Secured Promissory Note dated March 27, 2024 (the “**Aimia Amended Note**”). A copy of the Aimia Amended Note is attached hereto and marked as **Exhibit “S”**.

86. Pursuant to the March 27, 2024 amendment, further advances were made and the aggregate principal amount of the Aimia Amended Note increased to \$6,500,000.

87. As previously stated, Aimia’s security interest vis-à-vis the Aimia Amended Note is subject to an inter-creditor Amended and Restated Pari Passu Agreement between Aimia and Guines dated March 27, 2024, which sets out the extent to which the respective security of Aimia and Guines shall rank rateably and *pari passu* up to the capped amount of the Aimia Amended Note, and the extent to which the obligations of the Company to one party shall subordinate to the obligations of the Company to the other party.

88. As stated at paragraph 77 above, the Amended and Restated Pari Passu Agreement contemplates the priority as between Aimia and Guines and their respective entitlement to any distributions from realizations or recoveries.

89. On January 30, 2025, Aimia filed a Proof of Claim for an unsecured claim in the amount of \$28,250 in respect of director fees, a copy of which is attached hereto and marked as **Exhibit “T”**.

90. Aimia also filed a Proof of Claim for a claim in the amount of \$7,709,818.16 in connection with the Aimia Amended Note, of which \$3,709,818.16 consists of a secured claim and \$4,000,000 consists of an unsecured claim. A copy of the Proof of Claim is attached hereto and marked as **Exhibit “U”**.

91. The current interest rate under the Aimia Amended Note is 12% per annum in respect of the Initial Advance, the Second Advance and the Third Advance (each as defined in the Aimia Amended Note) and 14% per annum in respect of the Final Advance (as defined in the Aimia Amended Note), subject to any applicable default rate.

Aimia Participation in Roystone Note 2

92. Pursuant to a Loan Participation Agreement dated May 3, 2024, Aimia agreed to participate in Roystone Note 2 and paid the amount of \$365,000 USD to buy its participation in Roystone Note 2. Guines agreed to act as security agent on behalf of Amia in that regard.

93. In connection with its participation in Roystone Note 2, Aimia filed a Proof of Claim for a secured claim in the amount of \$385,740 USD, a copy of which is attached hereto and marked as **Exhibit “V”**.

94. Repayment to Aimia in respect of its participation in the Roystone Note 2 will be addressed by Guines following recovery of any payments under the Roystone Note 2.

Stephen Watt

95. The Company issued a secured subordinated convertible promissory note to Watt, dated February 15, 2022 in the aggregate principal amount of up to \$100,000 (as amended, replaced, restated or supplemented pursuant to an Amending Agreement dated July 31, 2023, the “**Watt Note**”), a copy of which is attached hereto and marked as **Exhibit “W”**.

96. In connection with the Watt Note, Watt and BDCC entered into a Subordination Agreement dated January 31, 2022, pursuant to which Watt agreed to subordinate to BDCC any security interest or lien that Watt may have in any property of the Company in connection with the Watt Note. A copy of the Subordination Agreement is attached hereto and marked as **Exhibit “X”**.

97. Pursuant to a Consent and Subordination Agreement with Guines dated June 23, 2023, Watt agreed to subordinate all of the Company’s indebtedness and obligations owing to Watt in respect of the Watt Note to the Company’s indebtedness and obligations to Guines owing pursuant to the Roystone Note 1 and the Roystone Note 2. A copy of the Consent and Subordination Agreement is attached hereto and marked as **Exhibit “Y”**.

98. Watt has filed a Proof of Claim with the Proposal Trustee for a secured claim in the amount of \$140,319 in respect of the Watt Note. A copy of the Proof of Claim is attached hereto and marked as **Exhibit “Z”** to this Affidavit.

99. The current interest rate under the Watt Note is 12% per annum subject to any applicable default rate.

Urbana Corporation

100. The Company issued a secured convertible promissory note to Urbana dated January 31, 2022 (as amended, replaced, restated or supplemented from time to time the “**Urbana Note**”), a copy of which is attached hereto and marked as **Exhibit “AA”**.

101. Pursuant to a Consent and Subordination Agreement with Guines dated June 23, 2023, Urbana agreed to subordinate all of the Company’s indebtedness and obligations owing to Urbana in respect of the Urbana Note to the Company’s indebtedness and obligations to Guines owing pursuant to the Roystone Note 1 and the Roystone Note 2. A copy of the Consent and Subordination Agreement is attached hereto and marked as **Exhibit “BB”**.

102. I understand that Urbana has not filed a Proof of Claim in these NOI Proceedings.

103. As of the date of this Affidavit, and based on the books and records of the Company, Urbana is owed approximately \$1,445,000 in its capacity as noteholder of the Company.

104. The current interest rate under the Urbana Note is 12% per annum subject to any applicable default rate.

The Toronto-Dominion Bank

105. TD Bank holds cash collateral, in the form of a Guaranteed Investment Certificate in the amount of \$50,000, which was pledged in support of a certain VISA credit card facility with an available credit limit up to \$45,000 made available by TD Bank to the Company. TD Bank’s security interest is limited to the cash collateral and, to the best of my knowledge, no other secured party is asserting any interest or priority to TD Bank in such collateral.

Summary of Priorities amongst Secured Creditors

106. By way of summary of the above-mentioned secured claims, the below sets out the relative priorities amongst Guines, Aimia, BDCC, Watt and Urbana (and any other noteholders):

- (a) **First:** Guines and Aimia sharing *pari passu* on a pro rate basis in respect of Roystone Note 2 and the Aimia Amended Note, the latter up to the principal amount of \$4,500,000);
- (b) **Second:** Guines in respect of Roystone Note 1;
- (c) **Third:** BDCC in respect of the BDCC Note;
- (d) **Fourth:** Aimia in respect of any balance owing under the Aimia Amended Note;
- (e) **Fifth:** Guines, Watt and Urbana sharing *pari passu* in respect of Roystone Note 3, the Watt Note and the Urbana Note(s).

Approval of Transaction:

107. Following the filing of the Proposal, Roystone Capital and the Proposal Trustee, with the assistance of the Company, in particular myself and Grant McLeod (who is a contractor as a director and general counsel of the Company) carried out the Sale Process.

108. I understand that the Proposal Trustee will be describing in its First Report the results of the Sale Process and the proposed Transaction.

109. On the bid deadline date, the Proposal Trustee received five (5) bids for the Purchased Shares and the Acquired Companies. No offers were received for the Company's other subsidiaries or assets.

110. The Purchaser's bid was the best offer received as part of the Sale Process. A copy of the SPA, with certain financial information redacted is attached hereto and marked as **Exhibit "CC"**.

I understand that an unredacted copy of the SPA will be appended to the First Report, and filed with the Court subject to a requested sealing order.

111. As will be discussed in the First Report, the Transaction contemplates the Purchaser purchasing the Purchased Shares on an “as is, where is” basis, including the indirect interest in the Acquired Companies (being subsidiaries of the Company).

112. Accordingly, the Company seeks an AVO in order to approve the SPA and the proposed Transaction contemplated therein whereby, subject to the approval of this Court and the satisfaction of other closing conditions set out in the SPA, the Purchaser will acquire all of the Purchased Shares free and clear of all claims and encumbrances.

113. The Court granting the AVO is a condition precedent to the Transaction.

114. The Transaction represents the best possible result for all stakeholders as, among other things, it provides a significant realization for the benefit of Guines and Aimia, being fulcrum creditors, and it provides for a going-concern sale and the potential employment of the majority of the current employees of the Company.

115. The SPA is the product of a Sale Process that is commercially reasonable in the circumstances, and was carried out with the oversight of the Proposal Trustee.

116. The parties to the SPA are sophisticated and were advised by professional financial and legal advisors.

117. Upon closing of the Transaction (assuming it is approved by the Court), the following amounts are to be paid or held back from the Purchase Price (as defined in the SPA) proceeds:

(a) Holdbacks:

- (i) a total of \$6,150,000 to be paid to the Escrow Agent (as defined in the SPA) to be held and released pursuant to the terms of the SPA and the Escrow Agreement (as defined in the SPA), compromised of:
 - (1) the amount of \$250,000 on account of the Adjustment Escrow Amount (as defined in the SPA);
 - (2) the amount of \$500,000 on account of the Indemnification Escrow Amount (as defined in the SPA);
 - (3) the amount of \$1,600,000 on account of the Tax Escrow Amount (as defined in the SPA); and
 - (4) the amount of \$3,800,000 on account of the Churn Escrow Amount (as defined in the SPA).

(b) Distributions:

- (i) the amount of approximately \$2,970,809 to be held back by the Proposal Trustee at closing to:
 - (1) pay the professional fees covered under the Administration Charge to date and to retain sufficient funds as the Company and the Proposal Trustee determine are necessary to facilitate the ongoing administration and wind-up of the NOI Proceedings (the “**Reserve**”); and
 - (2) disburse the balance of the proceeds to the Company to effect payments of the Success Fee to Roystone Capital and payments required to be made under the KERP,
- (ii) one or more distributions to be made to each of the Senior Secured Creditors, as set out in the First Report, on account of their senior secured claims.

118. Under the terms of the SPA, the escrow funds are to be released by the Escrow Agent to the Proposal Trustee or the Purchaser, as the case may be, on, in the case of the Adjustment Escrow Fund, upon determination of the Final Closing Purchase Price (as defined in the SPA), or, in the case of the other escrow funds, the applicable Release Date, as calculated in the SPA.

119. The Outside Date under the SPA is March 31, 2025 (or such later date as agreed by the parties).

120. I understand that independent counsel to the Proposal Trustee has performed a security review on Guines' and Aimia's respective security and has confirmed that, subject to the typical assumptions and qualifications, the respective security documents are, as applicable, valid and enforceable. This is consistent with my historical understanding of the Company's dealings with Guines and Aimia.

121. I am of the view that it is appropriate, following the Closing of the Transaction, to make the Distributions as contemplated in the First Report, and reflected above. I understand that the Proposal Trustee supports the proposed Distributions and the establishment of the Reserve.

Administration Charge:

122. The Company seeks a first-ranking charge, up to a maximum amount of \$500,000 (the "**Administration Charge**"), over all of its property, in priority to all other charges and encumbrances, to secure the fees and disbursements of the Company's counsel, the Proposal Trustee and the Proposal Trustee's counsel that are incurred in connection with services rendered to the Company both before and after the commencement of the NOI Proceedings.

123. The Company has worked with the Proposal Trustee to estimate the proposed quantum of the Administration Charge, and I believe it to be reasonable and appropriate in the circumstances when considering amounts accrued and owed to certain of the restructuring professionals.

124. The quantum and the appropriateness of the Administration Charge is further discussed in the Proposal Trustee's First Report.

125. It is critical to the success of the restructuring and these NOI Proceedings to have the Administration Charge in place to ensure that the restructuring professionals are protected with respect to their fees and disbursements. The professionals whose fees are to be secured by the Administration Charge have taken on, and will continue to take on, a critical role in these NOI Proceedings.

Approval of the Proposal Trustee's Report, Activities and Fees:

126. The Company is seeking approval of the First Report, and the activities, conduct and decisions set out therein, which I understand from counsel is consistent with the practice in insolvency proceedings.

127. The First Report of the Proposal Trustee fairly and accurately reflects the circumstances of the Company, the Company's dealings with the Proposal Trustee and the circumstances surrounding the filing of the NOI.

128. The Company further requests the approval of the fees and disbursements of the Proposal Trustee and the Proposal Trustee's counsel, Dentons, as set out in the First Report and the Fee Affidavits appended thereto.

129. The First Report and the Fee Affidavits set out in detail the total fees and disbursements of the Proposal Trustee and its legal counsel. The Proposal Trustee and Dentons have maintained detailed records of their professional time and costs since the commencement of these NOI Proceedings as detailed in the Fee Affidavits.

130. On behalf of the Company, Grant McLeod and I have reviewed the fees and disbursements of the Proposal Trustee and its legal counsel throughout the NOI Proceedings. I believe that their

accounts are fair and reasonable in the circumstances and respectfully request that the Court approve the Proposal Trustee's and its legal counsel's fees and disbursements as set out in the First Report and the Fee Affidavits.

Key Employee Retention Plan:

131. The Company seeks this Court's approval of the KERP and authorization to make payments in accordance with the terms therein. A redacted copy of the KERP is attached hereto and marked as **Exhibit "DD"**.

132. The KERP is designed to retain and incentivize certain key employees and independent contractors who are required to guide the Company through these NOI Proceedings (collectively, the "**KERP Participants**"). The payments under the KERP are tied directly to the success of the Sale Process and, accordingly, would only be possible if the Sale Process generated proceeds of sale.

133. All of the KERP Participants are employees of, variably, Kognitiv US LLC or Kognitiv Solutions Inc., with the exception of the Product Manager for New Product, who is employed by an employer of record on behalf of Kognitiv US LLC, and the General Counsel, who works as an independent contractor for Kognitiv.

134. As mentioned above, Kognitiv US LLC and Kognitiv Solutions Inc. comprise two of the three Acquired Companies, and are part of the critical make-up of the business units.

135. The KERP Participants perform important management or business functions, and possess institutional knowledge and skills that cannot easily be replicated or replaced, making their continued engagement vital to the Company's operations during these NOI Proceedings.

136. The KERP will provide the KERP Participants with additional payments as an incentive to continue their employment throughout the Sale Process. The KERP incentives are appropriate to incentivize the KERP Participants to remain in their current positions throughout the Sale Process.

137. The KERP was developed by the Company, and takes into consideration the KERP Participants' existing compensation packages and the circumstances of these NOI Proceedings.

138. Under the terms of the KERP, the KERP Participants are entitled to a maximum aggregate amount that is equal to two and a half percent (2.5%) of the gross sale price from a sale transaction under the NOI Proceedings and Sale Process (the "**KERP Funds**"), but only payable on the amount of the cash portion actually received by the Company in connection with the Transaction. Each participant is allocated a proportionate share of the KERP Funds.

139. If approved, the proposed KERP ensures a level of continuity and stability that would otherwise potentially be placed at risk by key employee departures. Furthermore, these employees have been already advised of the KERP in order to stay on through the NOI Proceedings.

140. As CEO of the Company, I am a beneficiary of the proposed KERP. Recognizing this, it is appropriate that the Proposal Trustee address the rationale for my participation in the KERP, and I understand that it will do so in its First Report, to be filed.

141. The Proposal Trustee is supportive of the proposed KERP.

Request for Sealing Order:

142. The Company seeks an order:

- (a) sealing Confidential Appendices 1 and 2 to the First Report, which comprise the summary of bids received in the Sale Process and the unredacted copy of the SPA, until the closing of the Transaction or further Order of the Court; and
- (b) sealing the unredacted copy of the KERP, which is attached as Confidential Appendix 1 to this Affidavit.

143. The Confidential Appendices to the First Report contains information about the purchase price and related financial information relating to the purchased assets, which, if disclosed, would likely have a detrimental impact on the sale efforts for the property of the Company if the Transaction does not close, and should be sealed, and kept confidential and apart from public record pending further Order of this Court.

144. The KERP contains sensitive personal and compensation information, which I believe may cause harm to the KERP Participants and could lead to disruption to the Company if such information became public.

145. There are no reasonable alternative measures, and the benefits of the sealing order outweigh any negative effects on the interests of the public.

Other Considerations:

146. As discussed further in the First Report, the Company will have sufficient access to cash flow to complete the Transaction and to, thereafter, continue to pursue strategic initiatives to realize on its remaining assets, including the Cora Claim, and has contemplated the Reserve to fund such next steps.

147. The Company is continuing to consider its options vis-à-vis its remaining assets.

148. The Company has acted diligently and in good faith and will continue to do so through the conclusion of the Transaction (if approved) and of these NOI Proceedings.

149. The secured parties with an economic interest in the sale proceeds have been served, and do not oppose the requested relief.

Conclusion:

150. I swear this Affidavit in support of the Company's motion under the BIA for the Approval and Vesting Order in the form contained at **Tab 3** of the Motion Record, and the Ancillary Relief Order contained at **Tab 4** of the Motion Record, and for no other or improper purpose.

SWORN remotely by **TIM SULLIVAN**, via videoconference, stated as being located in the City of Oakland, in the State of California, before me at the City of Toronto, in the Province of Ontario, this 11th day of March 2025, in accordance with O. Reg 431/20, Declaration Remotely.

DocuSigned by:

Matilda Lici

7CE576F4AA3D4CA...

Commissioner for Taking Affidavits
Matilda Lici

Signed by:

Tim Sullivan

039447C3739E4D1...

TIM SULLIVAN

This is Exhibit "H" of
the Affidavit of **GRANT MCLEOD**
Sworn before me this 9th day of February 2026

A handwritten signature in black ink, appearing to read 'Reem Atallah', written over a horizontal line.

A Commissioner, etc.

Reem Atallah, a
Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 28, 2026.



Industry Canada
Office of the Superintendent
of Bankruptcy Canada

Industrie Canada
Bureau du surintendant
des faillites Canada

District of: Ontario
Division No.: 09 - Toronto
Court No.: 31-3288180
Estate No.: 31-3288180

In the Matter of the Bankruptcy of:

Loyalty Solutions Canada Inc.

Debtor

BDO CANADA LIMITED / BDO CANADA LIMITÉE

Licensed Insolvency Trustee

Ordinary Administration

Date and time of bankruptcy:	October 22, 2025, 14:25	Security:	\$0.00
Date of trustee appointment:	October 22, 2025		
Meeting of creditors:	November 04, 2025, 16:00 Via Teleconference, 1-833 215 3238 ID # 218 512 290 8379 Hamilton, Ontario Canada,		
Chair:	Trustee		

CERTIFICATE OF APPOINTMENT - Section 49 of the Act; Rule 85

I, the undersigned, official receiver in and for this bankruptcy district, do hereby certify that:

- the aforementioned debtor filed an assignment under section 49 of the *Bankruptcy and Insolvency Act*;
- the aforementioned trustee was duly appointed trustee of the estate of the debtor.

The said trustee is required:

- to provide to me, without delay, security in the aforementioned amount;
- to send to all creditors, within five days after the date of the trustee's appointment, a notice of the bankruptcy; and
- when applicable, to call in the prescribed manner a first meeting of creditors, to be held at the aforementioned time and place or at any other time and place that may be later requested by the official receiver.

Date: October 22, 2025, 14:29

E-File/Dépôt Electronique

Official Receiver

151 Yonge Street, 4th Floor, Toronto, Ontario, Canada, M5C2W7, (877)376-9902

Canada

This is Exhibit "I" of
the Affidavit of **GRANT MCLEOD**
Sworn before me this 9th day of February 2026

A handwritten signature in black ink, appearing to read 'Reem Atallah', written over a horizontal line.

A Commissioner, etc.

Reem Atallah, a
Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 28, 2026.

KOGNITIV SINGAPORE PTE. LTD.

KOGNITIV SINGAPORE PTE. LTD. is a private company limited by shares, registered in Singapore under UEN 199406130H. Established on Aug 30, 1994, the company specializes in other business support service activities (e.g. administration of loyalty programmes).

General Information

Registered Name	KOGNITIV SINGAPORE PTE. LTD.
Former Entity Names	AIMIA PROPRIETARY LOYALTY SINGAPORE, CARLSON COMPANIES SINGAPORE, CARLSON MARKETING GROUP, CARLSON MARKETING GROUP (SINGAPORE)
Unique Entity Number (UEN)	199406130H
Registration Date	Aug 30, 1994
Legal Entity Type	PRIVATE COMPANY LIMITED BY SHARES
Primary Business Activity	OTHER BUSINESS SUPPORT SERVICE ACTIVITIES (E.G. ADMINISTRATION OF LOYALTY PROGRAMMES)
Address	KECK SENG TOWER 133 CECIL STREET #15-002 Singapore 069535
Entity Status	● IN LIQUIDATION - CREDITORS VOLUNTARY WINDING UP
Issuance Agency	ACRA

User Contributed Information

Information about KOGNITIV SINGAPORE PTE. LTD. provided by the Companies House users

✎ Add information

Buy Company report

Official company report of KOGNITIV SINGAPORE PTE. LTD. as provided by the Accounting and Corporate Regulatory Authority of Singapore.

⚡ Estimated delivery in 1 working day

5 types of reports to choose from

Most Popular

Business Profile

USD50

☒

Register of Directors

USD60

☐

Register of Shareholders

USD60

☐

U

What's included in the reports?

Add to cart

4.6 ★★★★★ (20)

🛡️ Latest information from the government



Download sample report

[Business Profile](#)

[Register of Directors](#)

[Register of Shareholders](#)

[Financial report](#)

This is Exhibit "J" of
the Affidavit of **GRANT MCLEOD**
Sworn before me this 9th day of February 2026

A handwritten signature in black ink, appearing to read 'Reem Atallah', written over a horizontal line.

A Commissioner, etc.

Reem Atallah, a
Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 28, 2026.

Recovery Tranches of Secured Debt	Outstanding Balance (6/12/2025)
Roystone Note 2 (Pari Passu with Aimia Note 2)	\$20,287,129
Aimia Note 2 (Pari Passu with Roystone Note 2)	\$5,739,287
Total 1st Position Debt	\$26,026,417
Roystone Note 1	\$1,733,935
Total 2nd Position Debt	\$1,733,935
Total thru 2nd Position Debt	\$27,760,352
BDC Convertible Notes - 2nd Lien	\$5,045,431
Total 3rd Position Debt	\$5,045,431
Total thru 3rd Lien Debt	\$32,805,782
Aimia Note 3	\$2,435,889
Total 4th Position Debt	\$2,435,889
Total thru 4th Position Debt	\$35,241,671
2022 Convertible Notes - Roystone	\$23,728,407
2022 Convertible Notes - Stephen Watt, Urbana	\$1,652,845
Total 5th Position Debt	\$25,381,252
Total thru 5th Position Debt	\$60,622,923

This is Exhibit "K" of
the Affidavit of **GRANT MCLEOD**
Sworn before me this 9th day of February 2026

A handwritten signature in black ink, appearing to read 'Reem Atallah', written over a horizontal line.

A Commissioner, etc.

Reem Atallah, a
Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 28, 2026.

SECOND AMENDED AND RESTATED INDEPENDENT CONTRACTOR AGREEMENT

This **SECOND AMENDED AND RESTATED INDEPENDENT CONTRACTOR AGREEMENT** is entered into by and between Kognitiv Corporation, a corporation incorporated under the laws of the Province of Ontario ("**Company**"), Loyalty Solutions Holdings US Inc, a corporation incorporated under the laws of the State of Delaware, (individually and collectively with the Company "**Kognitiv**") and Roystone Capital Management LP (the "**Contractor**"), as of **September 3, 2024** (the "**Effective Date**"). This Agreement shall supersede and replace that certain Independent Contractor Agreement dated September 3, 2024 ("**Original Agreement**") and the Amended and Restated Independent Contractor Agreement dated March 3, 2025.

WHEREAS the Contractor and the Company entered into the Original Agreement whereby the Contractor is providing services to the Company related to the Company's restructuring, recovery of assets, and proceedings under the Bankruptcy and Insolvency Act (Canada);

AND WHEREAS the Contractor and the Company entered into the Amended and Restated Agreement to clarify the original intention of the parties to align Contractor compensation to the overall monetary recovery of the Company;

AND WHEREAS the sales process is now taking place under a proceeding under the US Bankruptcy Code and through private transaction of Loyalty Solutions Holdings US Inc;

AND WHEREAS Contractor is continuing to provide restructuring services to Kognitiv and its subsidiaries;

AND WHEREAS the parties are amending and restating this Agreement to ensure Loyalty Solutions Holdings US Inc. is bound by the terms of the Amended and Restated Independent Contractor Agreement.

In consideration of the mutual agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. **Services; Work Product.**

(a) Contractor shall provide the services ("**Services**") and deliver the work product (the "**Work Product**") described in the Statement of Work ("**SOW**") which is attached as **Exhibit A** and incorporated by reference herein. The Contractor shall initially report to **Tim Sullivan, CEO** and such other person(s) as may be designated from time to time by the **CEO** (each an "**Authorized Representative**").

(b) Nothing contained in this Agreement shall be construed as a right of Contractor to continued engagement as an independent contractor of Kognitiv, or as a limitation of the right of Kognitiv to discharge Contractor, with or without cause. Kognitiv has no knowledge of Contractor's dependence on revenues from Kognitiv in proportion to Contractor's revenues from other engagements.

(c) Contractor agrees and acknowledges that the Services hereunder are performed by Contractor on an independent contractor basis, and that Contractor is not an employee of Kognitiv for any purpose, including, but not limited to, for purposes of federal, state/provincial and local taxes, nor shall Contractor hold itself out to be an employee of Kognitiv. Contractor agrees

that, as an independent contractor, compensation paid hereunder is not subject to withholdings for social security or federal, provincial/state or local income taxes, and Contractor expressly acknowledges full responsibility for the reporting of all compensation and payment of all applicable taxes, including self-employment taxes in all relevant jurisdictions. Contractor acknowledges and agrees that where worker's compensation coverage is applicable to Services performed hereunder, it shall be Contractor's responsibility to provide such coverage for itself, and, if applicable, any of its employees. Contractor acknowledges and agrees that Contractor is not in any way entitled to participate in any employee benefit plans or programs of Kognitiv. Contractor further agrees to indemnify and hold Kognitiv harmless to the extent that Kognitiv incurs any liability arising out of, or related in any way to, the Contractor or its employees being classified as an employee or employees of Kognitiv for any purpose.

(d) Contractor has no authority to act, enter into any contract or incur any liability on behalf of Kognitiv. Kognitiv shall not be bound in any manner whatsoever by any agreement, warranties or representations made by the

Contractor to any other person or by any action of the Contractor unless specifically authorized in writing by Kognitiv.

(e) Contractor shall deliver to Kognitiv (to such persons or locations as Kognitiv may determine) any Work Product developed by the Consultant pursuant to the SOW no less than once per month during the Term (by email attachment unless otherwise advised by Kognitiv).

2. Representations. In addition to any other representations and warranties in this Agreement (including the SOW), Contractor represents and warrants to Kognitiv that:

(a) Contractor has sufficient expertise, training and experience to satisfactorily provide the Services in a manner meeting or exceeding industry standards for like services;

(b) The Services will be performed in a professional and workmanlike manner, and the Services, including the Work Product, will be as required by Kognitiv and suitable for Kognitiv's business purposes;

(c) No Proprietary Information (as such term is defined in Section 5(a) below) of third parties and no third-party intellectual property shall be used by Contractor in the performance of the Services, or incorporated into any Work Product, and the Services and Work Product will not violate or infringe upon the intellectual property rights of any third party, except upon the prior written consent of Kognitiv, which may be withheld for any reason, and such third party;

(d) Contractor is not presently under, nor will Contractor enter into during the term hereof, any other agreement or obligation or interest which would in any way conflict, prevent, limit or otherwise impair the provision by Contractor of the Services to Kognitiv or the other obligations of Contractor hereunder; and

(e) Contractor shall comply fully with all directives provided by Kognitiv concerning any regulations applicable to Kognitiv and the maintenance of records related thereto.

(f) Contractor will, and will cause its principals, officers, employees, representatives and agents, to fully comply with the terms and conditions of Exhibit B at all times in the performance of Services hereunder.

3. Payment.

(a) Kognitiv agrees to pay Contractor for Services actually rendered at the rates and at the times specified in the applicable SOW ("Service Fees"). No change in the Service Fees is

permissible under this Agreement without the prior written consent of the parties hereto.

(b) Contractor shall submit to Kognitiv an invoice in Kognitiv's standard or other mutually agreed-upon format for each month no later than the 5th day of the month following the month in which services were rendered. Kognitiv agrees to remit payment via bank wire transfer to Contractor for approved invoices within fourteen (14) calendar days of receipt of Contractor's complete invoice, unless otherwise agreed to herein or in the SOW.

(c) The Contractor will be solely responsible for all expenses incurred by the Contractor in connection with the performance of the Services, provided that Kognitiv will reimburse the Contractor for all reasonable out-of-pocket expenses (other than normal daily working and commuting expenses) incurred in connection with the performance of the Services in accordance with Kognitiv's expense policies (a copy of which has been received by the Contractor) and to the extent that such expenses have been pre-approved by Kognitiv (including electronic mail or verbal approval by an Authorized Representative of Kognitiv or a designate thereof) and where original receipts and/or other appropriate documentation acceptable to Kognitiv are furnished. Contractor shall keep accurate and complete expense reports showing all costs and expenses incurred.

(d) Contractor acknowledges that it is solely responsible for the payment of any federal, state and local income taxes assessed on or otherwise relating to any payment, other compensation or other benefit made available to Contractor by Kognitiv pursuant to the provisions of this Agreement. Contractor shall also be responsible for maintaining any insurance coverage as may be required by Kognitiv or governmental authorities and applicable laws.

(e) Each of Kognitiv Corporation and Loyalty Solutions Holdings US Inc shall be jointly and severally liable for the payment of fees due under Exhibit A Statement of Work to this Agreement.

4. Term and Termination.

(a) The term of this Agreement shall commence on the Effective Date and continue until December 31, 2025. The term shall terminate on such date unless (i) prior to such date the parties agree to extend the Agreement by written agreement, (ii) prior to such date if Kognitiv deems the SOW to have been completed in its sole discretion, or (iii) the

Agreement has been terminated prior to such date in accordance with its terms.

(b) Each of the Contractor and Kognitiv may, in its sole discretion, terminate this Agreement for convenience at any time by providing no less than thirty (30) calendar days' notice of such termination.

(c) Kognitiv may terminate this Agreement immediately and without notice to the Contractor in the event that the Contractor materially breaches any term of this Agreement.

(d) Upon termination, Contractor shall immediately cease use of and deliver to Kognitiv all tangible incidents of Proprietary Information (as defined below) in Contractor's possession, retaining no copies. In the event of termination, Kognitiv's sole obligation shall be limited to the payment of Contractor for Services properly rendered through the termination date and all pre-approved expenses incurred by Contractor as of the date of termination.

5. Confidentiality.

(a) This Agreement is conditional upon the Contractor entering into Kognitiv's form of non-disclosure agreement (the "**Confidentiality Agreement**"), which is hereby incorporated into this Agreement. In the event of any express conflict between the terms of this Agreement and the Confidentiality Agreement, the more restrictive terms to Kognitiv's benefit shall prevail. Contractor acknowledges and agrees that Kognitiv (in this Section 5 references to Kognitiv include, for certainty, its subsidiaries and affiliates) has invested and will continue to invest considerable effort and expense in the development and creation of products and services, and has taken steps and will continue to take steps necessary to protect the secrecy of the Confidential Information (as defined below) and Trade Secrets (as defined below) of Kognitiv (collectively, "Proprietary Information"). The term Proprietary Information includes, without limitation, Personal Information as described in section 7 below.

(b) Contractor acknowledges and agrees that Contractor's position with Kognitiv will afford Contractor an opportunity to access and acquire Proprietary Information of Kognitiv which is not generally available to the public, and that the misappropriation, unauthorized use, or disclosure of Proprietary Information of Kognitiv would cause irreparable harm to Kognitiv. Contractor recognizes and agrees that Kognitiv must take reasonable steps to safeguard the confidentiality of such Proprietary Information. Further, Contractor acknowledges and agrees that the

disclosure of the Proprietary Information does not confer upon Contractor any license, interest or rights of any kind in or to the Proprietary Information except for those limited rights pursuant to which the Contractor may use the same, only as permitted in this Agreement.

(c) Contractor agrees that, with respect to Confidential Information (as defined below) of Kognitiv during the term of this Agreement as long as such information remains Confidential Information, and with respect to Trade Secrets (as defined below) of Kognitiv for as long as such information remains a Trade Secret, Contractor will hold such Proprietary Information in a fiduciary capacity for the benefit of Kognitiv, and shall not directly or indirectly use, copy, reproduce, distribute, duplicate, report, publish, disclose or cause to be disclosed, reverse engineer, or otherwise transfer, such Proprietary Information to any third party, or utilize such information for any purpose (whether or not such information was developed or compiled by Contractor), except as expressly contemplated by this Agreement or authorized by Kognitiv in writing. Further, Contractor will not disclose Proprietary Information except: (1) to its employees, contractors and agents: (x) whose duties reasonably justify their need to know such Proprietary Information for the purposes of performing Contractor's obligations under this Agreement and (y) who have been informed by Contractor of their obligation to maintain its confidentiality (each, an "Authorized Party"); or (2) to the extent required by applicable federal, state or local law, regulation, court order or other legal process; provided, however, that in the event of a proposed disclosure pursuant to subsection (2) hereunder, Contractor must (i) give Kognitiv reasonable advance written notice of the proceeding resulting in such order, so that Kognitiv may seek a protective order if it chooses to do so, (ii) disclose only the minimum amount of information legally required to be disclosed and (iii) use its best efforts to obtain confidential treatment for any such information required to be disclosed. Upon termination of this Agreement for any reason, Contractor agrees to return to Kognitiv or destroy, upon written request by Kognitiv, the Proprietary Information, including without limitation all documents or other materials of any kind, containing or pertaining to any Proprietary Information, together with any and all copies, reproductions and samples of any of the foregoing.

(i) The term "Trade Secrets" means information of Kognitiv, without regard to form, including, but not limited to, technical or

nontechnical data, formulae, patterns, compilations, programs, devices, methods, techniques, drawings, processes, financial data, financial plans, product plans, and lists of actual and potential customers and suppliers which is not commonly known by or available to the public and which information: (A) derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who could obtain economic value from its disclosure or use; and (B) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Nothing in this Agreement is intended, or shall be construed, to limit the protections of any applicable law protecting trade secrets or other confidential information.

(ii) The term “Confidential Information” as used in this Agreement means, without limiting the generality of its generally accepted meaning, confidential or proprietary information, other than Trade Secrets, of value to Kognitiv, including without limitation, future business plans, materials, licensing strategies, information regarding executives and employees, and the terms and conditions of this Agreement, as well as any data or information defined herein as a Trade Secret, but which is determined by a court not to be a trade secret under applicable law. This definition shall not limit any definition of “confidential information” or any equivalent term under applicable state or federal law.

(d) The rights specified in this Agreement are in addition to any and all other rights Kognitiv has under applicable law.

(e) The foregoing obligations shall not apply if and to the extent that Contractor establishes that the information communicated by Kognitiv was:

(i) already demonstrably known to Contractor, without an obligation to keep such information confidential, at the time of Contractor's receipt from Kognitiv; (ii) received by Contractor in good faith from a third party lawfully in possession thereof and having no obligation (contractual, fiduciary or legal) to keep such information confidential; (iii) was demonstrably independently developed by Contractor without any use of Kognitiv's Proprietary Information; or (iv) publicly known at the time of Contractor's receipt from Kognitiv or became publicly known other than by breach of this

Agreement; provided that the particular methodology through which Kognitiv uses and depicts public information shall nevertheless remain Confidential Information.

(f) Contractor shall implement procedures to limit, control and supervise the use of the Proprietary Information of Kognitiv, which shall be at least reasonable precautions; and shall notify Kognitiv in writing of any suspected or known breach of the obligations and/or restrictions set forth in this Section 5. Contractor will take all reasonable measures to ensure that no unauthorized person shall have access to the Proprietary Information and that all Authorized Parties having access to such information shall refrain from making any unauthorized disclosure in violation of this Agreement. Contractor shall (i) comply with all applicable federal and state laws, rules and regulations protecting the Proprietary Information and privacy rights of Kognitiv, and any relevant third parties and (ii) be liable for any failure of the Authorized Parties to comply with the terms set forth in this Section 5.

6. Works.

(a) “**Works**” includes, but is not limited to, the following: all inventions, modifications, discoveries, designs, developments, documentation, improvements, artistic works, designs, products, processes, techniques, know-how, details of ideas, concepts, business opportunities, compilations of data, confidential reports, algorithms, formulas, computer codes in either source code and object code, computer or software programs, works of authorship, trade secrets, enhancements and/or modifications to any computer or software codes or computer or software programs or any intellectual property rights whatsoever or any interest therein (whether or not patentable or registrable under copyright, trade-mark or similar legislation or subject to analogous protection).

(b) All Works conceived, created, invented, produced, designed or reduced to practice by Contractor, alone or with others, at any time or times during the term of this Agreement in the course of providing Services shall be owned by Kognitiv (or its nominee, as Kognitiv may direct) without additional compensation. Contractor shall communicate to Kognitiv, without cost or delay, and without disclosing to others the same, all available information relating thereto (with all necessary documentation, code, specifications, plans and models). Contractor agrees to sign all applications for, and assignments of, patents, copyrights or other interests therein required or

requested by Kognitiv and to sign all other documents and perform all other acts reasonably necessary or desirable to carry out the terms of this Section 6. All expenses for obtaining copyright of any such Works and for prosecution and patenting of such Works shall be borne by Kognitiv.

(c) In addition to the right of Kognitiv as owner of the Works, in the event that any interest in the Works vests in Contractor, Contractor hereby assigns to Kognitiv all of the right, title and interest Contractor has or may acquire in any Works without further compensation including, without limitation, rights to any copyright (including, without limitation, all reversionary interests and rights or renewal in and to the copyright to the Works, the right to create derivative works which modify or alter the Works), patent and design rights (including, without limitation, the right to file patent applications and to claim a right of priority under applicable international conventions) trade-marks and other intellectual property rights.

(d) Contractor hereby waives and agrees to waive its moral rights to the Works (under applicable statute, including the *Copyright Act* (Canada) or successor legislation, or at common law) which it now has or in the future may have which are acknowledged to include any rights Contractor may have to have Contractor's name associated with the Works, to prevent the alteration, translation or destruction of the Works and to control the use of the Works in association with any product, service, cause or institution. Contractor agrees that this waiver may be invoked by Kognitiv and any of its authorized agents or assignees in respect of any or all of the Works.

(e) Contractor will keep appropriate records of Works, which records shall be kept at the offices of Kognitiv and made available to Kognitiv at all times for the purpose of evaluation and use in obtaining patents or other legal protection.

7. Information Practices.

(a) "**Personal Information**" means any information that: (i) identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular natural person or household; or (ii) any applicable law, rule or regulation would deem to be protected personal information. Personal Information includes but is not limited to name, physical address, email address, telephone number and Social Security number.

(b) Vendor will not retain, use or disclose Personal Information received from Kognitiv under this Agreement for any purpose other than the specific purpose of performing the services specified herein for Kognitiv's business (including retaining, using, or disclosing the personal information for a commercial purpose other than providing such services). Vendor will promptly forward any request received by a data subject that is included in Kognitiv's Personally Identifiable Information to Kognitiv and cooperate with Kognitiv to timely make such updates or deletions to such Personally Identifiable Information as requested by Kognitiv.

(c) Vendor agrees that no Confidential Information, including without limitation any Personal Information will be stored, processed or transmitted outside the United States or Canada, nor in a manner that is insecure, or in variance with the applicable SOW, or in violation of Kognitiv's information security policies and standards or, as applicable, that of its clients.

(d) Vendor will at all times comply with Kognitiv's policies and standards regarding data security and data privacy, and upon notice those of its clients as may be applicable. Vendor will ensure Vendor's Personnel are made aware of said policies and standards before providing services hereunder. Without limitation, Vendor expressly acknowledges and agrees that for the purposes of the California Consumer Privacy Act (the "CCPA"): (i) Vendor is a "service provider" as defined in the CCPA; (ii) Kognitiv has disclosed Personal Data to Vendor solely for a valid business purpose and to perform the Services pursuant to the Agreement; (iii) Vendor shall not "sell", as defined in the CCPA, any Personal Data and may not retain, use or disclose any Personal Data for any purpose other than providing the Services; and (iv) Vendor understands the contractual restrictions imposed on Kognitiv pursuant to this Agreement, including, in particular, this Section 4. Further, Vendor agrees to fully comply with the provisions of the Data Processing Addendum set out in Exhibit B hereto and all applicable laws relating to the transmission, receipt, processing, storage and security of Personally Identifiable Information.

8. Non-Solicitation.

(a) Contractor acknowledges that it is critical for Kognitiv (in this Section 8 references to Kognitiv include, for certainty, its subsidiaries and affiliates) to retain its customers and suppliers. Accordingly, the Contractor covenants and agrees that the Contractor will not, at any time during the term of this Agreement and for a period

of one (1) year after the expiry thereof, directly or indirectly, solicit, contact, call upon or communicate with any customer of Kognitiv with a view to market, distribute, license, sell, develop or provide any product or service competitive or potentially competitive with any product or service offered, sold, provided or under current development by Kognitiv.

(b) Contractor acknowledges that it is critical for Kognitiv to retain staff, including programmers, developers, managers, sales representatives, creative staff and other personnel. Accordingly, the Contractor covenants and agrees that the Contractor will not, at any time during the term of this Agreement and for a period of one (1) year after the expiry thereof, directly or indirectly, hire or enter into any contractual arrangement with or use the services of, or attempt to obtain the withdrawal from Kognitiv of anyone who is (or was within the prior six months) an employee or contract staff of Kognitiv, including by having any such persons employed as a Contractor or as an independent contractor.

9. Reasonableness; Remedies. The restrictions contained in Sections 5, 6, 7 and 8 of this Agreement (including without limitation their respective time, geographic and/or activity limitations) are considered by the parties hereto to be fair, reasonable and necessary for the protection of the legitimate business interests of Kognitiv. In the event Contractor is in breach of, or threatens to breach any such covenants of, this Agreement, Contractor acknowledges and agrees that Kognitiv will be greatly damaged and such damage(s) will be irreparable and difficult to quantify; therefore, Kognitiv will be entitled to injunctive or other equitable relief to restrain such breach or threat of breach, without impairing, invalidating, negating or voiding Kognitiv's rights to relief in either law or equity. In the event that any or all of the covenants hereunder are determined by a court of competent jurisdiction to be invalid or unenforceable, by reason that the breadth of restrictions is too great or for any other reason, these covenants shall be modified and interpreted to extend over the maximum geographic area, period of time, range of activities or other restrictions to which they may be enforceable.

10. Survival. Any section of this Agreement which by its nature survives after the termination or expiration hereof, including but not limited to Sections 2, 4(d) and 5 to 14 of this Agreement, shall survive termination or expiration of this Agreement. In addition, the Contractor's right to

Success Fee set forth on Exhibit A Statement of Work shall survive any termination of this Agreement by the Kognitiv for a period of 24-months.

11. Compliance with Laws. Contractor agrees that, in carrying out its duties and responsibilities under this Agreement, it will neither undertake nor cause, nor permit to be undertaken, any activity which either (i) is illegal under any applicable laws, decrees, rules or regulations, or (ii) would have the effect of causing Kognitiv to be in violation of any laws, decrees, rules or regulations.

12. Indemnification. In addition to any other indemnification covenants herein:

(a) Contractor undertakes and agrees that it will indemnify, save harmless and defend Kognitiv (in this Section 12 references to Kognitiv include, for certainty, its subsidiaries and affiliates) from and against, and will assist Kognitiv in investigating, all claims, allegations, demands, liabilities, penalties, losses, damages, administrative proceedings, lawsuits, causes of action or injuries, together with reasonable costs and expenses, including reasonable attorneys' fees, asserted against Kognitiv, or any of its managers, officers, employees and representatives, and their successors and assigns, customers and potential customers arising out of, or connected with or resulting from:

(i) Contractor's breach of any representation, obligation or warranty hereunder, Contractor's breach of any of its duties hereunder including the preparation of any Work Product, or performance of Services under this Agreement or any SOW;

(ii) Contractor's use of Intellectual Property or Confidential Information of another in the performance of its obligations hereunder without obtaining in writing a right of Kognitiv to copy and use such Intellectual Property or Confidential Information without restrictions and without compensation in connection with the provision of the Services and the use thereof by Kognitiv; or

(iii) Injuries or damages of any kind, including but not limited to personal injury, death, property damage, theft, or infringement, arising out of or resulting from Contractor's acts, including negligent or willful acts or omissions, performed in connection with this Agreement, or resulting from (A) the use of the Work Product or Services furnished hereunder, or (B) Contractor's failure to perform its obligations hereunder.

(b) With respect to any indemnity claim under this Section 12, Contractor shall have the right, with the prior written approval of Kognitiv, to settle any such claims on terms and conditions of Contractor's own selection, so long as such settlement in no manner limits, interferes with, or otherwise adversely affects Kognitiv's rights granted in this Agreement, and imposes no liability or restrictions on Kognitiv. In the event that Contractor fails to promptly investigate and defend or settle any claim as provided above, then Kognitiv shall have the right, but not the duty, from that time forward to have sole control of the defense of the claim and all negotiations for its settlement or compromise, and Contractor shall remain liable for and pay any amounts incurred by Kognitiv as a result thereof, and Contractor shall satisfy any resulting settlement, award or judgment thereof.

13. Limitation of Liability. The liability of Kognitiv for any action or award arising from or related in any way to this Agreement, including all fees and costs associated therewith, shall be limited to the fullest extent of applicable law to a sum equal to the fees paid by Kognitiv to Contractor solely for Services under this Agreement in the six (6) months preceding the claim.

14. Miscellaneous.

(a) Contractor shall not delegate its obligations hereunder without Kognitiv's written consent, and shall not assign or transfer this Agreement to any party without the prior written consent of Kognitiv. Kognitiv may assigns its rights, duties and obligations under this Agreement to (i) a subsidiary or affiliate or (ii) the purchaser of all or substantially all of Kognitiv's assets.

(b) The invalidity of any portion of this Agreement will not and shall not be deemed to affect the validity of any other provision, and any such finding of invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. In the event that any provision of this Agreement is held to be invalid or unenforceable, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision. It is expressly understood, however, that the parties hereto intend each and every provision of this Agreement to be valid and enforceable, and hereby knowingly waive all rights to object to any provision of this Agreement. Accordingly, if any part of this

Agreement is determined to be invalid or unenforceable pursuant to applicable law, then the invalid or unenforceable provision(s) will, rather than be stricken in their entirety, be deemed superseded by valid, enforceable provisions that most closely match the intent of the original provisions and the remainder of the Agreement shall continue in effect.

(c) This Agreement shall be governed by and interpreted in accordance with the laws of the Province of Ontario. Each of the parties hereto irrevocably attorns to the jurisdiction of the courts of the Province of Ontario.

(d) The headings and captions used in this Agreement are for convenience of reference only, and shall in no way define, limit, expand or otherwise affect the meaning or construction of any provision of this Agreement.

(e) Any notice required or permitted to be given pursuant to this Agreement shall be deemed sufficiently pursuant to this Agreement shall be deemed sufficiently given when: (i) delivered in person or deposited with an overnight courier that provides delivery receipt and (ii) sent by e-mail with receipt confirmed, in both cases to the address below (notices to Kognitiv shall be sent to each Authorized Representative with a copy to legal@kognitiv.com).

(f) Neither party shall be responsible for any delay or failure in performing any part of this Agreement when it is caused by fire, flood, explosion, war, strike, embargo, government requirement, civil or military authority, act of God, act or omission of carriers or other similar causes beyond its control (any of which may hereinafter be referred to as a "Condition"). If any such Condition occurs, the party delayed or unable to perform shall give immediate written notice to the other party, and the party affected by the delay or inability to perform of the other party may elect to terminate this Agreement or delay performance of this Agreement until the Condition ceases. Nothing set forth herein shall be construed to limit or restrict the right of a party to terminate this Agreement in accordance with the provisions of Section 4. The parties agree that any delay or failure to perform due to a breach of a covenant or warranty shall not be considered a Condition.

(g) This Agreement constitutes the entire agreement between Kognitiv and Contractor with respect to the subject matter of this Agreement, and supersedes any prior agreements or understandings, whether oral or written, between Kognitiv and Contractor with respect to such subject matter. No amendment or waiver of this Agreement or any provision hereof shall be

effective unless in writing signed by both of the parties.

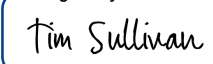
(h) This Agreement may be modified or waived only by a written instrument signed by each of Kognitiv and Contractor.

(i) This Agreement may be executed in one or more counterparts by original or electronic signature (via PDF), all of which shall be equally valid and binding on the parties and their respective affiliates.

[Signatures on Next Page.]

IN WITNESS WHEREOF, Contractor and Kognitiv have executed and delivered this Independent Contractor Agreement as of the Effective Date.

THE COMPANY: KOGNITIV CORPORATION

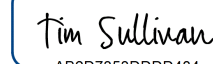
Signed by:

By: AB2D7353DDDD484...

Tim Sullivan
Name: _____

CEO
Title: _____

Address: 161 Bay Street, Office 2610, Suite 2700, Toronto, ON M5J 2S1

LOYALTY SOLUTIONS HOLDINGS US INC

Signed by:

By: AB2D7353DDDD484...

Tim Sullivan
Name: _____

CEO
Title: _____

Address: 100 N 6th Street, Suite 650C, Minneapolis, MN 55403

CONTRACTOR: ROYSTONE CAPITAL MANAGEMENT LP

Signed by:

By: 9086E7F9BA654D4...

Rich Barrera
Name: _____

Address: 767 THIRD AVENUE, 29TH FLOOR, New York, NY 10017

**EXHIBIT A
STATEMENT OF WORK**

Capitalized terms used but not defined herein shall have the meanings given to them in that certain Independent Contractor Agreement (the "Agreement"), by and between Kognitiv Corporation ("Kognitiv") and the undersigned contractor ("Contractor"). Subject to the terms and conditions of the Agreement:

SERVICES TO BE PERFORMED:

The Contractor's duties shall include, but not be limited to:

1. Provide strategic and technical restructuring advice for the maximization of value for stakeholders;
2. Review and analyze corporate and financial data and develop financial models;
3. Coordinate professional service providers including legal, and accounting and coordinate with Kognitiv board, executive, and employees;
4. Provide cash management oversight and advice;
5. Support negotiations with vendors;
6. Support dispute resolution processes;
7. Support the development of court filings and responses to court officer requests;
8. Develop strategic narrative, coordinate presentations and meetings to potential acquirers, investors, and other stakeholders;
9. Coordinate due diligence requests and organize data room;
10. Assess appropriate strategic options for the maximization of value;
11. Support negotiation of term sheets, letters of intent, and definitive agreements; and
12. Render such other services as may from time to time be reasonably requested by Kognitiv.

CONSIDERATION:

Advisory Fee. An advisory fee of \$60,000 CAD per month.

Success Fee. A success fee to be paid from immediately available funds equivalent to ten percent (10%) of the gross value of all financial recovery actually received by Kognitiv or any of its subsidiaries, including for certainty the gross value of the final closing purchase price from the sale of Kognitiv's assets, including under the *Bankruptcy and Insolvency Act* (Canada) or the US Bankruptcy Code (USC Title 11), the gross value of any settlement or judgment in favour of Kognitiv or any of its subsidiaries, from any outstanding disputes, the gross proceeds of any payment, settlement or judgment in favour of Kognitiv or any of its subsidiaries from any historic accounts receivable, notes payable or other forms of outstanding credit.

Tax. All or part of the amounts payable under this paragraph may be subject to federal, provincial or state sales tax (collectively, "**Tax**"). Where Tax is applicable, an additional amount equal to the amount of Tax owing will be charged to and paid by Kognitiv.

IN WITNESS WHEREOF, Contractor and Kognitiv have executed and delivered this Statement of Work as of the Effective Date.

KOGNITIV CORPORATION

Signed by:
By: Tim Sullivan
AB2D7333DDDD484...
Name: Tim Sullivan
Title: CEO

Address: 161 Bay Street, Office 2610, Suite 2700, Toronto, ON M5J 2S1

LOYALTY SOLUTIONS HOLDINGS US INC

Signed by:
By: Tim Sullivan
AB2D7333DDDD484...
Name: Tim Sullivan
Title: CEO

Address: 100 N 6th Street, Suite 650C, Minneapolis, MN 55403

CONTRACTOR: ROYSTONE CAPITAL PARTNERS

Signed by:
By: Rich Barrera
0086E7F0BA664B4...
Name: Rich Barrera

Address: 767 THIRD AVENUE, 29TH FLOOR, New York, NY 10017

Exhibit A**SUPPLIER CODE OF ETHICS**

Kognitiv Corporation and its affiliated companies (Kognitiv) are committed to conducting business with the highest degree of integrity and in full compliance with applicable laws and regulations. This Kognitiv Supplier Code of Ethics (the "Code") is intended to ensure that our suppliers, subcontractors, and other third parties ("Suppliers") understand and agree to comply with the following standards in all business dealings related to Kognitiv.

Kognitiv Suppliers must communicate these standards to all applicable individuals as well as their own subcontractors delivering products or performing services for Kognitiv. Those individuals and subcontractors must comply with Kognitiv supplier's contractual obligations, legal requirements, and this Code – including, for example, any notification and approval requirements.

Questions about this Code may be directed to any of the following:

- The Supplier's usual Kognitiv vendor manager or employee contact,
- Kognitiv's Legal Department at Legal@Kognitiv.com, and/or
- Kognitiv's Business Ethics Hotline at www.lighthouse-services.com/kognitiv

Compliance to laws and regulations

Kognitiv Suppliers must ensure they operate in compliance with all applicable laws and regulations.

Anti-money laundering

Money laundering refers to individuals or entities who try to conceal illicit funds or conduct/fabricate transactions to make these funds appear legitimate. Our Suppliers must not condone, facilitate, or support money laundering.

Anti-Tax Evasion

Tax evasion is the illegal non-payment or underpayment of a legally owed tax (tax evasion is different than tax avoidance or tax planning, which involves taking legitimate and legal steps to minimize tax liability). Our Suppliers must not commit, facilitate, or support tax evasion.

Anti-Corruption

Our Suppliers must not directly or indirectly offer or accept bribes, kickbacks, or anything else of value that could be interpreted as an attempt to fraudulently or unethically obtain or retain business on behalf of Kognitiv. Offering gifts to bribe is never permitted.

Conflicts of Interest

Suppliers shall ensure they do not participate in conduct or situations in which personal interests or the potential for personal gain may interfere with the best interests of Kognitiv or risk compromising the reputation of Kognitiv. Personal interests may include the interests of family or friends.

Suppliers must proactively disclose any obligation, commitment, relationship, or interest that could conflict or may be perceived to conflict with his or her duties to or interests of Kognitiv.

Loans, gifts, and entertainment

At Kognitiv, the giving or receiving of gifts or gratuities cannot conflict—or appear to conflict—with Kognitiv's commitment to high standards of business ethics. Suppliers and their personnel must not offer, give, ask for or accept, either directly or indirectly, payment, favors, gratuities or any other thing of value to or from an employee of Kognitiv or from an employee or agent of any actual or potential customer or supplier of Kognitiv, except as legally permissible and recognized as courtesies of the trade. Gifts of \$100 in value or less, or certificates and/or plaques having no intrinsic value, are exempt from the definition of gifts and/or gratuities, except that all payments, favors, gratuities or any other things of value to a political party, candidate, or government official relating to or connected in any way with Kognitiv require the prior approval of an attorney in Kognitiv's Legal department.

Business with family and friends

Our Suppliers must avoid potential conflict of interest that could arise from negotiating with or otherwise interacting with an Kognitiv employee that is a close friend or a family member including parent, siblings, spouse, children, in-laws, grandparents, grandchildren, step-relatives, or other person regularly residing in the same household.

Records

Our Suppliers must not intentionally disseminate false or misleading information or omit critical information that is essential to avoid misinformation. All business documentation, including but not limited to, invoices, and other financial or operational records, must be prepared accurately, in a timely fashion and appropriately reflect the nature and substance of all underlying transactions, payments, and events.

No Discrimination, valuing diversity and respect

We believe that a diverse workforce is critical to success and competitiveness in the global marketplace. We expect our Suppliers to value and support diversity and respect in the workplace. Suppliers shall not discriminate against, or harass, any person based on that person's race, creed, color, religion, gender, age, place of origin, ancestry, sexual orientation, mental or physical disability, marital status, family status, veteran status, genetic information, status with regard to public assistance, or any other legally protected classification.

Human Rights, Child Labor, Anti-Slavery and Wage and Hour Laws

Our Suppliers must support and protect internationally proclaimed human rights and ensure that they are not complicit in human rights abuses and must conduct their business in a manner consistent with all applicable employment and human rights laws and regulations wherever they operate. This means, in part, that they provide reasonable working hours and fair wages for those who work on their behalf and, that they never condone, facilitate, or support the use of child or forced labor, involuntary servitude or human trafficking practices within their organization or supply chain, Suppliers must maintain appropriate due diligence procedures with their supply chain to ensure compliance

Environmental Protection

At Kognitiv, we conduct our business in ways that are lawful and environmentally responsible, and expect our suppliers to do the same, such as undertaking initiatives that promote greater environmental responsibility.

Confidential information

Kognitiv Suppliers must take all appropriate security and legal measures to protect Kognitiv's confidential information, including information that is entrusted to Kognitiv by third parties. Confidential information includes personally identifiable information. Suppliers must ensure that they do not make use of, or disclose or transfer to any unauthorized individual or entity information which Kognitiv states is, or which could reasonably be determined to be confidential or proprietary information, personally identifiable information, or a trade secret, Kognitiv, or its clients.

Suppliers will respect the privacy of personally identifiable information which they may hold or have access to in the course of delivering products or services to Kognitiv and must comply fully with the terms of its agreements with Kognitiv and all applicable laws and regulations governing confidential information, including the collection, retention, use, transmission, disclosure and destruction of confidential information

Fair Competition

We expect our Suppliers to conduct their business fairly and in respect with Competition laws—sometimes referred to as “antitrust” laws. Suppliers shall not engage in collusive bidding, price discrimination, anti-competitive, antitrust, or other unfair trade practices.

Monitoring and Compliance

Suppliers must comply with the standards and requirements of this Supplier Code of Ethics and monitor their business activities. Suppliers must conduct periodic internal reviews, inspections, and audits to ensure their compliance with this Supplier Code of Ethics and its applicable requirements. Additionally, Suppliers must ensure that the standards and requirements of this Code

are communicated to their personnel and suppliers working on or in support of Kognitiv projects, jobs, contracts, agreements, and orders. Suppliers will be held responsible for the conduct and actions of their employees and suppliers.

Suppliers shall maintain appropriate records to substantiate compliance with the terms and conditions of this Code of Ethics and provide such evidence to Kognitiv upon request. Kognitiv may terminate a Supplier relationship, including any agreements for goods and/or services, without liability, for violation of this Supplier Code of Ethics.

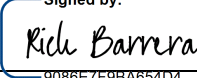
Application

This Supplier Code of Ethics is a general statement of Kognitiv's expectations and requirements with respect to its Suppliers. This Code should not be read in lieu of, but in addition to, any Supplier obligations set forth in a) requests for proposals, invitations to bid, or other solicitation documents, or b) agreements by and between Kognitiv and the Supplier. In the event of a conflict between this Code of Ethics and any Kognitiv solicitation documents or applicable agreements, the terms of Kognitiv's applicable solicitation documents or agreements will prevail.

Any suspected violations should be reported to:

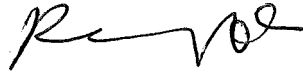
- Kognitiv's Legal Department at Legal@Kognitiv.com, and/or
- Kognitiv's Business Ethics Hotline at www.lighthouse-services.com/kognitiv

Kognitiv reserves the right, in its sole discretion, to interpret, discontinue, modify or amend its Supplier Code of Ethics from time to time with or without notice. Nothing contained in this Supplier Code of Ethics, or relating thereto, will be deemed to create an employer-employee relationship with Kognitiv, or a promise or commitment by Kognitiv of any kind whatsoever to or on behalf of anyone.

Signed by:

By 9086E7F9BA654D4...
Signature
Name Rich Barrera
Title Founder
Date March 31, 2025

By _____
Signature
Name _____
Title _____
Date _____

This is Exhibit "L" of
the Affidavit of **GRANT MCLEOD**
Sworn before me this 9th day of February 2026

A handwritten signature in black ink, appearing to read 'Reem Atallah', written over a horizontal line.

A Commissioner, etc.

Reem Atallah, a
Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 28, 2026.

TERMINATION AGREEMENT

THIS AGREEMENT is entered into as of the 31st day of March, 2025 (the “**Termination Date**”) by and between Kognitiv Corporation (the “**Vendor**”) and Capillary Pte. Ltd. (“**Capillary**”, and together with the Vendor, the “**Parties**”).

WHEREAS:

- A. The Parties entered into a share purchase agreement on March 7, 2025 under which the Vendor agreed to sell to Capillary all of the outstanding securities of its direct wholly-owned subsidiary Loyalty Solutions Holdings Inc. (“**Loyalty Solutions**”), which in turn holds all of the outstanding securities of Kognitiv US LLC (“**Kognitiv US**”) and Kognitiv Solutions Inc. (“**Kognitiv Solutions**”), comprising the entire business operation of the Vendor (the “**Initial Agreement**”).
- B. Following the execution of the Initial Agreement, Vendor and Capillary agreed to restructure the transactions contemplated under the Initial Agreement and desire to enter into an asset purchase agreement between Kognitiv US and Capillary Technologies Ltd. (the “**Purchaser**”), an affiliate of Capillary, and a purchase and sale agreement between Loyalty Solutions and the Purchaser (collectively, the “**Purchase Agreements**”).
- C. In order to effect the execution of the Purchase Agreements, the Parties wish to mutually terminate the Initial Agreement.

NOW THEREFORE, in consideration of the covenants, conditions and agreements contained herein (the receipt and sufficiency of which are hereby acknowledged by the parties hereto), the Parties hereto agree as follows:

- 1. The Parties agree that the Initial Agreement shall be terminated as of the Termination Date.
- 2. The Parties agree and acknowledge that none of the provisions of the Initial Agreement shall survive.
- 3. This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors (including any successors by reason of amalgamation or statutory arrangement of any party) and permitted assigns.
- 4. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.
- 5. This Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

[execution page follows]

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

KOGNITIV CORPORATION

By:  8FA4DA44415F495...

CAPILLARY PTE. LTD.

By: _____

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

KOGNITIV CORPORATION

By: _____

CAPILLARY PTE. LTD.

By: anant.chaubey

This is Exhibit "M" of
the Affidavit of **GRANT MCLEOD**
Sworn before me this 9th day of February 2026

A handwritten signature in black ink, appearing to read 'Reem Atallah', written over a horizontal line.

A Commissioner, etc.

Reem Atallah, a
Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 28, 2026.

**WRITTEN CONSENT OF THE SOLE
DIRECTOR OF LOYALTY SOLUTIONS
HOLDINGS US INC.**

March 31, 2025

The undersigned, being the sole director of Loyalty Solutions Holdings US Inc., a Delaware corporation (the "**Corporation**"), records that effective as of the date hereof, in lieu of holding a special meeting of the stockholders, it does hereby consent to the adoption of and does hereby adopt the following resolutions in writing:

WHEREAS the Board has determined it is in the Corporation's best interest to establish a retention and incentive pool comprising two and a half percent (2.5%) of the gross Transaction sale price (the "**Retention and Incentive Pool**") to retain and incentivize key executives, employees, and advisors (the "**Incentivized Employees**"), as identified in Exhibit A attached hereto, as may be modified from time-to-time in accordance with this resolution, (the "**Retention and Incentive Exhibit**"); and

WHEREAS the Board has determined it is in the Corporation's best interest to grant retention and incentive pay to the Incentivized Employees according to the Retention and Incentive Exhibit, as may be modified from time-to-time, upon the closing of a Transaction to incentivize and retain the Incentivized Employees to support a successful Transaction for the benefit of all stakeholders of the Corporation;

BE IT RESOLVED THAT:

1. the Retention and Incentivization Payments, as modified, are authorized and approved;
2. any officer or director of the Corporation (the "**Authorized Signatory**"), is hereby authorized to modify the allocation to individual Incentivized Employees in the Authorized Signatory's sole and absolute discretion, so long as the entire Retention and Severance Pool is allocated to Incentivized Employees; and
3. the Authorized Signatory is hereby authorized and directed for and on behalf of the Corporation to take such action and to sign such further documents, whether under corporate seal or otherwise, as may be necessary or desirable to give full force and effect to this resolution and the Retention and Incentive Payments authorized and approved by this resolution.

[signature page follows]

IN WITNESS WHEREOF, the undersigned, being the sole director of the Corporation has signed this instrument as of the date first set out above.

**LOYALTY SOLUTIONS HOLDINGS US
INC. the sole director**

By:

DocuSigned by:
Griffin Rotman
8FA4DA44415F495...

Griffin Rotman, Director

Retention and Incentive Payment

Incentivized Employee	Retention and Incentive Payment
Tim Sullivan	27.3% of the Retention and Incentive Pool
Anthony Wintheiser	13.6% of the Retention and Incentive Pool
Dena Escobedo	13.6% of the Retention and Incentive Pool
Grant McLeod	13.6% of the Retention and Incentive Pool
Megan Mitchell	13.6% of the Retention and Incentive Pool
Navid Khan	4.5% of the Retention and Incentive Pool
Greg Schneider	2.3% of the Retention and Incentive Pool
Bruce Trommelen	2.3% of the Retention and Incentive Pool
Sara Ringold	2.3% of the Retention and Incentive Pool
Stephane Barichello	2.3% of the Retention and Incentive Pool
Harry Frazer	2.3% of the Retention and Incentive Pool
Michelle Oss	2.3% of the Retention and Incentive Pool

This is Exhibit "N" of
the Affidavit of **GRANT MCLEOD**
Sworn before me this 9th day of February 2026

A handwritten signature in black ink, appearing to read 'Reem Atallah', written over a horizontal line.

A Commissioner, etc.

Reem Atallah, a
Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 28, 2026.

ASSET PURCHASE AGREEMENT

THIS AGREEMENT is made as of March 31, 2025

BETWEEN:

KOGNITIV US LLC, a limited liability company existing under the laws of the State of Delaware (the “**Vendor**”)

- and -

CAPILLARY TECHNOLOGIES LLC., a limited liability company existing under the laws of the State of Delaware (the “**Purchaser**”)

RECITALS

WHEREAS:

- A. On December 12, 2024, Kognitiv Corporation (the “**Parent**”), the sole indirect owner of Vendor, filed a Notice of Intention to Make a Proposal pursuant to Section 50.4 of the *Bankruptcy and Insolvency Act* (Canada), bearing Court File No. BK-25-03165297-0031 (the “**Proposal Proceedings**”), and BDO Canada Limited (“**BDO**”) consented to act as trustee under the Proposal Proceedings.
- B. As part of the Proposal Proceedings, Vendor, with the assistance of the BDO, solicited offers over a period of approximately 90 days for the sale of the Parent’s operating business which it holds indirectly through its wholly-owned subsidiary Loyalty Solutions Holdings US Inc. (the “**Loyalty Solutions**”), a corporation existing under the laws of the State of Delaware, which itself holds certain intellectual property assets, and holds all of the outstanding shares of each of Vendor and Kognitiv Solutions Inc. (“**Kognitiv Solutions**”, and collectively with Vendor, the “**Subsidiaries**”).
- C. On March 7, 2025, the Parent and Capillary Pte. Ltd. (“**Capillary**”), an Affiliate of the Purchaser, entered into a share purchase agreement under which Parent would sell all of the outstanding securities of Vendor, comprising the entire business operation of the Parent (the “**Initial Agreement**”).
- D. Following the execution of the Initial Agreement, Capillary and the Parent agreed to restructure the transactions contemplated under the Initial Agreement and terminate the Initial Agreement.
- E. Concurrently with the termination of the Initial Agreement, and concurrently with and as a condition to the execution of this Agreement, Purchaser entered into a purchase and sale agreement with Loyalty Solutions pursuant to which Purchaser agreed to acquire certain assets of Loyalty Solutions, including all of the issued and outstanding shares of Kognitiv Solutions held by Loyalty Solutions (the “**Loyalty PSA**”).
- F. Vendor intends to file a voluntary petition for relief (the “**Chapter 11 Case**”) pursuant to chapter 11 of Title 11 of the United States Code (the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”), with the intention of having the Transaction (as defined below) approved by the Bankruptcy Court.

- G. Pursuant to the Bankruptcy Code, Vendor intends to, *inter alia*, sell, convey, and transfer the Purchased Assets to Purchaser outside of the ordinary course of business.
- H. Subject to the approval of the Bankruptcy Court, Vendor desires to sell, and Purchaser desires to purchase, the Purchased Assets, on and subject to the terms and conditions of this Agreement and the Sale Order.

NOW THEREFORE, in consideration of the premises and the covenants and agreements herein contained, the Parties agree as follows:

Article 1 **- INTERPRETATION**

1.01 Definitions

In this Agreement, (including in the recitals above) unless something in the subject matter or context is inconsistent therewith:

“Acquired Accounts Receivable” has the meaning set out in the definition of *Purchased Assets*.

“Affiliate” of a specified Person means any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with the specified Person. As used in this definition, “control”, “controlled by” and “under common control with” means possession, directly or indirectly, of power to direct or cause the direction of management or policies of such Person (whether through ownership of securities or other partnership or ownership interests, by contract or otherwise); provided that in any event, any Person which owns directly, indirectly or beneficially more than 50% of the securities having voting power for the election of directors or other governing body of a corporation or more than 50% of the partnership interests or other ownership interests of any other Person will be deemed to control such Person.

“Aged Accounts Receivable” means (a) any accounts receivable aged greater than 60 days, (b) any amounts owing by customers of Vendor that have terminated their contracting relationship with Vendor and which are not recoverable, and (c) such amounts as more particularly set out in Schedule 1.01 hereto.

“Agreement” means this purchase agreement, including its recitals, schedules and exhibits attached hereto, as same may be amended, restated or replaced from time to time in accordance with the terms hereof.

“Applicable Law” means, in respect of any Person, property, transaction or event, any domestic or foreign statute, Laws (including the common law), ordinance, rule, regulation, treaty, restriction, regulatory policy, standard, code or guideline, by-law or order, in each case, having the force of law, that applies in whole or in part to such Person, property, transaction or event.

“Assumed Liabilities” means (a) the Pre-Closing Assumed Liabilities, and (b) all liabilities and obligations arising out of or related to the Purchaser’s ownership or operation of the Purchased Assets after the Closing.

“Authorizations” means any authorizations, registrations, permits, certificates of approval, approvals, grants, licences, quotas, consents, commitments, rights or privileges (other than those relating to Intellectual Property) issued or granted by any Governmental Authority.

“Avoidance Actions” means any and all claims and rights of Vendor under chapter 5 of the Bankruptcy Code.

“Bankruptcy Code” has the meaning set forth in the preamble.

“Bankruptcy Court” has the meaning set forth in the preamble.

“BDO” has the meaning set forth in the preamble.

“Business” means, as applicable the business conducted by Vendor, being the provision of loyalty technology and services.

“Business Day” means a day other than a Saturday, Sunday or any day on which banking institutions in the State of Delaware, USA or New York City, NY, USA are not open for business.

“Capillary” has the meaning ascribed in the recitals hereto.

“Closing” means the successful completion of the Transaction.

“Closing Date” means the tenth (10th) calendar day following the date on which the Sale Order is issued, or such other date as agreed upon in writing by Vendor and Purchaser.

“Closing Time” means 12:01 a.m. (Eastern Time) on the Closing Date, or such other time on or after the Closing Date as may be mutually agreed to by Purchaser and Vendor; provided that the Closing Date shall be no later than the Outside Date.

“Confidential Information” means any information with respect to Purchaser or the Business, including the terms of any Contract to which any of the foregoing is a party, and other information regarding any customer or supplier, including methods of operation, customer lists, products, prices, fees, costs, technology, inventions, trade secrets, know-how, Software, marketing methods, plans, personnel, suppliers, competitors, markets or other specialized information or proprietary matters; provided, that “Confidential Information” does not include any information that: (a) is generally available to the public on the date of this Agreement other than as a result of a disclosure by Vendor or its Affiliates; or (b) becomes available to Vendor or its Affiliates on a non-confidential basis other than as a result of a disclosure that is prohibited hereunder or from a source other than Purchaser which is not known by Vendor, following reasonable inquiry, to be bound by a confidentiality agreement with Purchaser or otherwise prohibited from disclosing the information to Vendor.

“Contingent Assets” means any and all amounts, awards, gains or assets becoming due or otherwise accrued to Vendor originating, directly or indirectly, from the Cora Transaction.

“Contract” means any contract, agreement, license, franchise, lease, loan, or rental permit, arrangement, commitment or other right or obligation to which a Person is a party or by which such Person is bound or affected or has actual or contingent entitlements or obligations.

“Cora Transaction” means the sale of Kognitiv Corporation’s Enterprise Loyalty Platform pursuant to an asset purchase agreement dated July 5, 2024 and entered into between by Loyalty Solutions Canada Inc., Kognitiv Australia Pty Ltd., Kognitiv US LLC, AIMIA Middle East Free Zone LLC, Kognitiv Singapore Pte Ltd., and Kognitiv Corporation as vendors, and Gary Jonas Computing Ltd., CORA Group Australia Pty Ltd., Jonas Computing (UK) Limited, Jonas Food Holdco Inc. as purchasers.

“Cure Costs” means monetary amounts that must be paid and obligations that otherwise must be satisfied under sections 365(b)(1)(A) and (B) of the Bankruptcy Code in connection with the assumption or assignment of any Purchased Contract, as agreed upon by the necessary parties or determined by the

Bankruptcy Court.

“Excluded Assets” means all assets of Vendor other than the Purchased Assets, including for greater certainty, the Contingent Assets and the Aged Accounts Receivable.

“Excluded Liabilities” means any liabilities and obligations of Vendor other than the Assumed Liabilities, including for greater certainty any liabilities relating to the Cora Transaction.

“Final Order” means with respect to any order or judgment of the Bankruptcy Court, or any other court of competent jurisdiction, that such order or judgment has not been vacated, set aside, reversed, stayed, modified or amended, and as to which the applicable periods to appeal, or seek certiorari or move for a new trial, reargument, or rehearing has expired and no appeal, leave to appeal, or petition for certiorari or other proceedings for a new trial, reargument, or rehearing has been timely taken or filed, or as to which any appeal has been taken or any petition for certiorari or leave to appeal that has been timely filed has been withdrawn or resolved in a manner acceptable to Vendor and Purchaser, each acting reasonably, by the highest court to which the order or judgment was appealed or from which leave to appeal or certiorari was sought or the new trial, reargument, or rehearing shall have been denied, resulted in no modification of such order or has otherwise been dismissed with prejudice.

“General Conveyance” has the meaning set out in Section 6.01(3).

“Governmental Authority” means any domestic, foreign or multi-national, national, state, provincial, territorial or local government, any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, department, bureau or entity, or any arbitrator with authority to bind a Party at law.

“Initial Agreement” has the meaning set forth in the preamble.

“Intellectual Property” means any and all intellectual property or proprietary rights of every kind and description anywhere in the world, whether registered or unregistered, including the following (a) patents, patent applications, patent disclosures, invention disclosures and inventions (whether or not patentable and whether or not reduced to practice) and any reissue, continuation, continuation-in-part, divisional, revision, extension or reexamination thereof, (b) industrial designs, industrial design applications, industrial design disclosures, and any reissue, continuation-in-part, divisional, revision, extension or reexamination thereof, (b) Internet domain names, internet protocol addresses, trademarks, service marks, trade dress, logos, slogans, company names, trade names, corporate names, social media handles and phone numbers containing any of the foregoing, (and all translations, adaptations, derivations and combinations of the foregoing), and registrations, applications for registration and renewals thereof together with all of the goodwill associated therewith, (d) copyrights (registered or unregistered) and copyrightable works, moral rights (and other similar rights) and registrations, applications for registration and renewals thereof, (e) rights in Software (in both source code and object code form) and documentation thereof, (f) rights in technology and documentation thereof, and (g) trade secrets and other information of a confidential nature (including ideas, formulas, recipes, compositions, know-how, manufacturing and production processes and techniques, research and development information, drawings, specifications, designs, plans, proposals, data and databases, algorithms, information, financial and marketing plans and customer and supplier/vendor lists and information).

“knowledge” means the actual knowledge after reviewing all relevant records and making reasonable inquiries regarding the relevant matter, including consulting with appropriate Persons responsible for the relevant subject matter.

“Kognitiv Solutions” has the meaning set forth in the preamble.

“Laws” means all laws, statutes, codes, ordinances, decrees, rules, standards, orders-in-council, regulations, by-laws, statutory rules, principles of law, published policies and guidelines (whether or not having the force of law), judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings or awards, including general principles of common and civil law, and terms and conditions of any grant of approval, permission, authority or license of any Governmental Authority, statutory body, or self-regulatory authority (including stock exchanges or markets), and the term **“applicable”** with respect to such Laws and in the context that refers to one or more Persons, means that such Laws apply to such Person or Persons or its or their business, undertaking, property or securities and emanate from a Person having jurisdiction over the Person or Persons or its or their business, undertaking, property or securities.

“Liens” means any claim, encumbrance, right or interest against or in the Purchased Assets, their related business operations or any other related assets of any kind whatsoever and includes a security interest, mortgage, lien, hypothec, pledge, assignment, charge, title retention agreement, non-disposal undertaking, option, trust or deemed trust (whether contractual, statutory or otherwise arising), licence and any covenant or other agreement, restriction or limitation (including any covenants contained in the asset purchase agreement for the Cora Transaction) relating to the Purchased Assets, their related business operations, or other related assets or the transfer of the Purchased Assets to Purchaser pursuant to this Agreement.

“Loyalty PSA” has the meaning set forth in the preamble.

“Loyalty Solutions” has the meaning set forth in the preamble.

“Made Available” means available in the *Firmex* virtual data room titled “Project Coppola” organized by the BDO or otherwise provided in writing to Purchaser by the Parent.

“Material Adverse Effect” means any result, fact, change, occurrence, event or development that, individually or in the aggregate, materially and adversely affects, or could reasonably be expected to (a) materially and adversely affect, the ability of Vendor to consummate the Transaction in a timely manner or to perform their respective obligations hereunder, or (b) have a material adverse effect on the business, properties, assets, results of operations or financial condition of Vendor. Notwithstanding the foregoing, solely for the purposes of the foregoing clause (b), none of the following, either alone or in combination, shall be deemed to constitute, or be taken into account in determining whether there has been, such a material adverse effect: any change, occurrence, event or development: (i) arising from general economic, political, financial, banking, credit or securities market conditions, including any disruption thereof and any interest or exchange rate fluctuations; (ii) arising from the announcement or performance of, or compliance with, or the public or industry knowledge of, this Agreement or the Transaction; (iii)(A) arising from any changes or changes in interpretation of accounting rules or (B) arising out of, resulting from or attributable to any action required to be taken under any Applicable Law; (iv) arising from natural disasters, acts of terrorism or war (whether or not declared) or epidemics or pandemics or orders relating thereto; provided, however, that any change, occurrence, event or development referred to in clauses (i), (iii) or (iv) immediately above shall be taken into account in determining whether a Material Adverse Effect has occurred or could reasonably be expected to occur to the extent and only to the extent that such change, occurrence, event or development has a disproportionate effect on Vendor compared to other participants in the industries in which Vendor conducts its Business.

“Material Contracts” has the meaning set out in Section 3.01(6).

“Non-Solicitation Agreement” means the Non-Solicitation and Non-Circumvention Agreement entered

into between the Parent and the Purchaser on February 25, 2025, as amended March 31, 2025.

“Offered Employees” means those individuals set out in Schedule 1.02 hereto.

“Order” means any order, judgment, writ, injunction, stipulation, award or decree.

“Outside Date” means May 31, 2025 or such later date agreed to by each of Vendor and Purchaser in writing.

“Parties” means, collectively, Vendor and Purchaser and **“Party”** means any one of them.

“Person” means any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, limited liability company, trust, trustee, executor, administrator or other legal personal representative, Governmental Authority or entity however designated or constituted.

“Personal Information” means information in the possession or under the control of Vendor about an identifiable individual.

“Pre-Closing Assumed Liabilities” means all accounts payable arising out of the Purchased Assets outstanding as at Closing, other than those accounts payable arising out of or relating to the Excluded Assets.

“Pre-Closing Period” has the meaning set forth in Section 5.01(2).

“Proposal Proceedings” has the meaning set forth in the preamble.

“Purchaser” has the meaning set forth in the preamble.

“Purchase Price” has the meaning set out in Section 2.04.

“Purchased Assets” means all rights, title and interest in and to all of the assets, property and undertaking of Vendor including the following assets but excluding the Excluded Assets:

- (a) all accounts receivable, trade accounts receivable, notes receivable, book debts and other debts owing, due or accruing due to Vendor in connection with the Purchased Contracts (the **“Acquired Accounts Receivable”**) and the full benefit of all security for the Acquired Accounts Receivable;
- (b) all books (other than minute books), ledgers, files, lists, reports, logs, deeds, surveys, correspondence, operating records, marketing plans, and other data and information, including all data and information stored on computer-related or other electronic media maintained in connection with the Business;
- (c) the Purchased Contracts;
- (d) Avoidance Actions; and
- (e) all office equipment and computer equipment of, and used by, the Transferred Employees that is owned by Vendor.

“Purchased Contracts” means those Contracts set out in Schedule 1.03 hereto.

“Rejected Contracts” means those Contracts set out in Schedule 1.03 hereto.

“Remedies Exception” means such limitations as may be imposed by applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors’ rights generally, and by laws related to the availability of specific performance, injunctive relief or other equitable remedies.

“Sale Order” means an order issued by the Bankruptcy Court in a form approved in writing by the Purchaser (acting reasonably) authorizing (i) the sale, transfer, assignment, conveyance and delivery of the Purchased Assets to Purchaser (or its nominee, successors or permitted assigns) free and clear of all Liens, (ii) the assumption and assignment to Purchaser of the Purchased Contracts; (iii) the assumption by Purchaser of the Assumed Liabilities; and (iv) the rejection of the Rejected Contracts. The Sale Order shall contain, among others, the following provisions:

- (a) Vendor is authorized to proceed with the Transaction pursuant to section 363(b), (f), and (m) of the Bankruptcy Code;
- (b) Any objections with respect to this Transaction are withdrawn, waived or overruled;
- (c) The Purchase Price represents the fair value of the Purchased Assets and Purchased Contracts;
- (d) The Sale is in the best interests of Vendor's estate and its creditors;
- (e) A finding that the Purchaser has acted in good faith and is entitled to the protections afforded by section 363(m) of the Bankruptcy Code;
- (f) The Bankruptcy Court shall retain jurisdiction for the purpose of enforcing the provisions of the Sale Order and to determine disputes thereunder;
- (g) The Purchased Contracts shall be assumed and assigned to Purchaser in accordance with section 365 of the Bankruptcy Code effective as of the Closing Date and Vendor shall be responsible to pay all Cure Costs pursuant to section 365(b) of the Bankruptcy Code to counterparties to the Purchased Contracts;
- (h) the Rejected Contracts shall be rejected in accordance with section 365 of the Bankruptcy Code upon entry of the Sale Order;
- (i) a finding that none of the Parent, Vendor or Purchaser have engaged in any conduct that would cause or permit the Purchase Agreement to be avoided or costs and damages to be imposed under section 363(n) of the Bankruptcy Code
- (j) Vendor and Purchaser shall be authorized to close this transaction immediately upon entry of the Sale Order;
- (k) The sale to Purchaser of the Purchased Assets shall be free and clear of any and all Liens and related claims;
- (l) That all persons holding Liens of any kind or nature whatsoever in, to or against the Purchased Assets or Purchased Contracts or the operation of the Purchased Assets or Purchased Contracts shall be forever barred, estopped, and permanently enjoined from asserting against the Purchaser,

its business operations and employees or any of its successors, assigns or property (including the Purchased Assets), any Liens or rights existing, accrued or arising prior to the Closing

- (m) A finding that Purchaser is not a successor in interest to or continuation of the Parent, Vendor, their affiliates or their respective estates and shall have no successor liability under any theory for the obligations of any Parent, Vendor or their affiliates.
- (n) Provide for the waiver of the requirements under the Federal Rules of Bankruptcy Procedure 6004(h) and 6006(d);
- (o) Proper and adequate notice and an opportunity to be heard in accordance with all applicable law were given to all necessary parties in the Chapter 11 Case; and
- (p) The Transaction does not include personally identifiable information under section 363(b)(1)(B) and, thus, the appointment of a consumer privacy ombudsman is not required under Bankruptcy Rule 6004(g).

“Software” means software, including all versions thereof, whether installed locally, on a local area network or delivered through the internet, and all related documentation, manuals, source code and object code, program files, data files, computer related data, field and data definitions and relationships, data definition specifications, data models, program and system logic, interfaces, program modules, routines, sub-routines, algorithms, program architecture, design concepts, system designs, program structure, sequence and organization, screen displays and report layouts, including any and all modifications, changes, release, versions, upgrades, updates or patches of any of the foregoing, and all other material related to such software.

“Statutory Plans” means benefit plans that Vendor is required by domestic or foreign statutes to participate in or contribute to in respect of an employee, director or officer or any beneficiary or dependent thereof, including plans administered pursuant to applicable health, tax, workplace safety insurance, federal or provincial pension plan, workers’ compensation and employment insurance legislation.

“Subsidiaries” has the meaning set forth in the preamble.

“Tax Returns” means all returns, declarations, designations, forms, schedules, reports, elections, notices, filings, statements (including withholding tax returns and reports, and information tax returns and reports) and other documents of every nature whatsoever filed or required to be filed with any Taxing Authority with respect to any Taxes, together with all amendments and supplements thereto.

“Taxes” means taxes, duties, fees, premiums, assessments, imposts, levies and other charges of any kind whatsoever (including withholding on amounts paid to or by any Person) imposed by any Taxing Authority, including all interest, penalties, fines, additions to tax or other additional amounts in respect thereof, and including those levied on, or measured by, or referred to as, income, gross receipts, profits, capital, transfer, land transfer, value added, consumption, sales, use, excise, stamp, withholding, business, franchising, property, development, occupancy, employer health, payroll, employment, health, disability, severance, unemployment, social services, education and social security taxes, all surtaxes, all customs duties and import and export taxes, countervail and anti-dumping, all license, franchise and registration fees and all employment insurance, health insurance and other government pension plan premiums or contributions, and **“Tax”** means any one of the Taxes.

“Taxing Authorities” means any Governmental Authorities responsible for the administration, imposition or collection of any Tax, and **“Taxing Authority”** means any one of the Taxing Authorities.

“Transaction” means the sale of the Purchased Assets by Vendor to Purchaser, including the assumption and assignment of the Purchased Contracts to Purchaser, the assumption of the Assumed Liabilities by Purchaser, and Vendor’s rejection of the Rejected Contracts.

“Transfer Taxes” has the meaning set forth in Section 2.05.

“Transferred Employees” means those Offered Employees who accept the offer of employment or engagement made by Purchaser effective on or before the Closing Date.

“Vendor” has the meaning set out in the preamble.

1.02 Headings, etc.

The division of this Agreement into Articles and Sections is for convenience of reference only and does not affect the construction or interpretation of this Agreement. The terms “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles, Sections and Schedules are to Articles, Sections and Schedules to this Agreement.

1.03 Extended Meanings

In this Agreement, words importing the singular include the plural and vice versa and words importing gender include all genders. The term “including” means “including, without limitation,” and such terms as “includes” have similar meanings and the term “third party” means any other person other than Vendor or Purchaser, or any Affiliates thereof.

1.04 Statutory References

In this Agreement, unless something in the subject matter or context is inconsistent therewith or unless otherwise herein provided, a reference to any statute is to that statute as now enacted or as the same may from time to time be amended, re-enacted or replaced and includes any regulations made thereunder.

1.05 Currency

All references to currency herein are to lawful money of Canada unless otherwise expressly provided.

1.06 Schedules

All Schedules shall form part of this Agreement.

1.07 Non-Business Days

Whenever payments are to be made or an action is to be taken on a day which is not a Business Day, such payment will be made or such action will be taken on or not later than the next succeeding Business Day.

1.08 Time Periods

Unless otherwise specified, time periods shall be calculated by excluding the day on which the period commences and including the day on which the period ends.

1.09 Invalidity of Provisions

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof so long as the economic or legal substance of the Transaction is not affected in any manner materially adverse to any Party. Upon such a determination of invalidity or unenforceability, the Parties shall negotiate to modify this Agreement in good faith so as to affect the original intent of the Parties as closely as possible in an acceptable manner so that the Transaction be consummated as originally contemplated to the fullest extent possible.

Article 2 **– PURCHASE AND SALE**

2.01 Purchase and Sale

Subject to the terms and conditions of this Agreement, Vendor hereby agrees to sell, assign and transfer to Purchaser, and Purchaser hereby agrees to purchase from Vendor on the Closing Date, effective as of the Closing Time, the Purchased Assets, free and clear of all Liens pursuant to the Sale Order.

2.02 Assumed Liabilities

Subject to the terms and conditions of this Agreement, at Closing, effective as of the Closing Time, Purchaser shall assume the Assumed Liabilities.

2.03 Excluded Assets & Liabilities

The Parties acknowledge and agree that Purchaser is not acquiring the right or benefit to the Excluded Assets and hereby expressly disclaims any interest therein. Accordingly, and notwithstanding any representation or warranty in this Agreement to the contrary, Purchaser acknowledges and agrees that:

- (1) Purchaser shall use best efforts in co-operation with Vendor or its nominee, to take all necessary action and do all such things as are necessary in order to pay, deliver, or otherwise convey to Vendor all right, title and interest in and to the Excluded Assets; and
- (2) pending the effective transfer of the Excluded Assets, Purchaser shall hold all rights or entitlements that Purchaser has in those Excluded Assets in trust for the exclusive benefit of Vendor.

Purchaser does not assume any of the Excluded Liabilities and, as between the Parties, the Excluded Liabilities will remain the sole responsibility of Vendor and will not form part of the Assumed Liabilities.

2.04 Purchase Price

On the Closing Date, the purchase price payable by Purchaser to Vendor for the Purchased Assets shall be an amount equal to \$17,280,000 (the “**Purchase Price**”), as may be adjusted by the Vendor and the Purchaser in writing.

2.05 Transfer Taxes

The Purchase Price is inclusive of any applicable sales, value-added, use, transfer, land transfer or other similar Taxes (“**Transfer Taxes**”). Vendor shall be responsible for paying any Transfer Taxes applicable to the purchase and sale of the Purchased Assets under this Agreement.

2.06 Closing

The Closing shall take place on the Closing Date, effective as of the Closing Time electronically by exchange of executed pdf documents.

Article 3 - REPRESENTATIONS AND WARRANTIES

3.01 Representations and Warranties of Vendor

Vendor represents and warrants to Purchaser and acknowledges that Purchaser is relying upon the following representations and warranties in connection with the Transaction:

- (1) *Organization* – Vendor is a limited liability company duly organized, validly existing and in good standing under the laws of Delaware.
- (2) *Due Authorization and Enforceability* – Subject to the issuance of the Sale Order: (i) Vendor has the power, authority and right to enter into and deliver this Agreement and to perform its obligations hereunder; (ii) the execution, delivery and performance by Vendor of its obligations under this Agreement, and the consummation by Vendor of the Transaction, has been duly authorized and approved by all required action on the part of Vendor; and (iii) this Agreement constitutes a valid and legally binding obligation of Vendor, enforceable against it in accordance with its terms.
- (3) *Title to Purchased Assets* - Subject to the Sale Order, Vendor has good and valid title to the Purchased Assets. None of the Purchased Assets are leased or licensed from any Person.
- (4) *No Conflict* - The execution by Vendor of this Agreement and the consummation of the Transaction:
 - (i) does not and will not (or would not with the giving of notice, the lapse of time or both, or the happening of any other event or condition) constitute or result in a violation or breach of, or conflict with, or allow any Person to exercise any rights under, any of the terms or provisions of the organizational documents of Vendor;
 - (ii) does not and will not (or would not with the giving of notice, the lapse of time or both, or the happening of any other event or condition) constitute or result in a breach or violation of, or conflict with, or allow any Person to exercise any rights under, or give any Person a basis for accelerated or increased rights of termination or non-performance under, any Purchased Contract;
 - (iii) does not and will not result in the violation of any Law or Order;
 - (iv) does not and will not result in a breach of, or cause the termination or revocation of, any permit forming part of the Purchased Assets; and
 - (v) does not and will not result in the creation or imposition of any Liens upon the Purchased Assets.
- (5) *Recitals* - The recitals set forth at the beginning of this Agreement are accurate and complete in all material respects as of the date of this Agreement and fairly describe the facts and circumstances leading to the execution of this Agreement.
- (6) *Contracts* - Vendor has Made Available to Purchaser true and correct copies of the

Purchased Contracts (the “**Material Contracts**”). Each of the Material Contracts (1) sets forth the entire agreement and understanding between Vendor and the other parties thereto, (2) subject to requisite Bankruptcy Court approvals, and assumption by Purchaser of the applicable Purchased Contract in accordance with Applicable Law (including satisfaction of any applicable Cure Costs) and except as a result of the commencement of the Chapter 11 Case, is valid, binding, and in full force and effect, subject to the Remedies Exception, enforceable in accordance with its terms. Except for the Chapter 11 Case, there is no event or condition that occurred or exists that constitutes or that, with or without notice, the happening of any event and/or the passage of time, would reasonably be expected to constitute a material default or breach under any such Purchased Contract by Vendor, or could cause the acceleration of any obligation or loss of any rights of any party thereto or give rise to any right of termination or cancellation thereof, and, no written allegation of any such event or condition has been made to Vendor. Vendor has not waived any material rights under any Material Contract. No Material Contracts contain any restrictive covenants.

(7) *Labour and Employment Matters*

- (i) Vendor has Made Available to Purchaser a true, correct and complete list of the names, salaries, wage rates, commissions, bonus arrangements, benefits, positions, status as full-time or part-time employees, location of employment, cumulative length of service with Vendor of the Offered Employees. Vendor has Made Available to Purchaser all information regarding the Offered Employees’ annual vacation entitlement and their accrued and unused vacation days, including end-of-service and defined benefit obligations that have accrued to the Offered Employees through the Closing Date in connection with their employment prior to Closing pursuant to Statutory Plans. Vendor has Made Available to Purchaser all current employment agreements in respect of the Offered Employees.
- (ii) To the knowledge of Vendor, no Offered Employee is in violation of any term of any employment contract, contract of engagement, services agreement, proprietary information agreement or any other agreement relating to the right of that individual to be employed, engaged or retained by Purchaser, and, to the knowledge of Vendor, the continued employment or engagement of the Transferred Employees will not result in any violation and Vendor has not received any notice alleging that any such violation has occurred.

(8) *No Intellectual Property* – The Vendor does not own, purport to own or license any Intellectual Property, other than Intellectual Property licensed from Loyalty Solutions.

(9) *No Authorizations* – The Vendor does not own and has not been issued any Authorizations in connection with the Business.

(10) *Disclosure* – To the knowledge of Vendor, no information, representation, warranty or statement by Vendor in this Agreement or in any statement or certificate furnished to Purchaser pursuant to this Agreement and the due diligence, or in any document provided by Vendor, the Parent or any of their respective Affiliates contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements made herein, in light of the circumstances under which they were made and with respect to the date as of which they are made, not misleading.

3.02 Representations and Warranties of Purchaser

Purchaser represents and warrants to Vendor and acknowledges that Vendor is relying upon the following representations and warranties in connection with the Transaction:

- (1) *Organization* – Purchaser is a limited liability company duly organized, validly existing and in good standing under the laws of Delaware.
- (2) *Due Authorization and Enforceability of Obligations* – (i) Purchaser has the power, authority and right to enter into and deliver this Agreement and to perform its obligations hereunder; (ii) the execution, delivery and performance by Purchaser of its obligations under this Agreement, and the consummation by Purchaser of the Transaction, has been duly authorized and approved by all required action on the part of Purchaser; and (iii) this Agreement constitutes a valid and legally binding obligation of Purchaser, enforceable against it in accordance with its terms.
- (3) *Consents* – No consent, approval, order or authorization of, or declaration or filing with, any Governmental Authority or any other Person is required to be obtained by Purchaser in connection with the execution and delivery of this Agreement by Purchaser or the consummation by Purchaser of the Transaction, other than those consents, approvals, orders, authorizations, declarations or filings which would not reasonably be expected to materially impede or delay the consummation by Purchaser of the Transaction.
- (4) *Finder's Fees* – No broker, finder or investment banker is entitled to any fee or commission from Purchaser for services rendered on behalf of Purchaser in connection with the Transaction for which Vendor may be liable.

3.03 “As Is, where Is”

PURCHASER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF VENDOR EXPRESSLY AND SPECIFICALLY SET FORTH IN SECTION 3.01: (A) PURCHASER IS ACQUIRING THE PURCHASED ASSETS ON AN “AS IS, WHERE IS” BASIS AS THEY EXIST ON THE CLOSING DATE; AND (B) NONE OF THE VENDOR OR ANY OTHER PERSON (INCLUDING ANY REPRESENTATIVE OF VENDOR, WHETHER IN ANY INDIVIDUAL, CORPORATE OR ANY OTHER CAPACITY) IS MAKING, AND PURCHASER IS NOT RELYING ON, ANY REPRESENTATIONS, WARRANTIES, CONDITIONS OR OTHER STATEMENTS OF ANY KIND WHATSOEVER, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, AS TO ANY MATTER CONCERNING THE PURCHASED ASSETS, THIS AGREEMENT OR THE TRANSACTION, OR THE ACCURACY OR COMPLETENESS OF ANY INFORMATION PROVIDED TO (OR OTHERWISE ACQUIRED BY) PURCHASER, ITS AFFILIATES OR ANY OF THEIR RESPECTIVE REPRESENTATIVES, INCLUDING WITH RESPECT TO MERCHANTABILITY, PHYSICAL OR FINANCIAL CONDITION, DESCRIPTION, FITNESS FOR A PARTICULAR PURPOSE, OR IN RESPECT OF ANY OTHER MATTER OR THING WHATSOEVER, INCLUDING ANY AND ALL CONDITIONS, WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, PURSUANT TO ANY APPLICABLE LAWS IN ANY JURISDICTION, WHICH PURCHASER CONFIRMS DO NOT APPLY TO THIS AGREEMENT, AND ARE HEREBY WAIVED IN THEIR ENTIRETY BY PURCHASER.

Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to Title 6 of the Delaware Code or similar legislation do not apply hereto and have been waived by Purchaser.

This Section 3.03 shall not merge on Closing and is deemed incorporated by reference in all closing documents and deliveries.

3.04 Purchaser's Acknowledgement

Purchaser acknowledges and agrees that it has conducted to its satisfaction an independent investigation and verification of the Business and the Purchased Assets and has consulted with and been advised by its own financial, legal and other advisors before entering into this Agreement, has read same and knows the contents thereof, and has determined to proceed with the Transaction. Purchaser has relied solely on the results of its own independent investigation and verification and, except for the representations and warranties of Vendor expressly set forth in Sections 3.01, Purchaser understands, acknowledges and agrees that all other representations, warranties, conditions and statements of any kind or nature, expressed or implied (including any relating to the future or historical financial condition, results of operations, prospects, assets or liabilities of Vendor or the Business) are specifically disclaimed by Vendor, and its financial and/or legal advisors.

Article 4 – CONDITIONS

4.01 Conditions for the Benefit of Purchaser and Vendor

The respective obligations of Purchaser and Vendor to consummate the Transaction are subject to the satisfaction of, or compliance with, at or prior to the Closing Time, each of the following conditions:

- (1) *No Law* – No provision of any Applicable Law and no judgment, injunction or Order shall have been enacted, announced, issued or entered by any Governmental Authority of competent jurisdiction that prevents, restrains, enjoins, renders illegal or otherwise prohibits the consummation of the Transaction; and
- (2) *Sale Order* – The Sale Order shall have been issued and entered by the Bankruptcy Court.

The Parties acknowledge that the foregoing conditions are for the mutual benefit of Purchaser and Vendor.

4.02 Conditions for the Benefit of Purchaser

The obligation of Purchaser to consummate the Transaction is subject to the satisfaction of, or compliance with, or waiver by Purchaser of, at or prior to the Closing Time, each of the following conditions (each of which is acknowledged to be for the exclusive benefit of Purchaser):

- (1) *Performance of Covenants* – The covenants contained in this Agreement required to be performed or complied with by Vendor at or prior to the Closing Time shall have been performed or complied with in all material respects as at the Closing Time;
- (2) *Truth of Representations and Warranties* – The representations and warranties of Vendor contained in Section 3.01 shall be true and correct in all material respects as of the date hereof and as of the Closing Date, as if made at and as of such date;
- (3) *Vendor's Deliverables* – Vendor shall have delivered to Purchaser all of the deliverables contained in Section 6.01 in form and substance reasonably satisfactory to Purchaser;
- (4) *No Material Adverse Effect* - From the date of this Agreement until the Closing Time, there shall not have occurred any Material Adverse Effect, nor shall any event or events have

occurred that, individually or in the aggregate, with or without the lapse of time, could reasonably be expected to result in a Material Adverse Effect;

- (5) *Claims* – Except with respect to the Cora Transaction, there is no pending or threatened Claim against Vendor that has had or that may be reasonably expected to have a Material Adverse Effect;
- (6) *No Orders, Decisions, Etc.* No final and non-appealable order, decision or ruling of any court, tribunal or regulatory authority having jurisdiction shall have been made or proceeding commenced that would specifically prohibit the Transaction;
- (7) *Permits* - No Governmental Authority has communicated to any Party that it intends to revoke, suspend or adversely change any permit of Vendor generally or specifically as a result of the Transaction, the revocation, suspension or change of which may be reasonably expected to have, a Material Adverse Effect; and
- (8) *Sale Order* – the entry of the Sale Order, that is in a form approved in writing by the Purchaser (acting reasonably).

4.03 Conditions for the Benefit of Vendor

The obligation of Vendor to consummate the Transaction is subject to the satisfaction of, or compliance with, or waiver by Vendor of, at or prior to the Closing Time, each of the following conditions (each of which is acknowledged to be for the exclusive benefit of Vendor):

- (1) *Performance of Covenants* – The covenants contained in this Agreement required to be performed or complied with by Purchaser at or prior to the Closing Time shall have been performed or complied with in all material respects as at the Closing Time; and
- (2) *Truth of Representations and Warranties* – The representations and warranties of Purchaser contained in Section 3.02 shall be true and correct in all material respects as of the date hereof and as of the Closing Date, as if made at and as of such date.

4.04 Waiver of Conditions

Any condition in Sections 4.01, 4.02 and 4.03 may be waived by Purchaser or Vendor, as applicable, in whole or in part, without prejudice to any of their respective rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver shall be binding on Purchaser or Vendor, as applicable, only if made in writing.

4.05 Non-Completion of Conditions Precedent

Upon either Party becoming aware that any condition precedent set forth in this Article 4 will be or is likely to be delayed in fulfillment or has become incapable of fulfillment, such Party shall immediately notify the other Party of the same and shall provide an explanation in reasonable detail along with supporting documents.

Article 5 – COVENANTS

5.01 Covenants of Vendor

- (1) Upon payment of the Purchase Price by Purchaser at the Closing Time, and subject to the terms of this Agreement, Vendor will transfer and assign to Purchaser all of Vendor's right, title and interest in and to the Purchased Assets, free and clear of all Liens, in accordance with the terms of this Agreement and the Sale Order.
- (2) From the date of this Agreement until the earlier to occur of the valid termination of this Agreement under Section 7.01 and the Closing Time (such period, the "**Pre-Closing Period**"), Vendor will remain in possession of the Purchased Assets and Purchaser will take possession of the Purchased Assets at the Closing Time.
- (3) Subject to the terms of this Agreement, Vendor shall use all commercially reasonable efforts to take or cause to be taken all other actions and do or cause to be done all other things, reasonably necessary or appropriate to consummate the Transaction.

5.02 Covenants of Purchaser

- (1) At Closing, subject to the terms of this Agreement, Purchaser shall assume and thereafter perform all obligations and liabilities arising from and in connection with the Purchased Assets that accrue from and after the Closing.
- (2) Subject to the terms of this Agreement, Purchaser shall use all commercially reasonable efforts to take or cause to be taken all other actions and do or cause to be done all other things, reasonably necessary or appropriate to consummate the Transaction.

5.03 Offer of Employment

- (1) A minimum of ten (10) days prior to Closing, Purchaser will make offers of employment to the Offered Employees prior to the Closing Date, on terms satisfactory to the Purchaser, at its sole discretion, with such offers becoming effective, subject to acceptance by such Offered Employees, at the Closing Time.
- (2) Vendor will render all reasonable assistance to encourage Offered Employees to accept the offers of employment or engagement in accordance with their terms and conditions.
- (3) Purchaser will not be obligated to any Offered Employee who refuses Purchaser's offer, regardless of the reason for refusal, or who does not sign and return Purchaser's offer of employment prior to the Closing Date.
- (4) This Section 5.03 is not intended to, and does not, confer any rights or remedies on any Person other than the Parties (and their respective successors).

5.04 Confidential Information

After the Closing Time, Vendor shall and shall cause its Affiliates to maintain the confidentiality of all Confidential Information, except any disclosure of such information and records as may be required by Applicable Law or permitted by Purchaser in writing. If Vendor, its Affiliate, or any of their respective representatives, becomes legally compelled by deposition, interrogatory, request for documents, subpoena,

civil investigative demand, or similar judicial or administrative process, to disclose any such information, such party shall provide Purchaser with reasonably prompt prior oral or written notice of such requirement (including any report, statement, testimony or other submission to such Governmental Authority) to the extent legally permissible and reasonably practicable, and cooperate with Purchaser, at Purchaser's expense, to obtain a protective order or similar remedy to cause such information not to be disclosed; provided that in the event that such protective order or other similar remedy is not obtained, Vendor shall, or shall cause its Affiliate or representative to, furnish only that portion of such information that has been legally compelled, and shall, or shall cause such Affiliate or representative to, exercise its commercially reasonable efforts to obtain assurance that confidential treatment will be accorded such disclosed information. Vendor shall instruct its Affiliates and representatives having access to such information of such obligation of confidentiality and shall be responsible for any breach of the terms of this Section 7.03 by any of its Affiliate or representatives. At Closing Time, Vendor shall handover all Confidential Information to Purchaser or destroy such Confidential Information in its possession at Purchaser's request. Vendor shall not make or retain copies or excerpts of or from the Confidential Information or in any way re-create the substance or contents of the Confidential Information at any time on or after Closing.

5.05 Personal Information

Purchaser shall at all times comply with all Applicable Laws governing the protection of Personal Information with respect to Personal Information disclosed or otherwise provided to Purchaser by Vendor under this Agreement. Purchaser shall only collect, use or disclose such Personal Information for the purposes of investigating the Business as contemplated by this Agreement and completing the Transaction. Purchaser shall safeguard all Personal Information collected from Vendor in a manner consistent with the degree of sensitivity of the Personal Information and maintain at all times the security and integrity of the Personal Information. Purchaser shall not make copies or excerpts of or from the Personal Information or in any way re-create the substance or contents of the Personal Information if the Transaction is not completed for any reason and shall return all Personal Information to Vendor or destroy such Personal Information at Vendor's request.

5.06 Bankruptcy Court Matters

- (1) The Parties acknowledge that this Agreement and the sale of the Purchased Assets are subject to Bankruptcy Court approval. The Parties acknowledge that they are aware of the relevant legal requirements and will proceed in good faith to satisfy such requirements.
- (2) Vendor shall (i) provide Purchaser with drafts of any and all other pleadings and proposed orders to be filed or submitted in connection with this Agreement and the Transactions at least three (3) Business Days prior to filing or submitting such pleadings and proposed orders, and such pleadings and proposed orders shall be in form and substance reasonably acceptable to Purchaser and (ii) make best efforts to consult and cooperate with Purchaser regarding any discovery taken in connection with seeking entry of the Sale Order (including any depositions).
- (3) Vendor shall use its commercially reasonable efforts to: (i) obtain entry by the Bankruptcy Court of the Sale Order as soon as reasonably practicable under Fed. R. Bank. P. 2002 and any applicable Local Bankruptcy Rules but in no event later than April 30, 2025, subject to the availability of the Bankruptcy Court to conduct a hearing to consider the entry of the Sale Order, and (ii) subject to the satisfaction of the conditions precedent contained in this Agreement, consummate the Closing as soon as reasonably practicable after the entry by the Bankruptcy Court of the Sale Order.

- (4) The Sale Order, including any exhibits thereto and any notices or other materials in connection therewith, must be in form and substance satisfactory to Purchaser.
- (5) In the event that the entry of a Sale Order is appealed or a stay pending appeal is sought, Sellers shall use their reasonable best efforts to defend such appeal or the stay pending appeal (including a petition for certiorari, motion for rehearing, re-argument, reconsideration or revocation).
- (6) During the Bankruptcy Case, Vendor shall not commence, assign, convey or abandon any Avoidance Actions against any of Vendor's ordinary course vendors, contract counterparties, contractors and other suppliers of services related to the Business without the prior written consent of Purchaser, which shall not be unreasonably withheld, conditioned, or delayed.

5.07 Covenants Relating to this Agreement

- (1) The Parties acknowledge and agree that Schedule 1.03 hereto includes a complete and accurate list of all Purchased Contracts with clients of the Vendor, but does not include a complete and accurate list of the Purchased Contracts with suppliers and vendors of the Vendor. During the Pre-Closing Period, the Parties will cooperate on a best efforts basis in order to finalize a complete and accurate list of Purchased Contracts with suppliers and vendors of the Vendor.
- (2) Each of the Parties shall perform all obligations required to be performed by the applicable Party under this Agreement, co-operate with the other Party in connection therewith and do all such other acts and things as may be necessary or desirable in order to consummate and make effective, as soon as reasonably practicable and prior to the Outside Date, the Transaction and, without limiting the generality of the foregoing, from the date hereof until the Closing Time, each Party shall and, where appropriate, shall cause each of its Affiliates to:
 - (i) negotiate in good faith and use its commercially reasonable efforts to take or cause to be taken all actions and to do, or cause to be done, all things necessary, proper or advisable to satisfy the conditions precedent to the obligations of such Party hereunder, and to cause the fulfillment at the earliest practicable date of all of the conditions precedent to the other Party's obligations to consummate the Transaction; and
 - (ii) not take any action, or refrain from taking any action, or permit any action to be taken or not taken, which would reasonably be expected to prevent, materially delay or otherwise impede the consummation of the Transaction.
- (3) From the date hereof until the Closing Date, subject to Applicable Laws, each Party hereby agrees, and hereby agrees to cause its representatives to, keep the other Party informed on a reasonably current basis, and as reasonably requested by the other Party as to such Party's progress in terms of the satisfaction of the conditions precedent contained herein.
- (4) Each Party agrees to execute and deliver such other documents, certificates, agreements and other writings, and to take such other actions to consummate or implement the Transaction, as soon as reasonably practicable and in accordance with the terms of this Agreement.

5.08 Further Assurances

After the Closing, the Parties will execute such further documents, and perform such further acts, as may be necessary or reasonably required to transfer and convey the Purchased Assets and the Assumed Liabilities to Purchaser, on the terms set forth herein, and to otherwise comply with this Agreement and consummate the Transaction.

Article 6 - CLOSING DELIVERIES

6.01 Closing Deliveries of Vendor

At Closing, Vendor will deliver, or cause to be delivered, to Purchaser the following, in each case, in form and substance satisfactory to Purchaser, acting reasonably:

- (1) a true copy of the Sale Order;
- (2) a certificate effective as of the Closing Date, duly executed by Vendor, confirming that the conditions set forth in Sections 4.02(1) and 4.02(2) have been satisfied;
- (3) a general conveyance and assumption agreement respecting the Purchased Assets, duly executed by Vendor (the “**General Conveyance**”);
- (4) such other documents, certificates or instruments as Purchaser may reasonably request in order to affect the Transaction or to vest in Purchaser good and valid title to the Purchased Assets.

6.02 Closing Deliveries of Purchaser

- (1) At Closing, Purchaser will deliver, or cause to be delivered, the Purchase Price to Vendor.
- (2) At Closing, Purchaser will deliver, or cause to be delivered, to Vendor the following, in each case, in form and substance satisfactory to Vendor, acting reasonably:
 - (i) a certificate effective as of the Closing Date, duly executed by Purchaser, confirming that the conditions set forth in Sections 4.03(1) and 4.03(2) have been satisfied; and
 - (ii) the General Conveyance, duly executed by Purchaser.

Article 7 - TERMINATION

7.01 Termination

This Agreement may be terminated at any time prior to Closing as follows:

- (1) automatically, upon due termination of the Loyalty PSA in accordance with its terms;
- (2) by mutual written consent of each of Vendor and Purchaser;
- (3) by Purchaser or Vendor, if Closing has not occurred on or before the Outside Date, provided that the terminating Party has not breached of any representation, warranty, covenant or other agreement in this Agreement which prevent the satisfaction of the conditions in Article 4 or the completion of

Closing by the Outside Date;

- (4) by Vendor, upon denial of the Sale Order (or if such order is stayed, vacated or varied without the consent of Vendor);
- (5) by Purchaser, upon denial of the Sale Order;
- (6) by Purchaser or Vendor, if a court of competent jurisdiction, including the Bankruptcy Court or other Governmental Authority, has issued an Order or taken any other action to restrain, enjoin or otherwise prohibit the consummation of Closing and such Order or action has become a Final Order.

The Party desiring to terminate this Agreement pursuant to this Section 7.01 (other than pursuant to Section 7.01(1)) shall give written notice of such termination to the other Party specifying in reasonable detail the basis for such Party's exercise of its termination rights.

7.02 Effect of Termination

Each Party's right of termination under Article 7 is in addition to any other rights it may have under this Agreement or otherwise, and the exercise of a right of termination will not be an election of remedies. Nothing in this Article 7 limits or affects any other rights or causes of action any Party may have with respect to the representations, warranties, covenants and indemnities in its favour contained in this Agreement. If a Party waives compliance with any of the conditions, obligations or covenants contained in this Agreement, the waiver will be without prejudice to any of its rights of termination in the event of non-fulfillment, non-observance or non-performance of any other condition, obligation or covenant in whole or in part.

Article 8 - GENERAL

8.01 Survival

The representations and warranties and covenants of the Parties contained in this Agreement to be performed after the Closing or termination of this Agreement shall survive Closing or termination, as applicable, and remain in full force and effect.

8.02 Specific Performance

Each Party acknowledges that the Parties will be irreparably harmed and that there will be no adequate remedy at law for any violation by any Party of any of the covenants or agreements contained in this Agreement. It is accordingly agreed that, in addition to any other remedies which may be available upon the breach of any such covenants or agreements, each Party shall be entitled to equitable relief, without proof of actual damages, including an injunction or injunctions or Orders for specific performance to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement, in addition to any other remedy to which they are entitled at Law or in equity as a remedy for any such breach or threatened breach. Each Party further agrees that no other Party or any other Person shall be required to obtain, furnish or post any bond or similar instrument in connection with or as a condition to obtaining any remedy referred to in this Section 8.02, and each Party irrevocably waives any right it may have to require the obtaining, furnishing or posting of any such bond or similar instrument. Each Party further agrees that the only permitted objection that it may raise in response to any action for equitable relief is that it contests the existence of a breach or threatened breach of this Agreement.

8.03 Further Assurances

Each Party will from time to time execute and deliver all such further documents and instruments and do all acts and things as the other Parties may, either before or after the Closing Date, reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement.

8.04 Time of the Essence

Time is of the essence of this Agreement.

8.05 Fees and Commissions

Each Party will pay its respective legal and accounting costs and expenses incurred in connection with the preparation, execution and delivery of this Agreement and all documents and instruments executed pursuant to this Agreement and any other costs and expenses whatsoever and howsoever incurred.

8.06 Benefit of the Agreement

This Agreement will inure to the benefit of and be binding upon the respective heirs, executors, administrators, other legal representatives, successors and permitted assigns of the Parties.

8.07 Public Announcements

During the Pre-Closing Period, no public announcement or press release concerning any of the Transaction shall be made by any Party, or any of their respective Affiliates, without the prior consent of the other Party (such consent not to be unreasonably withheld, conditioned or delayed); provided, however, that subject to the last sentence of this Section 8.07, any Party may, without such consent, make such disclosure if the same is required by Applicable Law (including the Proposal Proceedings) or by any stock exchange on which any of the securities of such Party or any of its Affiliates are listed, or by any insolvency or other court or securities commission, or other similar Governmental Authority having jurisdiction over such Party or any of its Affiliates, and, if such disclosure is required, the Party making such disclosure shall use commercially reasonable efforts to give prior oral or written notice to the other Party to the extent legally permissible and reasonably practicable, and if such prior notice is not legally permissible or reasonably practicable, to give such notice reasonably promptly following the making of such disclosure. Nothing in this Section 8.07 will be deemed to prohibit Purchaser or any of their Affiliates from making disclosures to their respective, or their Affiliates' respective, officers, employees, directors, managers, shareholders, investors or lenders or prospective investors or lenders, on a need-to-know and confidential basis. Notwithstanding the foregoing: (a) this Agreement may be filed by Vendor with the Bankruptcy Court; and (b) the Transaction may be disclosed by Vendor to the Bankruptcy Court. The Parties further agree that:

- (1) Vendor may prepare and file reports and other documents with the Bankruptcy Court containing references to the Transaction and the terms of the Transaction; and
- (2) Vendor, Purchaser and their respective professional advisors may prepare and file such reports and other documents with the Bankruptcy Court containing references to the Transaction and the terms of such Transaction as may reasonably be necessary to complete the Transaction or to comply with their obligations in connection therewith.

The Parties shall be afforded an opportunity to review and comment on such materials prior to their filing.

8.08 Entire Agreement

This Agreement and the Non-Solicitation Agreement constitute the entire agreement between the Parties with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements between the Parties with respect thereto, including the offer for the purchase of the Purchased Assets submitted by Purchaser on February 14, 2025, and the Bidding Procedures prepared by the BDO. Without limiting the foregoing sentence, there are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the Parties other than as expressly set forth in this Agreement.

8.09 Paramountcy

In the event of any conflict or inconsistency between the provisions of this Agreement, and any other agreement, document or instrument executed or delivered in connection with this Transaction or this Agreement, the provisions of this Agreement shall prevail to the extent of such conflict or inconsistency.

8.10 Amendments and Waivers

No amendment to this Agreement will be valid or binding unless set forth in writing and duly executed by all of the Parties. No waiver of any breach of any provision of this Agreement will be effective or binding unless made in writing and signed by the Party purporting to give the same and, unless otherwise provided, will be limited to the specific breach waived.

8.11 Independent Legal Advice

The Parties acknowledge having obtained independent legal advice from their respective solicitors, or having been given the opportunity to obtain independent legal advice, with respect to the terms of this Agreement prior to its execution, and each of the Parties further acknowledges and agrees that it understands the terms, and its rights and obligations under this Agreement.

8.12 Assignment

This Agreement may not be assigned by any Party without the written consent of the other Party, which consent may be arbitrarily withheld, provided that Purchaser may designate one or more nominees to take title in and to the Purchased Assets, or any part thereof, by giving Vendor written notice of such assignment at least two (2) Business Days prior to the date of the hearing of the application for the Sale Order.

8.13 Notices

Any notice or other communication required or permitted to be given or made under this Agreement shall be in writing and shall be effectively given and made if: (i) delivered personally; (ii) sent by prepaid courier service; or (iii) sent by email or other similar means of electronic communication, in each case to the applicable address set out below:

- (a) in the case of Vendor as follows:

Kognitiv Corporation
161 Bay St., Suite 2700
Toronto, ON M5J 2S1

Attention: Grant McLeod
Email: grant.mcleod@kognitiv.com

with a copy to Vendor's counsel at:

Faegre Drinker Biddle & Reath LLP
1177 Avenue of the Americas, 41st Floor
New York, New York 10036, USA

Attention: Richard Bernard
Email: richard.bernard@faegredrinker.com

And to:

Aird & Berlis LLP
Brookfield Place,
181 Bay Street, Suite 1800
Toronto, Canada M5J 2T9

Attention: Kyle Plunkett and Marek Lorenc
Email: kplunkett@airdberlis.com and mlorenc@airdberlis.com

(b) in the case of Purchaser, as follows:

Capillary Technologies
#360, bearing PID No:101/360,
15th Cross Rd, Sector 4,
HSR Layout, Bengaluru,
Karnataka-560102

Attention: Aneesh Reddy Boddu
Email: aneesh@capillarytech.com

with a copy to Purchaser's counsel at:

Borden Ladner Gervais LLP
Bay Adelaide Centre, East Tower
22 Adelaide Street West, Suite 3400
Toronto, Ontario M5H 4E3

Attention: Stefan Timms and Sam Babe
Email: stimms@blg.com and sbabe@blg.com

or to such other street address, individual or electronic communication number or address as may be designated by notice given by the applicable Party to the other Party. Any demand, notice or other communication given by personal delivery will be conclusively deemed to have been given on the day of actual delivery thereof and, if given by electronic communication, on the day of transmittal thereof if given during the normal business hours of the recipient(s) and on the Business Day during which such normal business hours next occur if not given during such hours on any day.

8.14 Governing Law

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

8.15 Jurisdiction

Each Party hereto irrevocably submits to the exclusive jurisdiction of (a) the Supreme Court of the State of Delaware, (b) the United States District Court for the District of Delaware, and (c) to the extent applicable, the United States Bankruptcy Court for the District of Delaware for the purposes of any action, suit or other proceeding arising out of or related to this Agreement, or any transaction contemplated hereby but for no other purpose. Each Party hereto agrees to commence any action, suit or proceeding relating hereto either in the United States District Court for the District of Delaware or if such suit, action or other proceeding may not be brought in such court for jurisdictional reasons, in the Supreme Court of the State of Delaware or, to the extent applicable, the United States Bankruptcy Court for the District of Delaware. Each Party hereto further agrees that service of any process, summons, notice or document by U.S. registered mail to such Party's respective address set forth above shall be effective service of process for any action, suit or proceeding in Delaware with respect to any matters to which it has submitted to jurisdiction in this Section 8.15. Each Party hereto irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby in (i) the Supreme Court of the State of Delaware, (ii) the United States District Court for the District of Delaware or (iii) to the extent applicable, the United States Bankruptcy Court for the District of Delaware, and hereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

8.16 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, ANY OTHER DOCUMENT REFERRED TO HEREIN OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

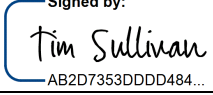
8.17 Counterparts and Electronic Signatures

This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original and all of which taken together will be deemed to constitute one and the same instrument. The counterparts of this Agreement may be executed and delivered by facsimile or other electronic signature (including portable document format) by any of the Parties and the receiving Parties may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF the Parties have executed this Share Purchase Agreement.

KOGNITIV US LLC

Per:  Signed by:
AB2D7353DDDD484...
Name: Tim Sullivan
Title: Authorized
Signatory

CAPILLARY TECHNOLOGIES LLC

Per: *anant.choubey*

Name: Anant Choubey

Title: Chief Operating Officer

SCHEDULE 1.01

Aged Accounts Receivables

Procter & Gamble Company approximately in the amount of \$61,881.66

Sam Houston Race Park, LLC approximately in the amount of \$39,562.60

SCHEDULE 1.02

Offered Employees

[REDACTED], VP, Strategy & Consulting

[REDACTED], VP, Product Engineering

[REDACTED], Sr. Director, Platform Service Delivery

[REDACTED], Sr. Director, Platform Service Delivery

[REDACTED], Account Director

[REDACTED], Principal, Technical Service Delivery

[REDACTED], Director, Strategy & Planning

[REDACTED], Manager, Application Management Services

[REDACTED], Manager, Application Management Services

[REDACTED], Senior Manager, Partnerships

[REDACTED], Campaign Developer

[REDACTED], Consumer Marketing Strategy & Planning Manager

[REDACTED], Chief Customer Officer

SCHEDULE 1.03

Purchased Contracts and Rejected Contracts

Purchased Contracts:

Clients

1. Master Subscription Agreement between Kognitiv US LLC (formerly known as Aimia US LLC and former names if applicable) and **The Aldo Group, Inc.** dated May 13, 2016 and all related agreements and amendments
2. Order form effective 29 Jan 2024 executed between Kognitiv US LLC and **Churchill Down Incorporated** and all related agreements and amendments
3. PaaS Subscription service agreement dated 3rd Sep 2021 between Kognitiv US LLC (formerly known as Aimia US LLC and former names if applicable) and **Curaleaf Inc** and all other related agreements and amendments
4. SaaS agreement dated 1st April 2020 between Kognitiv US LLC (formerly known as Aimia US LLC and former names if applicable) and **Daytona Beach Canal Club Inc** and all other related agreements and amendments
5. SaaS agreement dated 1st Dec 2020 between Kognitiv US LLC (formerly known as Aimia US LLC and former names if applicable) and **Emerald Downs Racing LLC** and all other related agreements and amendments
6. SaaS agreement dated 1st Aug 2021 between Kognitiv US LLC (formerly known as Aimia US LLC and former names if applicable) and **Gateway Casinos & Entertainment Limited** and all other related agreements and amendments
7. SaaS agreement dated 1st Jan 2016 between Kognitiv US LLC (f/k/a Aimia US LLC, Aimia US Inc.) and **Hallmark Cards Inc. (f/k/a Hallmark Marketing Company)** and all other related agreements and amendments
8. Smart Button Associates Master Subscription Agreement dated 5th March 2013 between Kognitiv US LLC (assigned by Smart Button Associates LLC) and **Kirkland's Inc**, Professional Services Agreement dated 15th Nov 2016 between Kognitiv US LLC (formerly known as Aimia US LLC) and **Kirkland's Inc** all other related agreements and amendments
9. Order Form and MSA dated 15th Jan 2017 between Kognitiv US LLC (formerly known as Aimia US LLC and former names if applicable) and **The Leading Hotels of the World, Ltd.** and all other related agreements and amendments
10. Master Subscription Agreement and Order Form between **MEC Lone Star, LP** and Kognitiv US LLC (assigned by Smart Button Associates LLC) .dated February 15, 2011 and other related agreements and amendments
11. Subscription Agreement between **Magna Entertainment Corporation** and Kognitiv US LLC (assigned by Smart Button Associates LLC) dated August 14, 2006 and other related agreements

and amendments

12. SaaS agreement between **Downs Racing, L.P. d/b/a Mohegan Sun Pocono** and Kognitiv US LLC (formerly known as Aimia US LLC and former names if applicable) dated 1st April 2019 and other related agreements and amendments
13. Master Subscription Agreement and Order Form between **New Meadowlands Racetrack LLC / NJSEA (for Monmouth Park)** and Kognitiv US LLC (assigned by Smart Button Associates LLC) dated January 1, 2011 and other related agreements and amendments
14. Master Subscription Agreement and Order Form between **New Meadowlands Racetrack, LLC** and Kognitiv US LLC (assigned by Smart Button Associates LLC) dated January 1, 2014 and other related agreement and amendments
15. SaaS agreement between **Investment Corp of Palm Beach** and Kognitiv US LLC (formerly known as Aimia US LLC and former names if applicable) dated 22nd October 2019 and other related agreements and amendments
16. Master Subscription Agreement and Order Form between **Parx Racing and Smart Button Associates LLC**, and Kognitiv US LLC (formerly known as Aimia US LLC and former names if applicable) dated March 8, 2012 and other related agreements and amendments
17. SaaS agreement between **Patterson Companies, Inc.** and Kognitiv US LLC (formerly known as Aimia US LLC and former names if applicable) dated 20th July 2018 and other related agreements and amendments
18. Master Subscription Agreement and Order Form between **Penn National Race Course** and Kognitiv US LLC (assigned by Smart Button Associates LLC) dated January 1, 2014 and other related agreements and amendments
19. Master Provider Agreement between **Petsmart Inc.** and Kognitiv US LLC (formerly known as Aimia US LLC and former names if applicable) dated 4th Feb 2015 and other related agreements and amendments
20. SaaS agreement between **American Greyhound Racing, Inc. (d/b/a Phoenix Greyhound Park)** and Kognitiv US LLC (formerly known as Aimia US LLC and former names if applicable) dated 1st April 2020 and other related agreements and amendments
21. Order form dated 1st May 2012 executed between Kognitiv US LLC and **Rack Room Shoes Inc.** and and Kognitiv US LLC (assigned by Smart Button Associates LLC), and Order form dated 6 Feb 2025 executed between Kognitiv US LLC and **Rack Room Shoes Inc.** and other related agreements and amendments
22. Master Web Services Agreement dated 9th Feb 2015 executed between **Sony Pictures Entertainment Inc.** and and Kognitiv US LLC (formerly known as Aimia US LLC and former names if applicable) and other related agreements and amendments
23. Master Subscription Agreement and Order Form between **Sportech Venues, Inc.** and Kognitiv US LLC (assigned by Smart Button Associates LLC) dated March 14, 2011 and other related agreements and amendments

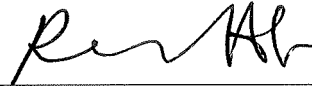
24. Master SaaS Agreement between **TELUS Communications Company**. And Kognitiv US LLC (formerly known as Aimia US LLC and former names if applicable) dated 20th July 2014 and other related agreements and amendments
25. SaaS Subscription Order Form between **831 Federal Highway Acquisition LLC d/b/a The Big Easy Casino** and Kognitiv US LLC (formerly known as Aimia US LLC and former names if applicable) dated 1st Jan 2021 and other related agreements and amendments
26. Second Amended and Restated Master Marketing Services Agreement between **Visa USA Inc.** and Kognitiv US LLC (formerly known as Aimia US LLC and former names if applicable) dated 1st July 2011 and other related agreements and amendments
27. SAAS Agreement between **WALMART CHILE S.A.** and Kognitiv US LLC (formerly known as Aimia US LLC and former names if applicable) dated 1st July 2021 and other related agreements and amendments

Vendors:

Rejected Contracts:

The sale of Kognitiv Corporation's Enterprise Loyalty Platform pursuant to an asset purchase agreement dated July 5, 2024 and entered into between by Loyalty Solutions Canada Inc., Kognitiv Australia Pty Ltd., Kognitiv US LLC, AIMIA Middle East Free Zone LLC, Kognitiv Singapore Pte Ltd., and Kognitiv Corporation as vendors, and Gary Jonas Computing Ltd., CORA Group Australia Pty Ltd., Jonas Computing (UK) Limited, Jonas Food Holdco Inc. as purchasers.

This is Exhibit "O" of
the Affidavit of **GRANT MCLEOD**
Sworn before me this 9th day of February 2026

A handwritten signature in black ink, appearing to read 'Reem Atallah', written over a horizontal line.

A Commissioner, etc.

Reem Atallah, a
Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 28, 2026.

PURCHASE AND SALE AGREEMENT

THIS AGREEMENT is made as of March 31, 2025

BETWEEN:

LOYALTY SOLUTIONS HOLDINGS US INC., a corporation existing under the laws of the State of Delaware (the “**Vendor**”)

- and -

CAPILLARY TECHNOLOGIES LLC., a corporation existing under the laws of the State of Delaware (the “**Purchaser**”)

RECITALS

WHEREAS:

- A. On December 12, 2024, Kognitiv Corporation (the “**Parent**”), the sole owner and direct parent of the Vendor, filed a Notice of Intention to Make a Proposal pursuant to Section 50.4 of the *Bankruptcy and Insolvency Act* (Canada), bearing Court File No. BK-25-03165297-0031 (the “**Proposal Proceedings**”) and BDO Canada Limited consented to act as trustee under the Proposal Proceedings (“**BDO**”).
- B. The Vendor is the sole shareholder of each of the following indirect subsidiaries of the Parent: (i) Kognitiv US LLC (“**Kognitiv LLC**”), and (ii) Kognitiv Solutions Inc. (“**Kognitiv Solutions**”).
- C. On March 7, 2025, the Parent and Capillary Pte. Ltd. (“**Capillary**”), an Affiliate of the Purchaser, entered into a share purchase agreement under which Parent would sell all of the outstanding securities of the Vendor, comprising the entire business operation of the Parent (the “**Initial Agreement**”).
- D. Following the execution of the Initial Agreement, Capillary and the Parent agreed to restructure the transactions contemplated under the Initial Agreement and terminate the Initial Agreement.
- E. Concurrently with the termination of the Initial Agreement, and concurrently with and as a condition to the execution of this Agreement, the Purchaser entered into an asset purchase agreement with Kognitiv LLC pursuant to which the Purchaser agreed to acquire certain assets of Kognitiv LLC (the “**Kognitiv APA**”).
- F. Kognitiv LLC intends to file a voluntary petition for relief (the “**Chapter 11 Case**”) pursuant to chapter 11 of the Bankruptcy Reform Act of 1978, as codified in title 11 of the United States Code s 101-1330 (as amended, the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”) and, pursuant to the authority granted under the Bankruptcy Code, the chapter 11 case will grant Kognitiv LLC the authority to, *inter alia*, sell, convey, and transfer the assets pursuant to Kognitiv APA.
- G. The Vendor desires to sell, and the Purchaser desires to purchase, the Purchased Assets and the Purchased Shares and assume the Assumed Liabilities, on and subject to the terms and conditions of this Agreement.

H. Following the date of this Agreement, the Parent will formally withdraw its motion to approve the Initial Agreement.

NOW THEREFORE, in consideration of the premises and the covenants and agreements herein contained, the Parties agree as follows:

Article 1 - INTERPRETATION

1.01 Definitions

In this Agreement, (including in the recitals above) unless something in the subject matter or context is inconsistent therewith:

“Accounts Receivable” means all accounts receivable, trade accounts receivable, notes receivable, book debts and other debts owing, due or accruing due (i) to Kognitiv Solutions, (ii) to the Vendor in respect of any of the Purchased Assets, and/or (iii) to Kognitiv LLC in respect of the Kognitiv APA Purchased Assets, excepting (a) any accounts receivable aged greater than 60 days, (b) any amounts owing by customers of the Subject Companies that have terminated their contracting relationship with the Subject Companies and which are not recoverable, and (c) such amounts as more particularly set out in Schedule 1.01 of the Disclosure Letter (the **“Aged Accounts Receivable”**), as determined in accordance with generally accepted accounting principles.

“Adjustment Escrow Amount” has the meaning set out in Section 3.04(1).

“Adjustment Escrow Fund” means the balance of the Adjustment Escrow Amount held by the Escrow Agent pursuant to the Escrow Agreement.

“Affiliate” of a specified Person means any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with the specified Person. As used in this definition, “control”, “controlled by” and “under common control with” means possession, directly or indirectly, of power to direct or cause the direction of management or policies of such Person (whether through ownership of securities or other partnership or ownership interests, by contract or otherwise); provided that in any event, any Person which owns directly, indirectly or beneficially more than 50% of the securities having voting power for the election of directors or other governing body of a corporation or more than 50% of the partnership interests or other ownership interests of any other Person will be deemed to control such Person.

“Agreement” means this share purchase agreement, including its recitals, schedules and exhibits attached hereto, as same may be amended, restated or replaced from time to time in accordance with the terms hereof.

“Al-Meera Receivables” has the meaning set out in Section 4.01(22)(ii).

“Applicable Law” means, in respect of any Person, property, transaction or event, any domestic or foreign statute, Laws (including the common law), ordinance, rule, regulation, treaty, restriction, regulatory policy, standard, code or guideline, by-law or order, in each case, having the force of law, that applies in whole or in part to such Person, property, transaction or event.

“Assumed Liabilities” means (a) the Pre-Closing Assumed Liabilities, and (b) all liabilities and obligations arising out of or related to the Purchaser’s ownership or operation of the Purchased Assets after the Closing.

“Bankruptcy Code” has the meaning ascribed in the recitals hereto.

“Bankruptcy Court” has the meaning ascribed in the recitals hereto.

“Base Acquisition Price” means \$24,000,000 (inclusive of the Deposit).

“BDO” has the meaning set forth in the preamble.

“Books and Records” means all material books, records, files and papers of the Subject Companies relating to the Subject Companies, their Business or the Subject Companies’ assets and liabilities regardless of the media on which they are stored or in the medium in which they were communicated.

“Business” means, as applicable, (a) the business conducted by the Vendor, being the provision of loyalty technology and services, (b) the business conducted by Kognitiv Solutions, being the provision of loyalty technology and services, and (c) the business conducted by Kognitiv LLC, being the provision of loyalty technology and services.

“Business Day” means a day other than a Saturday, Sunday or any day on which banking institutions in the State of Delaware, USA, or Toronto, Ontario, Canada or Minneapolis, Minnesota, USA are not open for business.

“Business Intellectual Property” means the Licensed Intellectual Property and the Owned Intellectual Property.

“Canadian Tax Act” means the *Income Tax Act*, RSC, 1985, c 1 (5th Supp), as amended from time to time, and the regulations made thereunder.

“Capillary” has the meaning ascribed in the recitals hereto.

“Cash and Cash Equivalents” means cash, bank balances, monies in possession of banks and other depositories, term or time deposits, marketable securities, short term investments, funds, bankers’ acceptances, commercial paper, security entitlements, securities accounts and any other cash equivalents of Kognitiv Solutions.

“Chapter 11 Case” has the meaning ascribed in the recitals hereto.

“Churn Escrow Amount” has the meaning set out in Section 3.04(3).

“Churn Escrow Fund” means the balance of the Churn Escrow Amount held by the Escrow Agent pursuant to the Escrow Agreement.

“Claim” means any action, suit, proceeding (including any arbitration proceeding), investigation, claim, charge, complaint, demand, challenge, notice audit, inquiry or other proceeding.

“Closing” means the successful completion of the Transaction.

“Closing Date” means the tenth (10th) calendar day following the date on which the Sale Order is issued, or such other date as agreed upon in writing by Vendor and Purchaser.

“Closing Purchase Price” means (a) the Base Acquisition Price, plus (b) the Working Capital Overage, as applicable, or minus (c) the Working Capital Underage, as applicable, minus (d) the Net Debt, plus (e) the Purchase Price Increase Amount.

“Closing Statement” has the meaning set out in Section 3.05(1).

“Closing Time” means 12:01 a.m. (Eastern Time) on the Closing Date, or such other time on or after the Closing Date as may be mutually agreed to by Purchaser and Vendor; provided that the Closing Date shall be no later than the Outside Date.

“Code” means the United States Internal Revenue Code of 1986, as amended, and the regulations thereunder.

“Company Plan” means any benefit or compensation plan, program, policy, practice, agreement, Contract, arrangement, or other obligation, whether or not in writing, formal or informal or funded or not funded, in each case, which is or is required to be sponsored by, maintained by, or contributed to, or under which Kognitiv Solutions has any liability (including potential and contingent) for the benefit of Kognitiv Solutions’ current and former employees, directors, officers or contractors and their respective beneficiaries or dependents, other than Statutory Plans. Company Plans include consulting, retirement, severance (in excess of severance required by applicable employment standards legislation), termination or change in control agreements, deferred compensation, bonus, incentive or other compensation, share option or purchase, stock options, equity-based, incentive, bonus, pension, retirement, supplemental pension, supplemental retirement, group registered retirement savings, deferred profit sharing, employee profit sharing, savings, profit-sharing, insurance, medical, welfare, fringe or other similar benefits or remuneration of any kind.

“Company Products” means each product (including Software and databases) or service owned, made, marketed, distributed, imported, licensed, or sold by or on behalf of the Subject Companies at any time since their inception, and any product or service currently under development by or for the Subject Companies, or that the Subject Companies intend or intended to develop, make, market, distribute, import, license or sell.

“Confidential Information” means any information with respect to the Purchaser and the Subject Companies or any of their respective Business, including the terms of any Contract to which any of the foregoing is a party, and other information regarding any customer or supplier, including methods of operation, customer lists, products, prices, fees, costs, technology, inventions, trade secrets, know-how, Software, marketing methods, plans, personnel, suppliers, competitors, markets or other specialized information or proprietary matters; provided, that “Confidential Information” does not include any information that: (a) is generally available to the public on the date of this Agreement other than as a result of a disclosure by the Vendor or its Affiliates; or (b) becomes available to the Vendor or its Affiliates on a non-confidential basis other than as a result of a disclosure that is prohibited hereunder or from a source other than the Purchaser or any of the Subject Companies which is not known by the Vendor, following reasonable inquiry, to be bound by a confidentiality agreement with either of the Purchaser or any of the Subject Companies or otherwise prohibited from disclosing the information to the Vendor.

“Contingent Assets” means any and all amounts, awards, gains or assets becoming due or otherwise accrued to the Vendor or Kognitiv Solutions originating, directly or indirectly, from the Cora Transaction.

“Contract” means any contract, agreement, license, franchise, lease, loan, or rental permit, arrangement, commitment or other right or obligation to which a Person is a party or by which such Person is bound or affected or has actual or contingent entitlements or obligations.

“Cora Transaction” means the sale of Kognitiv Corporation’s Enterprise Loyalty Platform pursuant to an asset purchase agreement dated July 5, 2024 and entered into between by Loyalty Solutions Canada Inc., Kognitiv Australia Pty Ltd., Kognitiv US LLC, AIMIA Middle East Free Zone LLC, Kognitiv Singapore Pte Ltd., and Kognitiv Corporation as vendors, and Gary Jonas Computing Ltd., CORA Group Australia Pty Ltd., Jonas Computing (UK) Limited, Jonas Food Holdco Inc. as purchasers.

“Current Assets” means (i) all Accounts Receivable, inventory and prepaid expenses and deposits of Kognitiv Solutions, and/or (ii) the Kognitiv APA Acquired Accounts Receivable, but excluding (a) the portion of any prepaid expense of which the Purchaser will not receive the benefit following Closing; and (b) receivables from any of the Subject Companies’ Affiliates, directors, employees, officers or shareholders and any of their respective Affiliates; determined in accordance with generally accepted accounting principles.

“Current Liabilities” means (A) all accounts payable, accrued Taxes and accrued expenses of Kognitiv Solutions, (B) the Pre-Closing Assumed Liabilities, and/or (C) the Pre-Closing Kognitiv APA Assumed Liabilities, and (D) all Normalized Accounts Payable to the extent not included above, but excluding (i) any portion of long term Indebtedness; (b) deferred and future Tax liabilities; (c) any payables to any of the Subject Companies’ Affiliates, directors, employees, officers or shareholders and any of their respective Affiliates, (d) any portion of accounts payable of the Subject Companies in excess of agreed-upon credit terms, (e) any unpaid portion of any prepaid expense of the Subject Companies, (f) deferred revenue of the Subject Companies, and (g) any contingent liabilities of the Subject Companies in connection with the Cora Transaction; determined in accordance with generally accepted accounting principles.

“Deposit” has the meaning set out in Section 3.02.

“Direct Claim” has the meaning set out in Section 5.05.

“Disclosure Letter” means the disclosure letter delivered by the Vendor to the Purchaser together with this Agreement and which forms and integral part of this Agreement.

“Dispute Notification Period” has the meaning set out in Section 3.05(2).

“Dispute Notice” has the meaning set out in Section 3.05(2).

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended, and the regulations thereunder.

“Escrow Agent” means an escrow agent to be mutually agreed upon by the Parties during the Pre-Closing Period.

“Escrow Agreement” has the meaning set out in Section 7.05(3).

“Estimated Closing Purchase Price” means (a) the Base Acquisition Price, plus (b) the Estimated Working Capital Overage, as applicable, or minus (c) the Estimated Working Capital Underage, as applicable, minus (d) the Estimated Net Debt, plus (e) the Purchase Price Increase Amount.

“Estimated Net Debt” has the meaning set out in Section 3.03.

“Estimated Net Working Capital” has the meaning set out in Section 3.03.

“Estimated Working Capital Overage” shall mean the amount by which the Estimated Net Working Capital exceeds the Target Working Capital, where applicable.

“Estimated Working Capital Underage” shall mean the amount by which the Target Working Capital exceeds the Estimated Net Working Capital, where applicable.

“Excluded Assets” means all assets of the Vendor other than the Purchased Assets, including for greater certainty, the Contingent Assets and the Aged Accounts Receivable.

“Excluded Liabilities” means any liabilities and obligations of the Vendor other than the Assumed Liabilities, including for greater certainty any liabilities relating to the Cora Transaction.

“Final Closing Purchase Price” has the meaning set out in Section 3.05(2).

“Final Order” means with respect to any order or judgment of any court of competent jurisdiction, that such order or judgment has not been vacated, set aside, reversed, stayed, modified or amended, and as to which the applicable periods to appeal, or seek certiorari or move for a new trial, reargument, or rehearing has expired and no appeal, leave to appeal, or petition for certiorari or other proceedings for a new trial, reargument, or rehearing has been timely taken or filed, or as to which any appeal has been taken or any petition for certiorari or leave to appeal that has been timely filed has been withdrawn or resolved in a manner acceptable to Vendor and Purchaser, each acting reasonably, by the highest court to which the order or judgment was appealed or from which leave to appeal or certiorari was sought or the new trial, reargument, or rehearing shall have been denied, resulted in no modification of such order or has otherwise been dismissed with prejudice.

“Financial Statements” has the meaning set out in Section 4.01(17).

“Government Authorizations” means all licenses, permissions, authorizations (public or private), registrations, consents, approvals, certificates, permits or other evidence of authority issued by a Governmental Authority or otherwise relating to or utilized by the Subject Companies or otherwise in connection with the Business or any part thereof, including any and all consents and approvals required to be obtained from any Governmental Authority under Applicable Law;

“Governmental Authority” means any domestic, foreign or multi-national, national, state, provincial, territorial or local government, any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, department, bureau or entity, or any arbitrator with authority to bind a Party at law.

“IFRS” means the International Financial Reporting Standards applied on a basis consistent with the applicable Subject Company’s past practice.

“Indebtedness” means, without duplication, collectively (i) the Kognitiv Solutions Indebtedness, (ii) the Purchased Assets Indebtedness, and (iii) the Kognitiv APA Purchased Assets Indebtedness.

“Indemnification Escrow Amount” has the meaning set out in Section 3.04(1).

“Indemnification Escrow Fund” means the balance of the Indemnification Escrow Amount held by the Escrow Agent pursuant to the Escrow Agreement.

“Indemnified Party” has the meaning set out in Section 5.04.

“Independent Accounting Firm” has the meaning set out in Section 3.05(2).

“Initial Agreement” has the meaning ascribed in the recitals hereto.

“Intellectual Property” means any and all intellectual property or proprietary rights of every kind and description anywhere in the world, whether registered or unregistered, including the following (a) patents,

patent applications, patent disclosures, invention disclosures and inventions (whether or not patentable and whether or not reduced to practice) and any reissue, continuation, continuation-in-part, divisional, revision, extension or reexamination thereof, (b) industrial designs, industrial design applications, industrial design disclosures, and any reissue, continuation-in-part, divisional, revision, extension or reexamination thereof, (b) Internet domain names, internet protocol addresses, trademarks, service marks, trade dress, logos, slogans, company names, trade names, corporate names, social media handles and phone numbers containing any of the foregoing, (and all translations, adaptations, derivations and combinations of the foregoing), and registrations, applications for registration and renewals thereof together with all of the goodwill associated therewith, (d) copyrights (registered or unregistered) and copyrightable works, moral rights (and other similar rights) and registrations, applications for registration and renewals thereof, (e) rights in Software (in both source code and object code form) and documentation thereof, (f) rights in technology and documentation thereof, and (g) trade secrets and other information of a confidential nature (including ideas, formulas, recipes, compositions, know-how, manufacturing and production processes and techniques, research and development information, drawings, specifications, designs, plans, proposals, data and databases, algorithms, information, financial and marketing plans and customer and supplier/vendor lists and information).

“Internal IT Systems” means all computer hardware, firmware, databases, Software, systems, information technology infrastructure and other similar or related items of automated, computerized and/or Software systems, infrastructure and telecommunication assets and equipment, including websites and any other outsourced systems and processes that are owned by the Subject Companies or used by the Subject Companies in the conduct of the Business.

“Invention Assignment Agreements” has the meaning set out in Section 4.01(23)(viii).

“IP Assignment Agreement” has the meaning set out in Section 8.01(7).

“knowledge” means the actual knowledge after reviewing all relevant records and making reasonable inquiries regarding the relevant matter, including consulting with appropriate Persons responsible for the relevant subject matter.

“Kognitiv APA” has the meaning ascribed in the recitals hereto.

“Kognitiv APA Acquired Accounts Receivable” means the *Acquired Accounts Receivable*, as defined in the Kognitiv APA.

“Kognitiv APA Assumed Liabilities” means the *Assumed Liabilities*, as defined in the Kognitiv APA.

“Kognitiv APA Closing Time” means the *Closing Time*, as defined in the Kognitiv APA.

“Kognitiv APA Excluded Liabilities” means the *Excluded Liabilities*, as defined in the Kognitiv APA.

“Kognitiv APA Indebtedness” means, without duplication, to the extent relating to the Kognitiv APA Purchased Assets: (a) indebtedness for borrowed money, including the principal, accrued interest and other payment obligations (including any prepayment premiums, penalties or termination fees payable as a result of the consummation of the Transaction) including as evidenced by bonds, debentures, notes or other similar instruments or debt securities; (b) obligations for the deferred purchase price of property or services (other than Current Liabilities taken into account in the calculation of Net Working Capital); (c) all obligations in respect of letters of credit, to the extent drawn, and bankers’ acceptances issued for the account of such Person (d) all obligations under leases which have been recorded as capital leases in accordance with such Subject Company’s past practice; (e) any liability for any and all amounts owed by Kognitiv LLC to any

of its Affiliates; (f) except as set out in Schedule 4.01(34) of the Disclosure Letter, all obligations for accrued but unused vacation of employees of Kognitiv LLC through the Closing Date; (g) all obligations secured by a Lien, (h) all obligations that are not characterized as Current Liabilities, (i) all outstanding cheques that will ultimately be funded through line of credit or other borrowed money, (j) any off-balance sheet financing (but excluding operating leases), any accrued interest and prepayment premiums or penalties relating to any amount prepaid at or in connection with the Closing related to any of the foregoing, (k) any portion of accounts payable in excess of agreed-upon credit terms, (l) any unpaid portion of any prepaid expense, (m) any deferred revenue, (n) except as set out in Schedule 4.01(34) of the Disclosure Letter, all end-of-service and defined benefit obligations that have accrued to employees of Kognitiv LLC through the Closing Date in connection with their employment prior to Closing pursuant to Statutory Plans, and (o) all unutilized balances of customer advances involving an obligation to spend; except, that, Indebtedness shall not include: (i) endorsement of negotiable instruments for collection in the Ordinary Course of Business.

“Kognitiv APA Purchase Price” means the *Purchase Price*, as defined in the Kognitiv APA.

“Kognitiv APA Purchased Assets” means the *Excluded Liabilities*, as defined in the Kognitiv APA.

“Kognitiv APA Purchased Contracts” means the *Purchased Contracts*, as defined in the Kognitiv APA

“Kognitiv LLC” has the meaning ascribed in the recitals hereto.

“Kognitiv Non-Transferred Employees” means those employees of Kognitiv LLC that are not Transferred Employees as defined in Kognitiv APA.

“Kognitiv Solutions” has the meaning ascribed in the recitals hereto.

“Kognitiv Solutions Indebtedness” means, without duplication, with respect to Kognitiv Solutions: (a) indebtedness for borrowed money, including the principal, accrued interest and other payment obligations (including any prepayment premiums, penalties or termination fees payable as a result of the consummation of the Transaction) including as evidenced by bonds, debentures, notes or other similar instruments or debt securities; (b) obligations for the deferred purchase price of property or services (other than Current Liabilities taken into account in the calculation of Net Working Capital); (c) all obligations in respect of letters of credit, to the extent drawn, and bankers’ acceptances issued for the account of such Person (d) all obligations under leases which have been recorded as capital leases in accordance with such Subject Company’s past practice; (e) any liability for any and all amounts owed by Kognitiv Solutions to any of its Affiliates; (f) except as set out in Schedule 4.01(34) of the Disclosure Letter, all obligations for accrued but unused vacation of employees of Kognitiv Solutions and/or in respect of Transferred Employees and Terminated Employees through the Closing Date; (g) all obligations secured by a Lien, (h) all obligations that are not characterized as Current Liabilities, (i) all outstanding cheques that will ultimately be funded through line of credit or other borrowed money, (j) any off-balance sheet financing (but excluding operating leases), any accrued interest and prepayment premiums or penalties relating to any amount prepaid at or in connection with the Closing related to any of the foregoing, (k) any portion of accounts payable in excess of agreed-upon credit terms, (l) any unpaid portion of any prepaid expense, (m) any deferred revenue, (n) except as set out in Schedule 4.01(34) of the Disclosure Letter, all end-of-service and defined benefit obligations that have accrued to employees of Kognitiv Solutions or Transferred Employees and Terminated Employees through the Closing Date in connection with their employment prior to Closing pursuant to Statutory Plans, (o) all unutilized balances of customer advances involving an obligation to spend, and (p) all indebtedness of the type referred to in the foregoing clauses (a) through (o) guaranteed directly or indirectly in any manner by Kognitiv Solutions; except, that, Indebtedness shall not include: (i) endorsement of negotiable instruments for collection in the Ordinary Course of Business.

“Laws” means all laws, statutes, codes, ordinances, decrees, rules, standards, orders-in-council, regulations, by-laws, statutory rules, principles of law, published policies and guidelines (whether or not having the force of law), judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings or awards, including general principles of common and civil law, and terms and conditions of any grant of approval, permission, authority or license of any Governmental Authority, statutory body, or self-regulatory authority (including stock exchanges or markets), and the term **“applicable”** with respect to such Laws and in the context that refers to one or more Persons, means that such Laws apply to such Person or Persons or its or their business, undertaking, property or securities and emanate from a Person having jurisdiction over the Person or Persons or its or their business, undertaking, property or securities.

“Licensed Intellectual Property” means all Intellectual Property used by the Subject Companies in connection with their Business except for the Owned Intellectual Property.

“Lien” means any encumbrance or interest against or in the Purchased Shares or assets of any kind whatsoever and includes a security interest, mortgage, lien, hypothec, pledge, assignment, charge, title retention agreement, non-disposal undertaking, option, trust or deemed trust (whether contractual, statutory or otherwise arising), licence and any covenant or other agreement, restriction or limitation relating to the Purchased Shares, assets or the transfer of the Purchased Shares to Purchaser pursuant to this Agreement.

“Losses” means all losses, liabilities, Claims, cause of actions, costs, damages, demands, judgments, awards, settlements, and expenses, whether or not arising out of Third Party Claims (including interest, penalties, fines, reasonable attorneys’, consultants’, experts’ and other professional advisors’ fees and expenses and all amounts paid in investigation, defense or settlement of any of the foregoing); *provided*, that **“Losses”** shall not include any punitive damages, except to the extent actually awarded or paid in connection with a Third Party Claim.

“Made Available” means available in the *Firmex* virtual data room titled “Project Coppola” organized by the BDO or otherwise provided in writing to the Purchaser by the Parent.

“Material Adverse Effect” means any result, fact, change, occurrence, event or development that, individually or in the aggregate, materially and adversely affects, or could reasonably be expected to (a) materially and adversely affect, the ability of the Vendor, or Kognitiv Solutions, as applicable, to consummate the Transaction in a timely manner or to perform their respective obligations hereunder, or (b) have a material adverse effect on the business, properties, assets, results of operations or financial condition of Kognitiv Solutions or the Business taken as a whole. Notwithstanding the foregoing, solely for the purposes of the foregoing clause (b), none of the following, either alone or in combination, shall be deemed to constitute, or be taken into account in determining whether there has been, such a material adverse effect: any change, occurrence, event or development: (i) arising from general economic, political, financial, banking, credit or securities market conditions, including any disruption thereof and any interest or exchange rate fluctuations; (ii) arising from the announcement or performance of, or compliance with, or the public or industry knowledge of, this Agreement or the Transaction; (iii)(A) arising from any changes or changes in interpretation of accounting rules or (B) with respect to Kognitiv Solutions or the Vendor, arising out of, resulting from or attributable to any action required to be taken under any Applicable Law; (iv) arising from natural disasters, acts of terrorism or war (whether or not declared) or epidemics or pandemics or orders relating thereto; provided, however, that any change, occurrence, event or development referred to in clauses (i), (iii) or (iv) immediately above shall be taken into account in determining whether a Material Adverse Effect has occurred or could reasonably be expected to occur to the extent and only to the extent that such change, occurrence, event or development has a disproportionate effect on the Subject Companies compared to other participants in the industries in which the Subject Companies conduct their respective businesses.

“Material Contracts” means, collectively, (i) all Contracts material to the business of Kognitiv Solutions, and (ii) all Contracts material to the business of the Vendor forming part of the Purchased Assets.

“Net Debt” means the total Indebtedness, on a consolidated basis, reduced by the aggregate Cash and Cash Equivalents as at the Closing Time.

“Net Working Capital” means (a) the Current Assets, on a consolidated basis, as at the Closing Time, *minus* (b) the Current Liabilities, on a consolidated basis, as at the Closing Time, in each case in accordance with generally accepted accounting principles. For the avoidance of doubt, Net Working Capital shall not include any amounts of Net Debt.

“Non-Solicitation Agreement” means the Non-Solicitation and Non-Circumvention Agreement entered into between the Parent and the Purchaser on February 25, 2025, as amended March 31, 2025.

“Non-Transferred Contracts” means any Contracts that should have been transferred as part of the Pre-Closing Contract Transfer but have not been successfully transferred to the Purchaser or Kognitiv Solutions prior to Closing, including any such Contract requiring the consent of a counterparty that has not been obtained prior to the Closing.

“Normalized Accounts Payable” means any amounts owed to suppliers and/or vendors of the Subject Companies in the Ordinary Course of Business, in the month immediately prior to the Closing Date, for the ongoing supply of products or services to the Business.

“Order” means any order, judgment, writ, injunction, stipulation, award or decree.

“Ordinary Course of Business” means the ordinary and usual course of business of each of the Subject Companies, (a) consistent with prior practice; (b) without prejudice to the Transaction or the Kognitiv APA, and (c) without materially diminishing the value of the Subject Companies, its assets, businesses and securities, provided that (i) a series of related transactions which are individually in the Ordinary Course of Business, but which taken together are not in the Ordinary Course of Business shall not be deemed to be in the Ordinary Course of Business and (ii) actions or transactions not in compliance with Applicable Laws, regardless of such actions or transactions being consistent with prior practices, shall not be deemed to be in the Ordinary Course of Business.

“Outside Date” means May 31, 2025 or such later date agreed to by each of Vendor and Purchaser in writing.

“Owned Intellectual Property” means all Intellectual Property owned or purported to be owned by the Vendor in connection with the Business.

“Parties” means, collectively, Vendor and Purchaser and **“Party”** means any one of them.

“Person” means any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, limited liability company, trust, trustee, executor, administrator or other legal personal representative, Governmental Authority or entity however designated or constituted.

“Personal Information” means information in the possession or under the control of Vendor or Kognitiv Solutions about an identifiable individual.

“Pre-Closing Employee Reorg” has the meaning set forth in Section 7.01(10).

“Preliminary Closing Statement” has the meaning set out in Section 3.03.

“Pre-Closing Assumed Liabilities” means all accounts payable arising out of the Purchased Assets outstanding as at Closing, other than those accounts payable arising out of or relating to the Excluded Assets.

“Pre-Closing Kognitiv APA Assumed Liabilities” means the *Pre-Closing Assumed Liabilities*, as defined in the Kognitiv APA.

“Pre-Closing Contract Transfer” has the meaning set forth in Section 7.01(12).

“Pre-Closing Employee Reorg Documents” means all agreements relating to the Pre-Closing Employee Reorg, which shall include (a) evidence of payment of the applicable portion of the Termination Expenses to each of the Terminated Employees and the Transferred Employees, (b) duly executed releases signed by each Terminated Employee and Transferred Employee in favour of the applicable Subject Companies and/or any Affiliates thereof, and (c) copies of any employment and/or contractor agreements, which, as of the Closing Date, have been signed by any Transferred Employees in connection with the Pre-Closing Employee Reorg.

“Pre-Closing Period” has the meaning set forth in Section 7.01(2).

“Proposal Proceedings” has the meaning set forth in the preamble.

“Purchased Assets” means all of the Vendor’s right title and interest in and to the Owned Intellectual Property (including any intercompany licence agreement in respect of such Owned Intellectual Property) and any Licensed Intellectual Property, as more particularly set out in Schedule 1.01 of the Disclosure Letter, in each case, for greater certainty, excluding the Excluded Assets.

“Purchased Assets Indebtedness” means, without duplication, to the extent relating to the Purchased Assets: (a) indebtedness for borrowed money, including the principal, accrued interest and other payment obligations (including any prepayment premiums, penalties or termination fees payable as a result of the consummation of the Transaction) including as evidenced by bonds, debentures, notes or other similar instruments or debt securities; (b) obligations for the deferred purchase price of property or services (other than Current Liabilities taken into account in the calculation of Net Working Capital); (c) all obligations in respect of letters of credit, to the extent drawn, and bankers’ acceptances issued for the account of such Person (d) all obligations under leases which have been recorded as capital leases in accordance with such Subject Company’s past practice; (e) any liability for any and all amounts owed by Loyalty Solutions to any of its Affiliates; (f) except as set out in Schedule 4.01(34) of the Disclosure Letter, all obligations for accrued but unused vacation of employees of the Vendor and/or in respect of Transferred Employees and Terminated Employees through the Closing Date; (g) all obligations secured by a Lien, (h) all obligations that are not characterized as Current Liabilities, (i) all outstanding cheques that will ultimately be funded through line of credit or other borrowed money, (j) any off-balance sheet financing (but excluding operating leases), any accrued interest and prepayment premiums or penalties relating to any amount prepaid at or in connection with the Closing related to any of the foregoing, (k) any portion of accounts payable in excess of agreed-upon credit terms, (l) any unpaid portion of any prepaid expense, (m) any deferred revenue, (n) except as set out in Schedule 4.01(34) of the Disclosure Letter, all end-of-service and defined benefit obligations that have accrued to employees of the Vendor who are Transferred Employees and Terminated Employees through the Closing Date in connection with their employment prior to Closing pursuant to Statutory Plans, and (o) all unutilized balances of customer advances involving an obligation to spend, except, that, Indebtedness shall not include: (i) endorsement of negotiable instruments for collection in the Ordinary Course of Business.

“Purchase Price Increase Amount” means an amount to be mutually agreed upon by the Parties and set forth on the Preliminary Closing Statement in accordance with Section 3.03, provided that the total amount of the Purchase Price Increase Amount shall not exceed \$1,200,000.

“Purchased Assets Purchase Price” has the meaning set forth in Section 3.01(2).

“Purchased Shares” means all of the issued and outstanding securities in the capital of Kognitiv Solutions, being 100 common shares registered to and beneficially owned by the Vendor.

“Purchaser” has the meaning set forth in the preamble.

“Purchaser Indemnitees” has the meaning set forth in Section 5.01.

“Related Person” means any shareholder, current or former officer or director, or any Affiliate of the foregoing, or any Affiliate of any of the Subject Companies.

“Release Date” means, (a) for the Indemnification Escrow Fund, the date that is nine (9) months after the Closing Date; and (b) for the Churn Escrow Fund, the date that is six (6) months after the Closing Date.

“Responsible Party” has the meaning set out in Section 5.04.

“Restrictive Covenant Agreement” has the meaning set out in Section 8.01(6).

“SaaS Business Balance Sheet” has the meaning set out in Section 4.01(17)(v).

“Sale Order” has the meaning ascribed thereto in Kognitiv APA.

“Secured Creditors” means Guines LLC and Aimia, Inc. together with any Affiliates thereof to whom any guarantee and/or security was granted by any of the Subject Companies, as disclosed in Schedule 4.01(34) of the Disclosure Letter, and **“Secured Creditor”** means any one of them.

“Shared Cora Supplier Contract” has the meaning set out in Section 4.01(29).

“Software” means software, including all versions thereof, whether installed locally, on a local area network or delivered through the internet, and all related documentation, manuals, source code and object code, program files, data files, computer related data, field and data definitions and relationships, data definition specifications, data models, program and system logic, interfaces, program modules, routines, sub-routines, algorithms, program architecture, design concepts, system designs, program structure, sequence and organization, screen displays and report layouts, including any and all modifications, changes, release, versions, upgrades, updates or patches of any of the foregoing, and all other material related to such software.

“Statutory Plans” means benefit plans that Kognitiv Solutions is required by domestic or foreign statutes to participate in or contribute to in respect of an employee, director or officer of Kognitiv Solutions or any beneficiary or dependent thereof, including plans administered pursuant to applicable health, Tax, workplace safety insurance, federal or provincial pension plan, workers’ compensation and employment insurance legislation.

“Subject Companies” means each of the Vendor, Kognitiv Solutions, and Kognitiv LLC.

“Tail Policies Requirement” has the meaning set out in Section 7.01(8).

“Target Working Capital” shall mean \$1,068,000.

“Tax Returns” means all returns, declarations, designations, forms, schedules, reports, elections, notices, filings, statements (including withholding tax returns and reports, and information tax returns and reports) and other documents of every nature whatsoever filed or required to be filed with any Taxing Authority with respect to any Taxes, together with all amendments and supplements thereto.

“Taxes” means taxes, duties, fees, premiums, assessments, imposts, levies and other charges of any kind whatsoever (including withholding on amounts paid to or by any Person) imposed by any Taxing Authority, including all interest, penalties, fines, additions to tax or other additional amounts in respect thereof, and including those levied on, or measured by, or referred to as, income, gross receipts, profits, capital, transfer, land transfer, GST/HST, value added, consumption, sales, use, excise, stamp, withholding, business, franchising, property, development, occupancy, employer health, payroll, employment, health, disability, severance, unemployment, social services, education and social security taxes, all surtaxes, all customs duties and import and export taxes, countervail and anti-dumping, all license, franchise and registration fees and all employment insurance, health insurance and Canada, Ontario, and other government pension plan premiums or contributions, and **“Tax”** means any one of the Taxes.

“Taxing Authorities” means any Governmental Authorities responsible for the administration, imposition or collection of any Tax, and **“Taxing Authority”** means any one of the Taxing Authorities.

“Terminated Customer Contracts” means any customer Contracts of Kognitiv Solutions and any Kognitiv APA Purchased Contracts which, during the six (6) month period following Closing, have either been terminated by the applicable customer thereto or in respect of which a notice of termination from the applicable customer thereto has been received (in each case, other than due to, relating to or arising out of any act or omission by the Purchaser, and excluding any such Contract of Kognitiv Solutions or Kognitiv LLC transferred in any way to an Affiliate of the Purchaser).

“Terminated Customer Contracts Revenue” means, as of the date that is six (6) months after the Closing, the total of contractual annual recurring revenue calculated in reference to the trailing twelve (12) month period for that specific Terminated Customer Contract lost by (or, in the case of a Terminated Customer Contract in respect of which notice of termination from the customer has been received, to be lost by) the Purchaser in connection with the Terminated Customer Contracts, as mutually determined by the Purchaser and the Vendor, each acting reasonably, within 10 days following the date that is six (6) months after the Closing, pursuant to a good faith calculation to be delivered to the Proposal Trustee.

“Terminated Employees” has the meaning set out in Section 7.01(10).

“Termination Expenses” means the total amounts paid to the Terminated Employees and the Transferred Employees in connection with the termination of their employment during the Pre-Closing Period or in conjunction with Closing in accordance with the terms of Section 7.01(10), including any severance or termination pay obligations paid to such Terminated Employees and Transferred Employees.

“Third Party Claim” means any Claim asserted against a Purchaser Indemnitee or a Vendor Indemnitee, as applicable, by any Person who is not a Party or an Affiliate of a Party.

“Transaction” means the sale of the Purchased Shares and the Purchased Assets by the Vendor to Purchaser in accordance with the terms of this Agreement.

“Transfer Taxes” has the meaning set out in Section 3.11.

“Transferred Employees” has the meaning set out in Section 7.01(10).

“Undisclosed Supplier Contracts” means any Contracts of the Subject Companies that were entered into on or prior to the date of this Agreement with suppliers that were not included in the list of suppliers Made Available to the Purchaser in accordance with Section 4.01(31), and for which the associated costs, liabilities, or obligations are not accounted for or properly reflected in the Books and Records.

“Vendor” has the meaning set out in the preamble.

“Vendor Indemnitees” has the meaning set out in Section 5.02.

“Working Capital Overage” shall mean the amount by which the Net Working Capital exceeds the Target Working Capital, where applicable.

“Working Capital Underage” shall mean the amount by which the Target Working Capital exceeds the Net Working Capital, where applicable.

1.02 Headings, etc.

The division of this Agreement into Articles and Sections is for convenience of reference only and does not affect the construction or interpretation of this Agreement. The terms “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles, Sections and Schedules are to Articles, Sections and Schedules to this Agreement.

1.03 Extended Meanings

In this Agreement, words importing the singular include the plural and vice versa and words importing gender include all genders. The term “including” means “including, without limitation,” and such terms as “includes” have similar meanings and the term “third party” means any other person other than Vendor or Purchaser, or any Affiliates thereof.

1.04 Statutory References

In this Agreement, unless something in the subject matter or context is inconsistent therewith or unless otherwise herein provided, a reference to any statute is to that statute as now enacted or as the same may from time to time be amended, re-enacted or replaced and includes any regulations made thereunder.

1.05 Currency

All references to currency herein are to lawful money of Canada unless otherwise expressly provided.

1.06 Schedules

All Schedules shall form part of this Agreement.

1.07 Non-Business Days

Whenever payments are to be made or an action is to be taken on a day which is not a Business Day, such payment will be made or such action will be taken on or not later than the next succeeding Business Day.

1.08 Time Periods

Unless otherwise specified, time periods shall be calculated by excluding the day on which the period commences and including the day on which the period ends.

1.09 Invalidity of Provisions

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof so long as the economic or legal substance of the Transaction is not affected in any manner materially adverse to any Party. Upon such a determination of invalidity or unenforceability, the Parties shall negotiate to modify this Agreement in good faith so as to affect the original intent of the Parties as closely as possible in an acceptable manner so that the Transaction be consummated as originally contemplated to the fullest extent possible.

Article 2 – PURCHASE AND SALE

2.01 Purchase and Sale

Subject to the terms and conditions of this Agreement, the Vendor hereby agrees to sell, assign and transfer to Purchaser, and Purchaser hereby agrees to purchase from Vendor on the Closing Date, effective on and as of the Closing Time, the Purchased Assets and the Assumed Liabilities, and the Purchased Shares, in each case free and clear of all Liens.

2.02 Assumed Liabilities

On the Closing Date, on and subject to the terms and conditions of this Agreement, the Purchaser will pay when due, assume, perform and discharge the Assumed Liabilities.

2.03 Excluded Assets

The Parties acknowledge and agree that the Purchaser is not acquiring the right or benefit to the Excluded Assets and hereby expressly disclaims any interest therein. Accordingly, and notwithstanding any representation or warranty in this Agreement to the contrary, the Purchaser acknowledges and agrees that:

- (1) the Purchaser shall use best efforts in co-operation with the Vendor or its nominee, to take all necessary action and do all such things as are necessary in order to pay, deliver, or otherwise convey to the Vendor all right, title and interest in and to the Excluded Assets; and
- (2) pending the effective transfer of the Excluded Assets, the Purchaser shall hold all rights or entitlements that the Purchaser has in those Excluded Assets in trust for the exclusive benefit of the Vendor.

The Purchaser does not assume any of the Excluded Liabilities and, as between the Parties, the Excluded Liabilities will remain the sole responsibility of the Vendor and will not form part of the Assumed Liabilities.

Article 3 – PURCHASE PRICE

3.01 Purchase Price

- (1) The purchase price payable by Purchaser to the Vendor in consideration of the Purchased Shares, the Purchased Assets and the Kognitiv APA Purchased Assets shall be an aggregate amount equal to the Base Acquisition Price, as adjusted in accordance with the terms of this Agreement.
- (2) The purchase price payable by Purchaser to the Vendor under this Agreement in consideration of the Purchased Shares and the Purchased Assets shall be an amount equal to 28% of the Base Acquisition Price, 64.3% of which shall be allocated to the Purchased Assets (as adjusted in accordance with the terms of this Agreement, the “**Purchased Assets Purchase Price**”), and 34.7% of which shall be allocated to the Purchased Shares, in each case as adjusted in accordance with the terms of this Agreement.

3.02 Deposit

The Parties acknowledge that the Purchaser has paid a deposit in the amount of \$1,250,000 (the “**Deposit**”) to BDO. During the Pre-Closing Period, promptly after the Escrow Agent has been engaged, the Purchaser and the Vendor shall, and the Vendor shall cause the Parent to, instruct BDO to remit the Deposit to the Escrow Agent. The Deposit shall be held in the Escrow Agent’s trust account and applied to reduce the outstanding balance of the Estimated Closing Purchase Price to be paid at Closing.

3.03 Preliminary Closing Statement

No less than two (2) Business Days prior to the Closing Date, the Purchaser shall cause its third party financial advisor to prepare and deliver to the Vendor a good faith calculation (the “**Preliminary Closing Statement**”) of: (a) the amount of Net Debt (based on the SaaS Business Balance Sheet) (the “**Estimated Net Debt**”), (b) the amount of Net Working Capital (based on the SaaS Business Balance Sheet) (the “**Estimated Net Working Capital**”) and the resulting Estimated Working Capital Overage or Estimated Working Capital Underage, as applicable, (c) the Purchase Price Increase Amount, and (d) using the amounts referred to in clauses (a) through (c), a calculation of the Estimated Closing Purchase Price. The Preliminary Closing Statement, and each element of the Preliminary Closing Statement, shall be prepared in accordance with generally accepted accounting principles and shall be accompanied by reasonable supporting detail.

3.04 Satisfaction of Estimated Closing Purchase Price

The Purchaser shall satisfy the Estimated Closing Purchase Price at the Closing Time by payment by wire transfer of immediately available funds, certified cheque, bank draft or money order, of the following amounts, as follows:

- (1) \$250,000 (the “**Adjustment Escrow Amount**”) to the Escrow Agent, on behalf of the Vendor, which amount shall be deposited into a segregated account established and maintained by the Escrow Agent to be released by the Escrow Agent in accordance with the terms and provisions of this Agreement and the Escrow Agreement;
- (2) \$500,000 (the “**Indemnification Escrow Amount**”) to the Escrow Agent, on behalf of the Vendor, which amount shall be deposited into a segregated account established and maintained by the Escrow Agent to be released by the Escrow Agent in accordance with the terms and provisions of this Agreement and the Escrow Agreement;
- (3) \$3,650,000 (the “**Churn Escrow Amount**”) to the Escrow Agent, on behalf of the Vendor, which amount shall be deposited into a segregated account established and maintained by

the Escrow Agent to be released by the Escrow Agent in accordance with the terms and provisions of this Agreement and the Escrow Agreement;

- (4) the amount of the Kognitiv APA Purchase Price, to Kognitiv LLC in accordance with and subject to the terms of the Kognitiv APA; and
- (5) the remainder of the Estimated Closing Purchase Price, after taking into account the payment of the Deposit, the Adjustment Escrow Amount, the Indemnification Escrow Amount, the Churn Escrow Amount and the Kognitiv APA Purchase Price, to the Vendor.

3.05 Determination of the Final Closing Purchase Price

- (1) Within thirty (30) days after the Closing Date, the Purchaser shall cause its third party financial advisor to prepare and deliver to the Vendor a good faith calculation (the “**Closing Statement**”) of: (a) the amount of Net Debt, (b) the amount of Net Working Capital and the resulting Working Capital Overage or Working Capital Underage, as applicable, and (c) using the amounts referred to in clauses (a) and (b), a calculation of the Closing Purchase Price. The Closing Statement, and each element of the Closing Statement, shall be prepared in accordance with generally accepted accounting principles and shall be accompanied by reasonable supporting detail.
- (2) The Vendor shall have until thirty (30) days following its receipt of the Closing Statement (the “**Dispute Notification Period**”) to review the Closing Statement. During the Dispute Notification Period, the Vendor and the Vendor’s accountant shall have full access to the work papers prepared by, the Purchaser or the Purchaser’s third party financial advisor, or both, to the extent that they relate to the Closing Statement and to such historical financial information (to the extent in the Purchaser’s possession) relating to the Closing Statement as the Vendor may reasonably request for the purpose of reviewing the Closing Statement and to prepare a Dispute Notice (defined below). Unless the Vendor notifies the Purchaser in writing (the “**Dispute Notice**”) prior to the expiry of the Dispute Notification Period of any objections thereto (specifying in reasonable detail the statement so disputed together with the basis for such dispute), the Closing Statement (or any item in the Closing Statement not expressly disputed in writing by the Vendor during the Dispute Notification Period) shall be final, binding and conclusive on all Parties. If the Vendor timely delivers a Dispute Notice, the Purchaser and the Vendor shall attempt in good faith to reach an agreement as to the matter(s) in dispute. If the Parties fail to resolve such dispute within ten (10) Business Days after receipt of the Dispute Notice (or such longer period mutually agreed to by the Purchaser and the Vendor), then any such disputed matter shall be submitted to and determined by an independent, nationally recognized Canadian chartered professional accounting firm mutually agreed upon by the Purchaser and the Vendor (an “**Independent Accounting Firm**”). The Independent Accounting Firm shall be given reasonable access to all relevant records of the Subject Companies, and the Parties shall use their commercially reasonable best efforts to cause and assist the Independent Accounting Firm to resolve the dispute within twenty (20) Business Days of the engagement of the Independent Accounting Firm. The Independent Accounting Firm shall address only those items properly disputed under the Dispute Notice. The fees and expenses of the Independent Accounting Firm shall be equitably apportioned by such Independent Accounting Firm based on the extent to which the Purchaser or the Vendor are determined to be the prevailing party. The Closing Statement properly disputed hereunder shall, after resolution of such dispute pursuant to this Section 3.05(2), be final, binding and conclusive on all Parties. The calculation of the Closing Purchase Price, as

finally resolved and determined pursuant to this Section 3.05(2), shall be referred to herein as the “**Final Closing Purchase Price**”.

3.06 Adjustment to Estimated Closing Purchase Price

- (1) If the Final Closing Purchase Price is greater than the Estimated Closing Purchase Price, then (A) the Purchaser shall pay, or cause to be paid, an aggregate amount equal to such excess within five (5) Business Days of the final determination of such excess amount to the Vendor, by wire transfer of immediately available funds, certified cheque, bank draft or money order, and (B) the Escrow Agent shall release the Adjustment Escrow Amount to the Vendor from the Adjustment Escrow Fund within five (5) Business Days of the final determination of the Final Closing Purchase Price in accordance with the terms of the Escrow Agreement.
- (2) If the Final Closing Purchase Price is less than the Estimated Closing Purchase Price (“**Final Purchase Price Shortfall**”), then the Escrow Agent shall release an aggregate amount equal to such Final Purchase Price Shortfall to the Purchaser from the Adjustment Escrow Fund, and shall release the remainder, if any, of the Adjustment Escrow Fund to the Vendor, in each case within five (5) Business Days of the determination of the Final Closing Purchase Price and in accordance with the terms of the Escrow Agreement; *provided*, that if the aggregate amount of such Final Purchase Price Shortfall exceeds the Adjustment Escrow Fund, then, Purchaser, in its sole discretion, shall deliver notice to the Escrow Agent to release such shortfall amount to the Purchaser from the Indemnification Escrow Fund and/or the Churn Escrow Fund in accordance with the terms of the Escrow Agreement.

3.07 Escrow Funds

At the Closing, in accordance with the terms of the Escrow Agreement, the Adjustment Escrow Amount, the Indemnification Escrow Amount, and the Churn Escrow Amount shall each be deposited into a segregated account with the Escrow Agent for the purpose of funding the Vendor’s obligations pursuant to the following:

- (1) with respect to the Adjustment Escrow Fund, pursuant to Section 3.06(2) (*Adjustment to Closing Price*); and
- (2) with respect to the Indemnification Escrow Fund and the Churn Escrow Fund, subject to Section 5.03(1), pursuant to Section 5.01 (*Indemnification by the Vendor*).

3.08 Escrow Release Terms

Pursuant to the terms of the Escrow Agreement:

- (1) all funds remaining in the Adjustment Escrow Fund shall be released by the Escrow Agent for distribution upon final determination of the Final Closing Purchase Price in accordance with Section 3.05(2), and
- (2) all funds remaining in the Indemnification Escrow Fund, and/or the Churn Escrow Fund, as applicable, in each case net of funds equal to the amount of pending Losses pursuant to Section 5.01 asserted prior to the applicable Release Date, if any, shall be released by the Escrow Agent for distribution to the Vendor no later than five (5) Business Days following

the applicable Release Date pursuant to joint written instructions, instructing the Escrow Agent to release the Indemnification Escrow Fund and/or the Churn Escrow Fund, as applicable, to the Vendor, and as each pending Loss is finally determined, the excess amount of the corresponding reserve over the amount of the resolved Loss shall be released by the Escrow Agent for distribution to the Vendor pursuant to joint written instructions, instructing the Escrow Agent to release such excess funds to the Vendor.

3.09 Allocation of Purchase Price to Purchased Assets

- (1) The Purchased Assets Purchase Price shall be allocated among the Purchased Assets in the manner to be determined and agreed upon by the Parties in writing, each acting reasonably, at least three (3) Business Days prior to the Closing. The Purchaser and the Vendor shall report an allocation of the Purchase Price among the Purchased Assets in a manner entirely consistent with the agreed upon allocation referred to above and shall not take any position inconsistent therewith in the preparation of financial statements, the filing of any Tax Returns or in the course of any audit by any Governmental Authority, Tax review or Tax proceeding relating to any Tax Returns. If any Governmental Authority does not agree with that allocation, the Purchaser and the Vendor shall use their best efforts (which is not to be construed as requiring the Purchaser or the Vendor to commence or participate in any litigation or administrative process challenging the determination of any Governmental Authority) to agree on a different allocation acceptable to that Governmental Authority, and the Purchaser and the Vendor shall amend the original allocation and the relevant Tax Returns accordingly.
- (2) The Kognitiv APA Purchase Price shall be allocated among the Kognitiv APA Purchased Assets in the manner to be determined and agreed upon by the Parties in writing, each acting reasonably, at least three (3) Business Days prior to the Closing. The Purchaser shall, and the Vendor shall cause Kognitiv LLC to, report an allocation of the Kognitiv APA Purchase Price among the Kognitiv APA Purchased Assets in a manner entirely consistent with the agreed upon allocation referred to above and shall not take any position inconsistent therewith in the preparation of financial statements, the filing of any Tax Returns or in the course of any audit by any Governmental Authority, Tax review or Tax proceeding relating to any Tax Returns. If any Governmental Authority does not agree with that allocation, the Purchaser shall, and the Vendor shall cause Kognitiv LLC to, use their best efforts (which is not to be construed as requiring the Purchaser, the Vendor or Kognitiv LLC to commence or participate in any litigation or administrative process challenging the determination of any Governmental Authority) to agree on a different allocation acceptable to that Governmental Authority, and the Purchaser shall, and the Vendor shall cause Kognitiv LLC to, amend the original allocation and the relevant Tax Returns accordingly.

3.10 Kognitiv APA Purchase Price

For greater certainty, the amount of the Kognitiv APA Purchase Price forms a part of the Base Acquisition Price, and any adjustment to the Base Acquisition Price pursuant to the terms of this Agreement shall also be deemed a corresponding pro rata adjustment to the Kognitiv APA Purchase Price, based on the share of the Kognitiv APA Purchase Price forming part of the Base Acquisition Price.

3.11 Transfer Taxes

The Purchased Assets Purchase Price is inclusive of any applicable sales, value-added, use, transfer, land transfer or other similar Taxes (“**Transfer Taxes**”). The Vendor shall be responsible for paying any Transfer Taxes applicable to the purchase and sale of the Purchased Assets under this Agreement.

Article 4 **- REPRESENTATIONS AND WARRANTIES**

4.01 Representations and Warranties of the Vendor and Regarding the Purchased Assets and Kognitiv Solutions

The Vendor represents and warrants to Purchaser and acknowledges that Purchaser is relying upon the following representations and warranties in connection with the Transaction:

- (1) *Due Authorization and Enforceability* – The Vendor has the power, authority and right to enter into and deliver this Agreement and to perform its obligations hereunder. The execution, delivery and performance by Vendor of its obligations under this Agreement, and the consummation by Vendor of the Transaction, has been duly authorized and approved by all required action on the part of Vendor. This Agreement constitutes a valid and legally binding obligation of the Vendor, enforceable against it in accordance with its terms.
- (2) *Corporate Power* - The Vendor has all necessary corporate power and authority to own or lease its assets and to carry on its Business as now being conducted or proposed to be conducted.
- (3) *Title to Purchased Assets* - The Vendor has good title to the Purchased Assets (and in the case of leased assets, good leasehold title), which, at Closing, will be free and clear of all Liens.
- (4) *No Conflict* - The execution by the Vendor of this Agreement and the consummation of the Transaction:
 - (i) does not and will not (or would not with the giving of notice, the lapse of time or both, or the happening of any other event or condition) constitute or result in a violation or breach of, or conflict with, or allow any Person to exercise any rights under, any of the terms or provisions of the organizational documents of the Vendor or Kognitiv Solutions;
 - (ii) does not and will not (or would not with the giving of notice, the lapse of time or both, or the happening of any other event or condition) constitute or result in a breach or violation of, or conflict with, or allow any Person to exercise any rights under, or give any Person a basis for accelerated or increased rights of termination or non-performance under, any Material Contract;
 - (iii) does not and will not result in the violation of any Law or Order;
 - (iv) does not and will not result in a breach of, or cause the termination or revocation of, any permit held by Kognitiv Solutions or forming part of the Purchased Assets; and
 - (v) does not and will not result in the creation or imposition of any Liens upon the Purchased Assets or any property or asset of Kognitiv Solutions.

- (5) *Capitalization* - There are no (a) outstanding equity interests of Kognitiv Solutions other than the Purchased Shares; (b) outstanding securities convertible or exchangeable into equity interests of Kognitiv Solutions; (c) options, warrants, calls, subscriptions or other rights, agreements or commitments obligating Kognitiv Solutions to issue, transfer or sell any shares of its capital stock; or (d) voting trusts or other agreements or understandings to which Kognitiv Solutions is a party or by which Kognitiv Solutions is bound with respect to the voting, transfer or other disposition of its equity interests, including the Purchased Shares. The Purchased Shares are owned by the Vendor.
- (6) *Title* - The Vendor is the sole shareholder of Kognitiv Solutions and has good title to the Purchased Shares.
- (7) *Other Interests* – Kognitiv Solutions does not own or hold, directly or indirectly, any equity interests in any Person. Kognitiv Solutions is not a participant in any joint venture, partnership or similar arrangement.
- (8) *Shareholders Agreements* – At the Closing Time, there shall be no shareholders agreements or other agreements or understandings in effect with respect to the voting or transfer of any of the securities of Kognitiv Solutions, including any right of first refusal, right of first offer, proxy, voting agreement, voting trust, registration rights agreement, governance agreement, management rights agreement, nomination agreement or security holders agreement.
- (9) *No Options* - At the Closing Time, no Person shall have any written Contract that is binding on and enforceable against Kognitiv Solutions or any right or privilege in writing capable of becoming a Contract that will be binding on and enforceable against Kognitiv Solutions, including convertible securities, warrants or convertible obligations of any nature, for the purchase, subscription, allotment or issuance of any issued or un-issued equity interests of Kognitiv Solutions, in each case, that has not been irrevocably waived.
- (10) *Bankruptcy* - Neither Kognitiv Solutions nor the Vendor is the subject of any actual or threatened bankruptcy, insolvency, or similar proceedings under the *Bankruptcy and Insolvency Act* (Canada) or other similar Applicable Law (including, the United States Bankruptcy Code). Neither the Vendor nor Kognitiv Solutions have initiated proceedings with respect to a compromise or arrangement with its creditors or for its winding-up, liquidation or dissolution. No receiver or interim receiver has been appointed in respect of any Subject Company or any of their undertakings, property or assets and no execution or distress has been levied on any of their undertakings, property or assets, nor have any Proceedings been commenced in connection with any of the foregoing.
- (11) *Conduct of Business* – The Subject Companies are not conducting, and have not since their inception, conducted their Business in violation of any Applicable Laws in any material respect. To the knowledge of the Vendor, none of the Subject Companies have received any written communication alleging any non-compliance with any Applicable Laws in any material respect.
- (12) *Recitals* - The recitals set forth at the beginning of this Agreement are accurate and complete in all material respects as of the date of this Agreement and fairly describe the facts and circumstances leading to the execution of this Agreement.

- (13) *Litigation* – There are no legal actions, criminal proceedings, suits, litigations, prosecutions, investigation, administrative or judicial enquiries, or arbitrations (collectively, “**Proceedings**”) pending or outstanding or, to the Vendor’s knowledge, threatened which could affect the Purchased Shares, the Purchased Assets, the Kognitiv APA Purchased Assets, Kognitiv Solutions or the Vendor’s ability to perform its obligations under this Agreement. To the Vendor’s knowledge, there is not any factual or legal basis on which any such Proceeding might be commenced with any reasonable likelihood of success.
- (14) *Organization and Good Standing* - Kognitiv Solutions is duly formed, incorporated and/or organized, and is validly subsisting, under the laws of the jurisdiction of its formation. Kognitiv Solutions is duly registered, licensed or qualified in any other jurisdictions in which the nature of its Business or its assets requires it to be registered, except where the failure to be so registered would not, cause to it a Material Adverse Effect. Each Subject Company has made available to the Purchaser true, accurate and complete copies of its constating documents, and each as so delivered is in full force and effect. The Subject Companies are not in violation of any of the provisions contained in their constating documents in any material respect.
- (15) *Corporate Power* - Kognitiv Solutions has all necessary corporate power and authority to own or lease its assets and to carry on its Business as now being conducted or proposed to be conducted.
- (16) *Sufficiency of Assets* - The Business of each Subject Company is the only material business operation carried on by such Subject Company. The assets, properties and rights of Kognitiv Solutions, and the Purchased Assets with respect to the Business of the Vendor, and Kognitiv APA Purchased Assets with respect to the Business of Kognitiv LLC constitute all the assets, properties and rights necessary and sufficient to permit the continued operation of their respective Business after the Closing in the same manner in all material respects as it has been conducted in the Ordinary Course of Business.
- (17) *Financial Statements*
- (i) The Vendor has Made Available to the Purchaser true, accurate and complete copies of the pro forma financial statements of the Subject Companies as at and for the financial year ended December 31, 2024 consisting of the pro forma balance sheet, and pro forma statement of income (the “**Financial Statements**”).
 - (ii) The Financial Statements have been prepared in accordance with IFRS, applied on a basis consistent with that of the preceding period, except for the absence of notes and in the case of any interim period Financial Statements, the absence of normal period-end adjustments (none of which are material, individually or in the aggregate).
 - (iii) The Financial Statements present fairly in all material respects the financial position of the Subject Companies as of the dates or periods set forth therein, and the balance sheets, income statements, included therein present fairly the financial condition of the Subject Companies, the results of the operations of the Subject Companies, as at the dates thereof and for the periods covered thereby.

- (iv) The Subject Companies maintain their Books and Records and have systems of internal accounting controls sufficient to provide reasonable assurances that assets, liabilities and transactions are recorded so as to permit preparation of financial statements in accordance with IFRS. The Financial Statements were prepared from, and are consistent with, the accounting records of the Subject Companies.
 - (v) Schedule 4.01(17)(v) of the Disclosure Letters sets forth a copy of the carved-out pro forma balance sheet of the Business of the Subject Companies as at December 31, 2024 (the “**SaaS Business Balance Sheet**”). The SaaS Business Balance Sheet presents fairly in all material respects the financial position and performance of the Business of the Subject Companies as of the date or period set forth therein and on a continuing basis.
- (18) *Books and Records* – The Vendor has Made Available to the Purchaser all of the material Books and Records. The Books and Records are not recorded, stored, maintained, operated or otherwise dependent on or held by any means (including any electronic, mechanical or photographic process, whether computerized or not) which are not or will not be available to the Purchaser in the Ordinary Course of Business after Closing.
 - (19) *Undisclosed Liabilities* – Each of the Vendor and Kognitiv Solutions has no material liabilities or obligations, whether accrued, absolute, contingent or otherwise, that are not reflected or reserved against in the Financial Statements, other than liabilities and obligations incurred after the date of the most recent Financial Statements in the Ordinary Course of Business.
 - (20) *Leased Property* – Kognitiv Solutions does not own, nor has owned, any interest in any real property.
 - (21) *Personal Property* – The Vendor has Made Available to the Purchaser a true, accurate and complete list of each item of machinery, equipment, furniture, motor vehicles and other personal property owned or leased by each of Kognitiv Solutions and Kognitiv LLC (including those in possession of third parties) that are material to the Business of Kognitiv Solutions and Kognitiv LLC.
 - (22) *Accounts Receivable.*
 - (i) All Accounts Receivable shown on the financial Books and Records are *bona fide*, are not subject to set-offs or counterclaims, and have been incurred in the Ordinary Course of Business in all material respects. To the knowledge of the Vendor, there is no fact or event which would reasonably be expected to result in a material increase in the uncollectibility of such Accounts Receivable, in the aggregate, in excess of such allowance.
 - (ii) All portions of Accounts Receivable owing by Al Meera Consumer Goods Company (Q.P.S.C.) which are not considered Aged Accounts Receivable, as set forth in Schedule 4.01(22)(ii) of the Disclosure Letter (the “**Al-Meera Receivables**”), are fully recoverable in accordance with the terms of the applicable Contracts and, to the knowledge of the Vendor, there is no fact or event which would reasonably be expected to impair or affect the ability to collect the Al-Meera Receivables. Al-Meera Receivables are not subject to any set-offs, counterclaims, or adjustments.

(23) *Intellectual Property*

- (i) The Vendor has Made Available to the Purchaser a true, complete and accurate list of all Owned Intellectual Property that results from an application, registration or issuance with a Governmental Authority, and all Contracts that comprise or relate to such Owned Intellectual Property (other than non-exclusive customer end user licenses or distributor licenses entered into in the Ordinary Course of Business).
- (ii) The Purchased Assets constitute all of the Business Intellectual Property. No Subject Company other than the Vendor owns or purports to own any Intellectual Property.
- (iii) The Vendor holds the entire right, title and interest in and to all of the Owned Intellectual Property, free of all Liens. The Owned Intellectual Property is valid and the rights of the Vendor as applicable in the Owned Intellectual Property are enforceable.
- (iv) Other than commercially available “off the shelf” Software, the Subject Companies do not have any Licensed Intellectual Property and are not a party to any Contract to pay any royalty or other fee to use any Intellectual Property.
- (v) The Vendor has Made Available to the Purchaser a true, complete and accurate list of all Company Products, including any product or service currently under design or development. The Business Intellectual Property is all of the Intellectual Property used or required for the proper carrying on of the Business in the manner presently conducted by the Subject Companies and as currently proposed to be conducted. No Business Intellectual Property or Company Product is subject to any outstanding Order or Contract or subject to any Proceeding materially restricting the transfer, use, enforcement or licensing thereof by the Subject Companies in the operation of the Business. The Purchaser will have the valid, sufficient and enforceable right and authority to use after the Closing Time the Business Intellectual Property and to make, market, distribute, import, license and sell the Company Products in connection with the conduct of the Business in the manner presently conducted by the Subject Companies and as currently proposed to be conducted. The execution and delivery of this Agreement and the consummation of the Transaction will not breach, violate or conflict with any Contract governing any Business Intellectual Property or Company Product, and will not cause the forfeiture or termination of any Business Intellectual Property or in any way limit, restrict, prohibit or result in the loss of the right to use, sell, license or dispose of or to bring any action for the infringement of any Business Intellectual Property or Company Product (or any portion thereof).
- (vi) To the knowledge of the Vendor, neither the use of the Business Intellectual Property nor the conduct of the Business, including the manufacture, marketing, distribution, importation, licensing or selling of any Company Product, is infringing or has infringed the Intellectual Property of any other Person. Except as disclosed in Schedule 4.01(23)(vi) of the Disclosure Letter, the Subject Companies have not received any notice, claim, invitation to license or similar communication alleging that the use of the Business Intellectual Property or the conduct of the Business, including the manufacture, marketing, distribution, importation, licensing or selling of any Company Product, infringes any Intellectual Property

of any other Person, and no Proceedings have been instituted or are pending or, to the knowledge of the Vendor, threatened, alleging any such infringement.

- (vii) There are no pending or, to the knowledge of the Vendor, threatened Claims or Proceedings contesting the validity, ownership or right to use, sell, license or dispose of any of the Business Intellectual Property or Company Product and, to the knowledge of the Vendor, there is no basis for any of those Claims or Proceedings.
- (viii) To the knowledge of the Vendor, since June 18, 2020, all current and former employees, independent contractors, consultants, subcontractors and service providers of the Subject Companies who have or are contributing to the creation or development of any material Intellectual Property or material Company Product for or on behalf of the Subject Companies have entered into agreements with a Subject Company, as applicable, that includes: (i) confidentiality obligations in favor of the Subject Companies; (ii) a present assignment to the Subject Companies of all right, title and interest in and to all Intellectual Property created or developed by such Person in the scope of such Person's employment by or engagement with the Subject Companies; and (iii) a waiver of any and all moral rights and other non-assignable rights (to the extent possible under Applicable Law but only in the event that such moral rights or other non-assignable rights were not assigned to the Subject Companies) such Person may possess in such Intellectual Property (collectively, the "**Invention Assignment Agreements**"). No Person who has executed an Invention Assignment Agreement is in default or breach of such Invention Assignment Agreement and all such Persons are in compliance with the terms of the Invention Assignment Agreement. To the knowledge of the Vendor, no current or former employee, contractor, consultant, subcontractor nor service provider has made nor asserted any claim or right, title or interest in any Owned Intellectual Property.

(24) *Internal IT Systems*

- (i) All Internal IT Systems (A) are, to the knowledge of the Vendor, fully functional and operate and run in a reasonable and efficient business manner and (B) are sufficient, in all material respects, for the current and currently contemplated needs, immediately following the Closing, of the Business. Each of the Subject Companies has taken commercially reasonable steps to safeguard the internal and external integrity and security of the Internal IT Systems and the data that such Internal IT Systems contain (including the data of its customers). There has never been any failure with respect to any Internal IT Systems that has had a material effect on the operations of any Subject Companies and, to the knowledge of the Vendor, there has never been any unauthorized access to or use of any Internal IT Systems (or any Software, information or data stored thereon). The consummation of the Transaction, and the transaction under Kognitiv APA, will not impair or interrupt the right of Kognitiv Solutions to access and use any material portion of the Internal IT Systems.
- (ii) To the knowledge of the Vendor, none of the Internal IT Systems (A) contains any undisclosed program routine, device or other feature, including viruses, worms, bugs, time locks, Trojan horses or back doors, in each case that is designed to delete, disable, deactivate, interfere with or otherwise harm such Internal IT

Systems, or any virus or other intentionally created, undocumented contaminant that may, or may be used to, access, modify, delete, damage or disable any hardware, system or data or (B) contains any bug, defect, or error (including any bug, defect, or error relating to or resulting from the display, manipulation, processing, storage, transmission, or use of data) that materially and adversely affects the use, functionality, or performance of such Internal IT Systems or (C) fails to comply with any applicable warranty, terms of use or other contractual commitment relating to the use, functionality, or performance of such Internal IT Systems.

- (25) *Related Party Transactions* - Except as disclosed in 4.01(25) of the Disclosure Letter, no Related Person (a) owes any amount to, or is owed any amount by, Kognitiv Solutions nor has Kognitiv Solutions committed to make any loan or extend or guarantee credit to or for the benefit of, any Related Person, (b) is involved in any business arrangement or other relationship with Kognitiv Solutions, (c) owns any property or right, tangible or intangible, that is used by Kognitiv Solutions, (d) has any claim or cause of action against Kognitiv Solutions, or (e) to the knowledge of the Vendor, owns any interest (other than ownership of less than five percent (5%) of the issued and outstanding equity interests of a company that is publicly traded) in, controls or is a director, officer, employee or partner of, consultant or lender to or borrower from, or has the right to participate in the profits of, any Person that is a direct competitor, supplier, customer, landlord, tenant, creditor or debtor of Kognitiv Solutions.
- (26) *Legal Proceedings* – There are no Proceedings pending or, to the best of the Vendor's knowledge, threatened in writing against the Vendor in relation to the Subject Companies. Other than the Proposal Proceedings and the Chapter 11 Case, the Subject Companies are not involved in, whether as claimant or defendant or otherwise, in any nor is any Proceeding threatened in writing by or against the Subject Companies, their Business or their assets. To the knowledge of the Vendor, there are no facts or circumstances that are likely to give rise to any Proceedings against the Vendor in relation to the Subject Companies or against the Subject Companies that may have a Material Adverse Effect. Further, other than in connection with the Proposal Proceedings, there are no judgments or outstanding notices, orders, injunctions, decrees, stipulations or awards (whether rendered by a court or administrative agency, or by arbitration) against the Subject Companies that would reasonably be expected to, individually or in the aggregate, have a Material Adverse Effect.
- (27) *Taxes*
- (i) Kognitiv Solutions has duly and timely filed, or caused to be duly and timely filed, all Tax Returns required to be filed by it. Each such Tax Return has been prepared in compliance with all Applicable Laws, and all such Tax Returns (including information provided therewith or with respect thereto) are accurate and complete in all material respects. All Taxes due and payable by Kognitiv Solutions have been timely paid in full (whether or not shown or required to be shown on any Tax Return).
 - (ii) Kognitiv Solutions is not subject to any current, or, to the knowledge of the Vendor, pending, proposed or threatened Tax audit or examination, Tax claim or Tax proceeding. To the knowledge of the Vendor, Kognitiv Solutions has not received from any Taxing Authority any notice of deficiency or proposed

adjustment for any amount of Tax proposed, asserted, or assessed against it. Kognitiv Solutions is not negotiating any final or draft assessment or reassessment in respect of Taxes with any Taxing Authority.

- (iii) There are no Liens for Taxes (other than statutory Liens for Taxes not yet due and payable) upon any of the assets of any of the Subject Companies. No Governmental Authority has notified the Vendor or, to the knowledge of the Vendor, any Subject Company in writing that it is in the process of imposing any Lien for Taxes on the assets of the Subject Companies.
- (iv) There are not currently in force any waivers or agreements binding upon Kognitiv Solutions for the extension of time or statute of limitations within which to file any Tax Return or for the assessment or payment of any Tax for any taxable period, and no request for any such waiver or extension is currently pending.
- (v) Kognitiv Solutions has deducted, withheld and timely paid to the appropriate Governmental Authority all Taxes required by Law to be deducted, withheld or paid by it in connection with amounts paid or owing to, or allocated to, any employee, independent contractor, creditor, owner, equityholder, member or other third party, and Kognitiv Solutions has timely and accurately complied with all reporting and record keeping requirements related thereto, including filing of Forms W-2 and 1099 (or other applicable forms).
- (vi) The Vendor has Made Available to the Purchaser correct and complete copies of all income Tax Returns and any other material Tax Returns of each of the Subject Companies filed within the three (3) years preceding the Closing Date, and all audit reports and statements of deficiencies assessed against or agreed to by any Subject Company within the three (3) years preceding the Closing Date.
- (vii) None of the Subject Companies is a party to or bound by any Tax allocation or Tax sharing agreement (other than any such agreement the principal purpose of which is unrelated to Taxes) or any “gain recognition agreement” under Section 367 of the Code (or any corresponding or similar provision of state, local or non-U.S. income Tax Law).
- (viii) Kognitiv Solutions will not be required to include any item of income in, or exclude any item of deduction from, taxable income for any taxable period (or portion thereof) ending after the Closing Date as a result of any (i) change in method of accounting for a taxable period ending on or prior to the Closing Date, (ii) use of an improper method of accounting for a taxable period ending on or prior to the Closing Date, (iii) “closing agreement” as described in Section 7121 of the Code (or any corresponding or similar provision of state, local or non-U.S. Tax Law) executed on or prior to the Closing Date, (iv) installment sale or open transaction disposition made on or prior to the Closing Date, or (v) prepaid amount received or deferred revenue accrued on or prior to the Closing Date.
- (ix) To the knowledge of the Vendor, Kognitiv Solutions is not, nor has it ever been, a party to any “reportable transaction,” as defined in Section 6707A(c)(2) of the Code and Treasury Regulation Section 1.6011-4(b) or any similar provision of applicable state, local or non-U.S. Law.

- (x) Kognitiv Solutions is not subject to Tax in any jurisdiction outside its country of incorporation by virtue of having a branch, permanent establishment, nexus, place of business or other taxable presence.
 - (xi) Kognitiv Solutions has properly collected and remitted sales and similar Taxes with respect to sales made to its customers or has properly received and retained any appropriate tax exemption certificates and other documentation for all sales made without charging or remitting sales or similar Taxes that qualify such sales as exempt from sales and similar Taxes.
 - (xii) Kognitiv Solutions has not received or requested any private letter ruling or similar ruling from the Internal Revenue Service or other Taxing Authority, the terms of which would apply to the computation of Tax Liability for any taxable period that has not yet been filed.
 - (xiii) The Vendor has Made Available to the Purchaser all documentation relating to any applicable Tax exemptions, Tax holidays or other Tax reduction agreements or arrangements applicable to the Subject Companies. To the knowledge of the Vendor, the Subject Companies are in compliance with all requirements and conditions for any applicable Tax holidays or incentives.
 - (xiv) Material transactions between or among Kognitiv Solutions and any of its Affiliates (including another Subject Company) have, to the extent required by applicable Tax Laws, occurred on arm's-length terms and, to the knowledge of the Vendor, Kognitiv Solutions has complied with all Tax-related requirements that the arm's-length nature of the terms of such transactions be documented, as such transactions have been properly taken into account and reported in its Tax Returns has maintained documentation (including any applicable transfer pricing studies) in connection with any such related party transactions.
 - (xv) None of sections 80 to 80.04, both inclusive, of the Canadian Tax Act have applied or, to the knowledge of the Vendor, will apply to Kognitiv Solutions at any time up to and including the Closing Date. To the knowledge of the Vendor, Kognitiv Solutions does not have any unpaid amounts that may be required to be included in income under Section 78 of the Canadian Tax Act for a taxation year ending after the Closing Date. Kognitiv Solutions has never made any material payments and, to the knowledge of the Vendor, is not obligated to make any material payments that may not be deductible by virtue of Section 67 of the Canadian Tax Act.
- (28) *Contracts* - The Vendor has Made Available to the Purchaser the Material Contracts. Each of the Material Contracts is in full force and effect and constitutes a valid, binding and enforceable obligation of the Vendor or Kognitiv Solutions, as applicable and, to the knowledge of the Vendor, the other parties thereto. Effective as of Closing, neither the Vendor nor Kognitiv Solutions is or, to the knowledge of the Vendor, is alleged to be, in breach of or default in any material respect under any Material Contract, and, to the knowledge of the Vendor, no counterparty is in breach of or default in any material respect under any Material Contract. To the best of the knowledge of the Vendor, no events have occurred which will result in the rescission, avoidance, termination or repudiation of any of the Material Contracts. Effective as of Closing, neither the Vendor nor Kognitiv Solutions have received any written notice in respect of: (i) any allegation that it is in breach of or

default under any Material Contract; or (ii) rescission, termination or repudiation of any Material Contract, that have not been rectified; nor has such Person issued any written notice for such action against the counter party. Neither the Vendor nor Kognitiv Solutions has waived any material rights under any Material Contract. No Material Contract contains any restrictive covenants.

- (29) *Shared Cora Supplier Contracts* –Kognitiv Solutions is not a party to any Contract with suppliers of the Business where the services provided thereunder are shared with any of Gary Jonas Computing Ltd., CORA Group Australia Pty Ltd., Jonas Computing (UK) Limited and/or Jonas Food Holdco Inc. (any such Contract, a “**Shared Cora Supplier Contract**”). None of the Kognitiv APA Purchased Contracts are Shared Cora Supplier Contracts.
- (30) *Customers* - The Vendor has Made Available to the Purchaser a true, complete and correct list of all the customers of the Business for the twenty-four (24) months prior to the date of this Agreement and the aggregate amount that each customer paid during that period. Except as disclosed in Schedule 4.01(29) of the Disclosure Letter, neither of the Subject Companies have received notice of, and there is not, any intention on the part of any current customer to cease doing business with the Subject Companies or to modify or change in any material manner any existing arrangement with the Subject Companies for the Subject Companies’ supply of products or services. There are no unresolved material disputes with any such customer. No Contract with any customer contains terms under which the execution or performance of this Agreement would give the customer the right to terminate or adversely change the terms of that Contract.
- (31) *Suppliers* - The Vendor has Made Available to the Purchaser a true, complete and correct list of all suppliers of the Business for the twenty-four (24) months prior to the date of this Agreement and the aggregate amount that each supplier was paid during that period. Neither of the Subject Companies have received notice of, and there is not, any intention on the part of any such current supplier to cease doing business with the Subject Companies or to modify or change in any material manner any existing arrangement with the Subject Companies for the supply of any products or services. There are no unresolved material disputes with any such supplier. No Contract with any supplier contains terms under which the execution or performance of this Agreement would give the supplier the right to terminate or adversely change the terms of that Contract.
- (32) *Labour and Employment Matters*
 - (i) The Vendor has Made Available to the Purchaser a true, correct and complete list, without names, of each employee, whether actively at work or not, showing without names their employing entity, salaries, wage rates, commissions, bonus arrangements, benefits, positions, status as full-time or part-time employees, location of employment, cumulative length of service with the Vendor and Kognitiv Solutions. The Vendor has Made Available to the Purchaser all information regarding the Vendor and Kognitiv Solutions’ employees’ annual vacation entitlement and their accrued and unused vacation days, including end-of-service and defined benefit obligations accrued that have accrued to employees of the Vendor and Kognitiv Solutions through the Closing Date in connection with their employment prior to Closing pursuant to Statutory Plans. Effective as of Closing, the Vendor and Kognitiv Solutions have no obligations in respect of any former employees. The Vendor has Made Available to the Purchaser all current

employment agreements that the Vendor and Kognitiv Solutions are a party to in respect of any its current employees.

- (ii) The Vendor has Made Available to the Purchaser a true, accurate and complete list of the names of all individuals who are providing services to the Vendor and Kognitiv Solutions as an independent contractor (including consultant) as of the date hereof, specifying the length of service and fee rate for each such consultant or independent contractor.

(33) *Company Plans*

- (i) The Vendor has Made Available to the Purchaser all the Company Plans.
- (ii) None of the Subject Companies has ever sponsored, maintained, contributed to or has any liability with respect to: (i) a “multiple employer plan” as described in Section 413(c) of the Code; or (v) a pension plan, retirement compensation arrangement or multi-employer pension plan, employee life and health trust or salary deferral arrangement, all within the meaning of the Canadian Tax Act or applicable pension standards legislation in any province or territory of Canada. None of the Company Plans contain, have ever contained and nor include assets transferred from or in respect of a “defined benefit provision” as defined in section 147.1(1) of the Tax Act.
- (iii) All contributions and premiums and other payments for or in respect of each Company Plan relating to any period prior to the Closing that are not yet due have been paid or accrued, including all earned and unused vacation and all bonus amounts in respect of the period of the year prior to the Closing at a rate no less than the bonuses paid in respect of the prior year, such that there are no unsatisfied funding obligations in respect of any Company Plan.
- (iv) With respect to each Company Plan, no event has occurred or is reasonably expected to occur that has resulted in or would subject any Subject Company to a Tax or other liability under Section 4971 or 4975 of the Code or Section 404 or 406 of ERISA or the assets of any Subject Company to a lien under Section 430(k) of the Code or under ERISA.
- (v) Neither the execution and delivery of this Agreement nor the consummation of the Transaction will (i) result in any payment (including severance, unemployment compensation, “excess parachute payments” within the meaning of Section 280G(b) of the Code or otherwise) becoming due to any director, officer or employee of the Subject Companies from the Subject Companies under any Company Plan or otherwise, (ii) increase any benefits otherwise payable under any Company Plan or (iii) result in any acceleration of the timing of payment, vesting or funding of any such benefits.
- (vi) No Subject Company has any express or implied commitment to amend any Company Plan or to create any additional employee benefit plan, program or arrangement which is intended to cover employees or former employees, members or other service providers of any Subject Company.

- (vii) None of the Company Plans provide medical or welfare benefits to any retired Person, or any current employee of any of the Subject Companies following such employee's retirement or other termination of employment, except as required by Applicable Law.
 - (viii) Each Company Plan may be amended, terminated or wound-up by the applicable Subject Company at any time without incurring any liabilities, costs, expenses or any other obligations; and
 - (ix) Kognitiv Solutions has satisfied all obligations prior to Closing in respect of each Statutory Plan, in accordance with applicable Laws and the terms of the applicable Statutory Plans and there are no outstanding defaults or violation thereunder.
- (34) *Indebtedness* – There is no outstanding Indebtedness. There are no liabilities (contingent or otherwise) that are existing, or may arise, accrue, or attach to the Purchased Assets, the Kognitiv APA Purchased Assets, Kognitiv Solutions, Purchaser or its Affiliates, as a result of the consummation of the Transaction, or the transactions contemplated under the Kognitiv APA.
- (35) *Government Authorizations* - The Subject Companies possess and are in material compliance with all Government Authorizations required to operate the Business and to use and own, lease or otherwise hold its assets under Applicable Laws. All such Government Authorizations relating to the operation of the Business and the use and ownership, leasing or otherwise holding of the assets of the Subject Companies are in full force and effect, and there are no Proceedings pending or, to the knowledge of the Vendor, threatened that seek the revocation, cancellation, suspension or any adverse material modification of any such Government Authorization presently possessed. On the Closing Date, the Government Authorizations in full force and effect held by the Subject Companies will constitute all the Government Authorizations required under Applicable Law for their respective possession, ownership and use of their assets and operation of the Business as currently conducted.
- (36) *Bank Accounts and Attorneys* - Schedule 4.01(36) of the Disclosure Letter is a true, accurate and complete list of the accounts and safety deposit boxes of Kognitiv Solutions and of Persons holding general or special powers of attorney from Kognitiv Solutions and sets out:
- (i) the name of each bank, trust company or similar institution in which Kognitiv Solutions has accounts or safety deposit boxes, the number or designation of each such account and safety deposit box and the names of all Persons authorized to draw thereon or to have access thereto; and
 - (ii) the name of each Person holding a general or special power of attorney from Kognitiv Solutions and a summary of the terms thereof.
- (37) *Required Approvals*. Except as disclosed in Schedule 4.01(37), there is no requirement for the Vendor to make any filing with, give any notice to or obtain any approval or consent from any Person (including any Governmental Authority) under Applicable Law, any Material Contract or any Governmental Authorization relating to the Business, the Purchased Assets, as a condition to the lawful completion of the Transactions or to permit

the Purchaser to conduct the Business after Closing as the Business is currently conducted by the Vendor.

- (38) *Kognitiv Name* - No Affiliate of the Vendor other than Kognitiv LLC and Kognitiv Solutions that uses “Kognitiv” in its legal name, business name or trade name or has any registrations for the name “Kognitiv” is currently engaged in any active business.
- (39) *Disclosure* – To the knowledge of the Vendor, no information, representation, warranty or statement by the Vendor in this Agreement or in any statement or certificate furnished to the Purchaser pursuant to this Agreement and the due diligence, or in any document provided by the Parent, the Vendor or any of their respective Affiliates, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements made herein, in light of the circumstances under which they were made and with respect to the date as of which they are made, not misleading.

4.02 Representations and Warranties of Purchaser

The Purchaser represents and warrants to Vendor and acknowledges that Vendor is relying upon the following representations and warranties in connection with the Transaction:

- (1) *Due Authorization and Enforceability of Obligations* – (i) Purchaser has the power, authority and right to enter into and deliver this Agreement and to perform its obligations hereunder; (ii) the execution, delivery and performance by Purchaser of its obligations under this Agreement, and the consummation by Purchaser of the Transaction, has been duly authorized and approved by all required action on the part of Purchaser; and (iii) this Agreement constitutes a valid and legally binding obligation of Purchaser, enforceable against it in accordance with its terms.
- (2) *Consents* – No consent, approval, order or authorization of, or declaration or filing with, any Governmental Authority or any other Person is required to be obtained by Purchaser in connection with the execution and delivery of this Agreement by Purchaser or the consummation by Purchaser of the Transaction, other than those consents, approvals, orders, authorizations, declarations or filings which would not reasonably be expected to materially impede or delay the consummation by Purchaser of the Transaction.
- (3) *Finder’s Fees* – No broker, finder or investment banker is entitled to any fee or commission from Purchaser for services rendered on behalf of Purchaser in connection with the Transaction for which Vendor may be liable.

4.03 “As Is, where Is”

PURCHASER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF VENDOR EXPRESSLY AND SPECIFICALLY SET FORTH IN SECTION 4.01 (A) PURCHASER IS ACQUIRING THE PURCHASED ASSETS AND THE PURCHASED SHARES ON AN “AS IS, WHERE IS” BASIS AS THEY EXIST ON THE CLOSING DATE; AND (B) NONE OF THE VENDOR, KOGNITIV SOLUTIONS, OR ANY OTHER PERSON (INCLUDING ANY REPRESENTATIVE OF VENDOR, OR KOGNITIV SOLUTIONS, WHETHER IN ANY INDIVIDUAL, CORPORATE OR ANY OTHER CAPACITY) IS MAKING, AND PURCHASER IS NOT RELYING ON, ANY REPRESENTATIONS, WARRANTIES, CONDITIONS OR OTHER STATEMENTS OF ANY KIND WHATSOEVER, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, AS TO ANY MATTER CONCERNING THE

PURCHASED ASSETS AND THE PURCHASED SHARES, THIS AGREEMENT OR THE TRANSACTION, OR THE ACCURACY OR COMPLETENESS OF ANY INFORMATION PROVIDED TO (OR OTHERWISE ACQUIRED BY) PURCHASER, ITS AFFILIATES OR ANY OF THEIR RESPECTIVE REPRESENTATIVES, INCLUDING WITH RESPECT TO MERCHANTABILITY, PHYSICAL OR FINANCIAL CONDITION, DESCRIPTION, FITNESS FOR A PARTICULAR PURPOSE, OR IN RESPECT OF ANY OTHER MATTER OR THING WHATSOEVER, INCLUDING ANY AND ALL CONDITIONS, WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, PURSUANT TO ANY APPLICABLE LAWS IN ANY JURISDICTION, WHICH PURCHASER CONFIRMS DO NOT APPLY TO THIS AGREEMENT, AND ARE HEREBY WAIVED IN THEIR ENTIRETY BY PURCHASER.

Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act* (Ontario) or similar legislation do not apply hereto and have been waived by the Purchaser.

This Section 4.03 shall not merge on Closing and is deemed incorporated by reference in all closing documents and deliveries.

4.04 Purchaser's Acknowledgement

Purchaser acknowledges and agrees that it has conducted to its satisfaction an independent investigation and verification of the Business, the Purchased Assets and the Purchased Shares and all related operations of the Subject Companies, and has consulted with and been advised by its own financial, legal and other advisors before entering into this Agreement, has read same and knows the contents thereof, and has determined to proceed with the Transaction. Purchaser has relied solely on the results of its own independent investigation and verification and, except for the representations and warranties of Vendor expressly set forth in Section 4.01, Purchaser understands, acknowledges and agrees that all other representations, warranties, conditions and statements of any kind or nature, expressed or implied (including any relating to the future or historical financial condition, results of operations, prospects, assets or liabilities of the Subject Companies or the Business) are specifically disclaimed by Vendor and its financial and/or legal advisors.

Article 5 - INDEMNIFICATION

5.01 Indemnification by the Vendor

Subject to Section 5.03, from and after the Closing Time and for as long as set forth in Section 5.03, the Vendor will indemnify and hold harmless the Purchaser and its respective successors and permitted assigns, and the officers, employees, directors and shareholders of the Purchaser (collectively, the “**Purchaser Indemnitees**”) from and against, and will pay to the Purchaser Indemnitees the amount of, any and all Losses (excepting loss of profits and consequential damages) actually incurred by any of the Purchaser Indemnitees following the Closing Time arising out of, in respect of or by virtue of:

- (1) any breach of or inaccuracy in the representations and warranties of the Vendor contained in this Agreement (including the certificates delivered pursuant hereto);
- (2) any breach of the covenants or agreements of the Vendor contained in this Agreement (including the certificates delivered pursuant hereto);
- (3) any Excluded Liabilities;

- (4) the ownership, possession or operation of the Purchased Assets or the Business of the Vendor before the Closing, except for Losses that are, or relate to any, Assumed Liabilities;
- (5) any Taxes (or the nonpayment thereof) of or with respect to Kognitiv Solutions attributable to any period prior to Closing to the extent not included in the computation and / or adjustment of the Final Closing Purchase Price;
- (6) any Claims (whether pending, threatened, or settled) involving or relating to Kognitiv Solutions that exist or arise prior to the Closing Date, including any settlement agreements or judgments relating to such Claims.
- (7) any Indebtedness of the Subject Companies owing to the Secured Creditor to the extent not included in the calculation of the Final Closing Purchase Price;
- (8) any claims by any current, past or alleged holder of equity interests in Kognitiv Solutions related to such equity interests or any distribution of the Final Closing Purchase Price, or any other consideration hereunder (including Claims arising out of the authorization, execution and delivery of this Agreement or the consummation of the Transaction);
- (9) the Vendor's Restricted Share Unit Plan effective as of April 22, 2024, as amended and restated from time to time;
- (10) the Vendor's 2019 Amended and Restated Stock Option Plan, enacted on May 2, 2011 and amended and restated on July 31, 2019, as amended and restated from time to time;
- (11) any transactions between Kognitiv Solutions and any Related Person;
- (12) the matters set out in Schedule 4.01(23)(vi) of the Disclosure Letter;
- (13) any Undisclosed Supplier Contracts;
- (14) the Terminated Customer Contracts Revenue, solely with respect to the portion of the Terminated Customer Contracts Revenue exceeding an amount equal to \$456,000 which, for the purposes of calculating the quantum under this provision, any such amounts exceeding \$456,000 shall be multiplied by a factor of 1.57, as further illustrated in Exhibit A;
- (15) any and all penalties imposed by customers incurred by Kognitiv Solutions or the Purchaser and arising from services or performance failures occurring prior to the Closing Date to the extent that any related service credits granted by the Subject Companies in connection with such performance failures are not included in the calculation of the Final Closing Purchase Price;
- (16) the Pre-Closing Contract Transfer, including, following the Vendor's bankruptcy, any amounts owing to the Subject Companies under the Non-Transferred Contracts;
- (17) the Pre-Closing Employee Reorg;
- (18) the Cora Transaction and any agreements or transactions relating thereto;

- (19) any breach of or inaccuracy in the representations and warranties of Kognitiv LLC contained in Kognitiv APA (including the certificates delivered pursuant thereto);
- (20) any breach of the covenants or agreements of Kognitiv LLC contained in Kognitiv APA (including the certificates delivered pursuant thereto);
- (21) any Kognitiv APA Excluded Liabilities;
- (22) the ownership, possession or operation of Kognitiv APA Purchased Assets or the Business of Kognitiv LLC before the closing of the transactions contemplated by the Kognitiv APA, except for Losses that are, or relate to any, Kognitiv APA Assumed Liabilities;
- (23) any Claim in respect of any employee matter pursuant to Kognitiv APA to the extent based upon facts or circumstances in existence before Kognitiv APA Closing Time;
- (24) any Kognitiv Non-Transferred Employees;
- (25) any prior operation of, involvement in or guarantee of any business other than the Businesses by the Subject Companies prior to the Closing Date.

5.02 Indemnification by the Purchaser

The Purchaser will indemnify and hold harmless the Vendor and its successors and permitted assigns, and the officers, employees, directors and stockholders of the Vendor (collectively, the “**Vendor Indemnitees**”) from and against, and will pay to the Vendor Indemnitees the amount of, any and all Losses actually incurred by any of the Vendor Indemnitees following the Closing Time arising out of, in respect of or by virtue of:

- (1) any breach of or inaccuracy in the representations and warranties of the Purchaser contained in this Agreement (including the certificates delivered pursuant hereto) from and after the Closing Time;
- (2) any breach of the covenants or agreements of the Purchaser contained in this Agreement (including the certificates delivered pursuant hereto) from and after the Closing Time;
- (3) any Assumed Liabilities;
- (4) any breach of or inaccuracy in the representations and warranties of the Purchaser contained in the Kognitiv APA (including the certificates delivered pursuant hereto) from and after the Closing Time;
- (5) any breach of the covenants or agreements of the Purchaser contained in the Kognitiv APA (including the certificates delivered pursuant hereto) from and after the Closing Time; and
- (6) any breach of the covenants or agreements of the Purchaser contained in the Non-Solicitation Agreement during the Pre-Closing Period in accordance with the terms of same.

5.03 Manner of Indemnification

- (1) Any amounts owing by the Vendor pursuant to Section 5.01 shall be paid, at the Purchaser’s sole discretion, from either of the Indemnification Escrow Fund and/or the

Churn Escrow Fund, up to a maximum amount equal to the aggregate of the Indemnification Escrow Amount and the Churn Escrow Amount, by release of funds to the Purchaser Indemnitees by the Escrow Agent in accordance with the terms of the Escrow Agreement. Any such release shall accordingly reduce the amount in the Indemnification Escrow Fund and/or the Churn Escrow Fund, as applicable. Notwithstanding the foregoing, the Purchaser Indemnitees shall not have the right to make a Claim for indemnification under Section 5.01(14) following the release of the Churn Escrow Fund following its Release Date in accordance with Section 3.08(2).

- (2) Any remaining amounts in either of the Indemnification Escrow Fund and/or the Churn Escrow Fund (in each case, less the amount of any pending indemnification Claims) as of the applicable Release Date shall be released in accordance with the terms of the Escrow Agreement and Section 3.08.

5.04 Third Party Claims

In the event of a Third Party Claim against any Purchaser Indemnitee or Vendor Indemnitee (as applicable, an “**Indemnified Party**”), and if such Indemnified Party intends to seek indemnification with respect thereto under the provisions of this Agreement, such Indemnified Party shall promptly (and in any event, within thirty (30) days thereof), after receipt of written notice of such Third Party Claim, provide written notice of such Third Party Claim to the party from whom the Indemnified Party intends to seek indemnification (the “**Responsible Party**”), which notice shall describe such Third Party Claim in reasonable detail and the amount claimed in respect thereof (if known and quantifiable); *provided*, that the failure to so notify a Responsible Party shall not relieve such Responsible Party of its obligations hereunder unless and to the extent the Responsible Party shall be actually and materially prejudiced by such failure to so notify. A Responsible Party shall be entitled to participate in the defense of such Third Party Claim giving rise to an Indemnified Party’s claim for indemnification at such Responsible Party’s expense, and at its option (subject to the limitations set forth below) shall be entitled to assume the defense thereof by appointing a reputable counsel reasonably acceptable to the Indemnified Party to be the lead counsel in connection with such defense within thirty (30) days of its receipt of notice of the Third Party Claim; *provided*, that prior to the Responsible Party assuming control of such defense, it shall demonstrate to the Indemnified Party in writing such Responsible Party’s financial ability to provide full indemnification to the Indemnified Party with respect to such Third Party Claim (including the ability to post any bond required by the court or adjudicative body before which such Third Party Claim is taking place) and, subject to the limitations set forth herein, agree in writing to be fully responsible for all Losses relating to such Third Party Claim; *provided, further*, that:

- (1) the Indemnified Party shall be entitled to participate (at its sole cost) in the defense of such Third Party Claim and to employ counsel of its choice for such purpose (it being understood and agreed, for the avoidance of doubt, that any fees and expense of counsel incurred by the Indemnified Party prior to the date that the Responsible Party assumes the defense of such claim shall be indemnified Losses hereunder);
- (2) the Responsible Party shall not be entitled to assume control of such defense if (i) the Claim for indemnification relates to or arises in connection with any criminal proceeding, action, indictment, allegation or investigation, (ii) the Indemnified Party reasonably believes an adverse determination with respect to the Third Party Claim giving rise to such claim for indemnification would be materially detrimental to or materially injure the Indemnified Party’s reputation or future business prospects including if there is a reasonable likelihood that such Third Party Claim would be the subject of unwanted media attention or negative publicity, (iii) such claim seeks an injunction or equitable relief against the Indemnified

Party, (iv) a conflict of interest exists between the Responsible Party and the Indemnified Party, (v) the Responsible Party failed or is failing to vigorously (given the nature of such claim) and in good faith prosecute or defend such claim, (vi) the Indemnified Party is a Purchaser Indemnitee and the defense of such Third Party Claim by the Responsible Party would be, as reasonably determined by the Indemnified Party, expected to adversely affect the Indemnified Party's relationship with any of such party's customers or vendors; and

- (3) if the Responsible Party shall control the defense of any such Third Party Claim, the Responsible Party shall obtain the prior written consent of the Indemnified Party before entering into any settlement of a Third Party Claim or ceasing to defend such Third Party Claim unless (i) the settlement involves only payment of money damages, (ii) all such money damages will be the responsibility of, and paid by, the Responsible Party, (iii) the settlement does not impose any injunction or other equitable relief on, and contains no admission of wrongdoing by, the Indemnified Party and (iv) the settlement contains a legally binding, unconditional and irrevocable releases of the Indemnified Party from all liabilities with respect to such Third Party Claim.

5.05 Direct Claims

A Claim for indemnification for any matter not involving a Third Party Claim (a "**Direct Claim**") shall be asserted by the Indemnified Party to the Responsible Party in writing with reasonable promptness. The failure to give such prompt written notice shall not, however, relieve the Responsible Party of its indemnification obligations, unless and only to the extent that the Responsible Party shall be actually and materially prejudiced by such failure to notify. Such notice by the Indemnified Party shall describe the obligation with respect to which the Direct Claim is made, the facts giving rise to and the alleged basis for such Direct Claim. If the Responsible Party disputes its obligation to indemnify the Indemnified Party under the provisions of this Agreement, the Responsible Party shall have thirty (30) days after its receipt of such notice to give written notice of such objection, and the grounds thereof. If the Responsible Party does not so respond within such thirty (30)-day period, the Responsible Party shall be deemed to have acknowledged the validity of such Direct Claim. If the Responsible Party disputes such Direct Claim in writing during the thirty (30)-day period, then during the thirty (30)-day period following delivery of written notice of dispute by the Responsible Party, the Indemnified Party and the Responsible Party shall seek in good faith to resolve the disputed claim. If after thirty (30) days the parties are unable to come to an agreement regarding such indemnification obligations, the amount of indemnification to which an Indemnified Party shall be entitled shall be determined by either (a) the written agreement between the Indemnified Party and the Responsible Party, (b) a final written judgment or decree of any court of competent jurisdiction or (c) any other means to which the Indemnified Party and the Responsible Party shall agree.

5.06 Purchase Price Adjustment

All indemnification payments made under this Agreement shall be deemed to be an adjustment to the Final Closing Purchase Price.

5.07 Exclusive Remedies

The remedies provided in this Article 5, subject to the limitations set forth herein, shall, from and after the Closing, be the sole and exclusive monetary remedies of the Purchaser Indemnitees and the Vendor Indemnitees with respect to the Transaction (except (a) in the case of intentional or gross negligence, intentional misrepresentation, willful misconduct or fraud, (b) in respect of a breach of the Non-Solicitation Agreement, and (b) for any other remedies expressly set forth in Section 11.03), and subject to the foregoing, no Party shall have any other rights or remedies in connection with any breach of this Agreement

or any other Loss arising out of the negotiation, entry into or consummation of the Transaction for the recovery of Losses resulting from, relating to or arising out of this Agreement.

Article 6 – CONDITIONS

6.01 Conditions for the Benefit of Purchaser and Vendor

The respective obligations of Purchaser and Vendor to consummate the Transaction are subject to the satisfaction of, or compliance with, at or prior to the Closing Time, each of the following conditions:

- (1) *No Law* – No provision of any Applicable Law and no judgment, injunction or Order shall have been enacted, announced, issued or entered by any Governmental Authority of competent jurisdiction that prevents, restrains, enjoins, renders illegal or otherwise prohibits the consummation of the Transaction; and
- (2) *Sale Order* – The Sale Order shall have been issued and entered by the Bankruptcy Court and shall not be subject any stay.

The Parties acknowledge that the foregoing conditions are for the mutual benefit of Purchaser and Vendor.

6.02 Conditions for the Benefit of Purchaser

The obligation of Purchaser to consummate the Transaction is subject to the satisfaction of, or compliance with, or waiver by Purchaser of, at or prior to the Closing Time, each of the following conditions (each of which is acknowledged to be for the exclusive benefit of Purchaser):

- (1) *Performance of Covenants* – The covenants contained in this Agreement required to be performed or complied with by Vendor at or prior to the Closing Time shall have been performed or complied with in all material respects as at the Closing Time;
- (2) *Truth of Representations and Warranties* – The representations and warranties of Vendor contained in Section 4.01 shall be true and correct in all material respects as of the date hereof and as of the Closing Date, as if made at and as of such date;
- (3) *Vendor's Deliverables* – Vendor shall have delivered to Purchaser all of the deliverables contained in Section 8.01 in form and substance reasonably satisfactory to Purchaser;
- (4) *No Material Adverse Effect* - From the date of this Agreement until the Closing Time, there shall not have occurred any Material Adverse Effect, nor shall any event or events have occurred that, individually or in the aggregate, with or without the lapse of time, could reasonably be expected to result in a Material Adverse Effect;
- (5) *Claims* – There is no pending or threatened Claim against the Vendor or Kognitiv Solutions that has had or that may be reasonably expected to have a Material Adverse Effect;
- (6) *Cora Claims* – There are no changes to the Claim relating to the Cora Transaction as on the date hereof that have had or that may be reasonably expected to have a Material Adverse Effect;

- (7) *No Orders, Decisions, Etc.* No final and non-appealable order, decision or ruling of any court, tribunal or regulatory authority having jurisdiction shall have been made or proceeding commenced that would specifically prohibit the Transaction;
- (8) *Permits* - No Governmental Authority has communicated to the Vendor or Kognitiv Solutions that it intends to revoke, suspend or adversely change any permit of the Vendor or Kognitiv Solutions generally or specifically as a result of the Transaction, the revocation, suspension or change of which may be reasonably expected to have, a Material Adverse Effect;
- (9) *Tail Policies Requirement* – The Tail Policies Requirement shall have been completed to the satisfaction of the Purchaser, acting reasonably.
- (10) *Pre-Closing Employee Reorg* – The Pre-Closing Employee Reorg shall have been completed to the satisfaction of the Purchaser, acting reasonably.
- (11) *Pre-Closing Contract Transfer* – The Pre-Closing Contract Transfer shall have been completed to the satisfaction of the Purchaser, in its sole discretion.

6.03 Conditions for the Benefit of Vendor

The obligation of Vendor to consummate the Transaction is subject to the satisfaction of, or compliance with, or waiver by Vendor of, at or prior to the Closing Time, each of the following conditions (each of which is acknowledged to be for the exclusive benefit of Vendor):

- (1) *Performance of Covenants* – The covenants contained in this Agreement required to be performed or complied with by Purchaser at or prior to the Closing Time shall have been performed or complied with in all material respects as at the Closing Time; and
- (2) *Truth of Representations and Warranties* – The representations and warranties of Purchaser contained in Section 4.02 shall be true and correct in all material respects as of the date hereof and as of the Closing Date, as if made at and as of such date.

6.04 Waiver of Conditions

Any condition in Sections 6.01, 6.02 and 6.03 may be waived by Purchaser or Vendor, as applicable, in whole or in part, without prejudice to any of their respective rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver shall be binding on Purchaser or Vendor, as applicable, only if made in writing.

6.05 Non-Completion of Conditions Precedent

Upon either Party becoming aware that any condition precedent set forth in this Article 6 will be or is likely to be delayed in fulfillment or has become incapable of fulfillment, such Party shall immediately notify the other Party of the same and shall provide an explanation in reasonable detail along with supporting documents.

Article 7 – COVENANTS

7.01 Covenants of Vendor

- (1) Upon payment of the Estimated Closing Purchase Price by Purchaser at the Closing Time, and subject to the terms of this Agreement, Vendor will transfer and assign to Purchaser all of Vendor's right, title and interest in and to the Purchased Assets and the Purchased Shares, free and clear of all Liens, in accordance with the terms of this Agreement.
- (2) From the date of this Agreement until the earlier to occur of the valid termination of this Agreement under Section 10.01 and the Closing Time (such period, the "**Pre-Closing Period**"), the Vendor will remain in possession of the Purchased Assets and Purchased Shares and the Purchaser will take possession of the Purchased Assets and the Purchased Shares at the Closing Time.
- (3) During the Pre-Closing Period, the Vendor shall not, and shall cause Kognitiv LLC and Kognitiv Solutions not to, take any action, directly or indirectly, to encourage, initiate or engage in discussions or negotiations with, or provide any information to, or enter into any agreement or arrangement or understanding with, any Person, other than the Purchaser, concerning any sale, transfer or assignment of the Purchased Shares, the Purchased Assets, the Kognitiv APA Purchased Assets or any other portion of the Business. The Vendor shall notify the Purchaser promptly if any such discussions or negotiations are sought or if any proposal for a sale, transfer or assignment of the Purchased Shares, the Purchased Assets, the Kognitiv APA Purchased Assets or any other portion of the Business is received or being considered.
- (4) During the Pre-Closing Period, the Vendor shall (and shall ensure that the Subject Companies shall) continue to carry on the Business in the Ordinary Course of Business and use all reasonable endeavours to achieve the Target Working Capital and prevent any increase in the Net Debt, consistent with past practice with due care without any change in the nature, scope or conduct thereof, using its best endeavours to preserve the goodwill of its business, customer relationships, commercial partners and Intellectual Property rights.
- (5) During the Pre-Closing Period, the Vendor shall provide prompt written notice to the Purchaser in case of: (a) occurrence of any event, condition or circumstance that may reasonably constitute a violation or breach of any of the representations and warranties under this Agreement or Kognitiv APA or that would constitute a violation or breach of any term or condition contained in this Agreement or Kognitiv APA; (b) the occurrence of any event which, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect including under Kognitiv APA, (c) any notice or other communication received by the Vendor or Subject Company from any Person including any Governmental Authority which may prevent or restrict the consummation of the Transaction or the transactions contemplated under the Kognitiv APA including any allegation that the Government Authorizations of such Person is required in connection with the Transaction or the transactions contemplated under the Kognitiv APA, as soon as reasonably practicable; and (d) any material Proceedings, including in relation to Tax or labour matters, any pending dues to a Governmental Authority or violation of any Applicable Law, threatened or commenced against the Vendor (including in relation to the Subject Companies) or the Subject Companies. The Vendor shall provide the Purchaser with copies of all information and documents received by the Vendor or the Subject Companies with respect to the above matters, as soon as reasonably practicable.

- (6) During the Pre-Closing Period, the Vendor shall give the Purchaser's duly authorized officers, employees, agents, attorneys, consultants, accountants and lenders reasonable access during the Subject Companies' normal business hours, to the Subject Companies' properties, books, Contracts, documents, insurance policies, records, senior management or other personnel, and all other information reasonably requested by or on behalf of the Purchaser in connection with the consummation of the Transaction and the transactions contemplated under the Kognitiv APA, and to make copies of any such documents; provided that such access shall be conducted so as to reasonably minimize any disruption to the operations of the Subject Companies. No investigation by the Purchaser or any of its directors, officers, employees, advisors, accountants and counsel or other information received by the Purchaser or any of its directors, officers, employees, advisors, accountants and counsel shall operate as a waiver or otherwise affect any representation, warranty or agreement given or made by the Vendor hereunder.
- (7) During the Pre-Closing Period, except as contemplated by this Agreement or as consented to in writing by the Purchaser, the Vendor shall not do or cause any of the following with respect to the Subject Companies and their Business:
- (i) amend in any material respect or terminate any Contract material to the Business;
 - (ii) dispose of, sell, lease, license, or transfer any asset of the Subject Companies outside the Ordinary Course of Business (including any Owned Intellectual Property);
 - (iii) amend, terminate or enter into any agreement under which any Subject Company grants or receives any exclusive rights with respect to any Intellectual Property;
 - (iv) forgive or waive any obligation or performance (past, present or future) owed to the Subject Companies;
 - (v) issue any securities, shares or other securities exchangeable for or convertible into equity interests in the Subject Companies, or redeem, split, combine or purchase any such securities;
 - (vi) amend any of the Subject Companies' certificate of incorporation or bylaws (or other comparable organizational documents);
 - (vii) make any material change in any method of accounting or accounting policy;
 - (viii) except as contemplated by this Agreement, enter into, terminate, adopt or amend in any material respect any employment, change in control or severance agreement or any other Company Plan, except as required by Applicable Law;
 - (ix) (A) increase the compensation, pension or other benefits payable to or to become payable by the Subject Companies or any of their respective Affiliates to any officer, director, employee or individual service provider of the Subject Companies or any of their respective Affiliates, or grant or announce any cash or equity or equity-based incentive awards or arrangements made to or with any of them; or (B) accelerate or commit to accelerate the funding, payment or vesting of the compensation or benefits under any Company Plan, except as may be required under existing agreements (as in effect on the date hereof) or Applicable Law or

fail to make contributions to Company Plans in accordance with past practice or pursuant to the terms of the applicable Company Plan;

- (x) incur any borrowings or other Indebtedness or obligation in the nature of borrowings (including obligations pursuant to any debenture, bond, note, letters of credit, indemnities, indentures, swaps or loan stock), or drawdown, refinance, repay, pre-pay or capitalize any amount outstanding under any Indebtedness or director or shareholder loan or any contingent liabilities or guarantees;
 - (xi) settle or consent to the settlement of, any Claims against the Subject Companies or enter into any decree;
 - (xii) revalue, write-off or write-down any assets outside of the Ordinary Course of Business;
 - (xiii) make any material change in accounting or Tax principles, methods, entity classification or practices, amend any Tax Return, enter into any closing agreement related to Taxes, settle any Tax Claim or assessment, consent to any extension or waiver of the limitation period applicable to any Tax Claim or assessment, surrender any right to claim a Tax refund, fail to pay any Taxes that become due and payable, or take any other similar action relating to the filing of any Tax Return or the payment of any Tax;
 - (xiv) materially change or modify its credit, collection or payment policies, procedures or practices;
 - (xv) acquire any assets, securities or property of any Person;
 - (xvi) make any loans or advances to or investments in any Person; or
 - (xvii) authorize, or commit or agree to do, any of the foregoing.
- (8) During the Pre-Closing Period, the Vendor, at its sole expense, shall cause Kognitiv Solutions to ensure that it has maintained or obtained, as applicable, non-cancellable “run-off” insurance policies expiring not earlier than twelve (12) months from the Closing Time providing professional liability insurance, and corporate liability insurance coverage for the benefit of Kognitiv Solutions’ directors, officers, employees, managers, shareholders, agents and representatives, in each case, solely with respect to matters occurring on or prior to the Closing Time relating to Kognitiv Solutions, its Business, assets, liabilities and employees and in a form, on terms and for insured sums acceptable to the Purchaser, acting reasonably (the “**Tail Policies Requirement**”).
- (9) Shortly prior to the Closing Date, the Vendor shall arrange, or shall cause to be arranged, access for two representatives of the Purchaser (as designated by the Purchaser in its sole discretion) to the Subject Companies’ accounting software, granting such representatives complete control of the Subject Companies’ accounting systems effective as of Closing.
- (10) During the Pre-Closing Period, (i) Kognitiv Solutions shall, or the Vendor shall cause Kognitiv LLC to, terminate the employment of those employees set forth in Schedule 7.01(10) of the Disclosure Letter (the “**Terminated Employees**”), and (ii) the Vendor shall cause the completion of, as applicable, the termination of employment and/or, subject to

Section 7.01(11), transfers of employees to the Purchaser or one of its Affiliates, as applicable, as set forth in Schedule 7.01(10) of the Disclosure Letter (the “**Transferred Employees**”) ((i) and (ii) collectively, the “**Pre-Closing Employee Reorg**”), and the Vendor or its applicable Affiliates shall pay all Termination Expenses owing to the Terminated Employees and Transferred Employees, as applicable, in connection with the Pre-Closing Employee Reorg.

- (11) During the Pre-Closing Period, in connection with the Pre-Closing Employee Reorg, the Vendor shall use its best efforts to assist Purchaser and its Affiliates to enter into employment and/or contractor agreements, as applicable, with the applicable Transferred Employees, as further set forth in Schedule 7.01(10) of the Disclosure Letter.
- (12) During the Pre-Closing Period, Kognitiv Solutions and its respective Affiliates shall complete the transfer of certain Contracts of the Vendor and Kognitiv Solutions, to an Affiliate of the Purchaser as agreed upon by the Parties in writing, acting reasonably, during the Pre-Closing Period, without the imposition of any material changes to or conditions upon such transfer imposed by any counterparties thereto (the “**Pre-Closing Contract Transfer**”);
- (13) During the Pre-Closing Period, the Vendor and certain Related Persons (i) shall settle, or shall cause to be settled, certain liabilities of Kognitiv Solutions, including cash, severance and other liabilities not considered on a go-forward basis, and (ii) shall realize, or shall cause to be realized, certain assets of the Subject Companies.
- (14) During the Pre-Closing Period, the Vendor shall provide, or cause to be provided, to the Purchaser such support and information, as reasonably requested by the Purchaser, in connection with any upcoming audits of Kognitiv Solutions contemplated following the Closing, and in connection with any desire of the Purchaser to conduct an audit of any Subject Company.
- (15) Following the Closing, the Vendor acknowledges and agrees that:
 - (i) it shall use and shall cause its Affiliates to use best efforts in cooperation with the Purchaser and Kognitiv Solutions, to take all necessary action and do all such things as are necessary in order to pay, deliver or otherwise convey to the Purchaser or as directed by the Purchaser all right, title and interest in and to any Non-Transferred Contracts; and
 - (ii) pending the effective transfer of any Non-Transferred Contracts, the Vendor shall hold all rights or entitlements that the Vendor and/or any of its Affiliates has in any Non-Transferred Contract in trust for the exclusive benefit of the Purchaser; and
 - (iii) all cash collected by the Vendor or any of its Affiliates on or after the Closing Date in respect of Accounts Receivable, or accounts receivable relating to the Business conducted by the Purchaser on or after the Closing Date, shall belong to the Purchaser, and if received by the Vendor or any of its Affiliates, shall be received in trust for the benefit and the account of the Purchaser and the Vendor will, on a weekly basis, transfer and remit (or cause to be transferred and remitted) to the Purchaser all such amounts received by or paid to the Vendor or Kognitiv LLC, as applicable, on or after the Closing Date as directed by the Purchaser.

- (16) For a period ending on the later of (i) six (6) months following Closing Time, and (ii) the bankruptcy of the Parent (or as may be extended upon mutual agreement of the Parties, acting reasonably), the Vendor shall provide, or cause to be provided, to the Purchaser and Kognitiv Solutions certain transition services and such assistance as may be reasonably necessary to ensure the smooth transition of the Kognitiv APA Purchased Assets, the Purchased Assets, and Kognitiv Solutions to the Purchaser, including (i) supporting the Purchaser in connection with any audits of Kognitiv Solutions and Kognitiv LLC, (ii) matters relating to invoicing of customers of Kognitiv Solutions, (iii) to the extent not provided under Section 11.02, during the 2 months following Closing, supporting the Purchaser and Kognitiv Solutions in connection with the filing of any Tax Returns or any other Tax-related matters, (iv) the data transfer of all information and records pertinent to the Businesses of the Subject Companies, including information and records in respect of the Subject Companies' clients, employees and independent contractors (which includes, for example, electronic data, back-up data, financial, accounting and tax data and records, contracts, authorizations and permits, etc.), (v) transitioning all third party agreements and relationships related to the Businesses of the Subject Companies, including making direct introductions between the Purchaser and such third party providers, and (vi) any other transitional services that the Purchaser may identify after Closing that are necessary in the opinion of Purchaser, acting reasonably, for the operations of the Businesses acquired pursuant to this Agreement and Kognitiv APA and the smooth and efficient transfer of Kognitiv Solutions and its operations to the Purchaser.
- (17) During the Pre-Closing Period, the Vendor shall co-operate with the Purchaser to provide such additional information or assistance to assist the Purchaser in its knowledge gathering and review of the Subject Companies.
- (18) Following the Closing, the Vendor shall promptly register, or cause to be registered on the Purchaser's behalf, all such Owned Intellectual Property set out in Schedule 7.01(18) of the Disclosure Letter in the names directed therein and in each jurisdiction where such registration is required or advisable, as determined by the Purchaser, acting reasonably.
- (19) The Vendor shall (A) cease (and shall cause any of its Affiliates to cease) using the name "*Kognitiv*" or any variation thereof for any business activities as of Closing, (B) cause Kognitiv LLC to change its corporate name and cancel any registration of any business name or trade name within ten (10) days following Closing, and (C) if an Affiliate of the Vendor (other than Kognitiv LLC) uses the name "*Kognitiv*" or any variation thereof, to the extent such Affiliate continues, recommences, or engages in any business activities or to the extent such Affiliate is intended to be sold, to cause such Affiliate to promptly cease using the name "*Kognitiv*" or any variation thereof and change its corporate name and cancel the registration of any business name or trade name, as applicable.
- (20) Following the Closing, the Vendor and each of its Affiliates shall not use any of the trademarks (including in any Internet domain names) assigned to the Purchaser in connection with the Transaction.
- (21) During the Pre-Closing Period, the Vendor shall provide the Purchaser with copies of all materials and written communications respecting any Claims relating to the Cora Transaction.
- (22) Subject to the terms of this Agreement, the Vendor shall use all commercially reasonable efforts to take or cause to be taken all other actions, and do or cause to be done all other

things, reasonably necessary or appropriate to consummate the Transaction, and the transactions contemplated under the Kognitiv APA, including, for greater certainty, the terms of any documents to be delivered pursuant to Sections 8.01 or 8.02.

7.02 Covenants of Purchaser

- (1) At Closing, subject to the terms of this Agreement, the Purchaser shall assume and thereafter perform all obligations and liabilities arising from and in connection with the Purchased Assets and Purchased Shares that accrue from and after the Closing.
- (2) Subject to the terms of this Agreement, Purchaser shall use all commercially reasonable efforts to take or cause to be taken all other actions, and do or cause to be done all other things, reasonably necessary or appropriate to consummate the Transaction and the transactions contemplated under the Kognitiv APA, including, for greater certainty, the terms of any documents to be delivered pursuant to Sections 8.01 or 8.02.
- (3) For a period ending on the later of (i) six (6) months following Closing Time, and (ii) the bankruptcy of the Parent (or as may be extended upon mutual agreement of the Parties, acting reasonably), the Purchaser will cooperate in good faith with, and will use all commercially reasonable efforts to assist, or cause assistance to be provided, to the Vendor or the Parent in connection with our relating to the Cora Transaction and the Parent's Proposal Proceedings, as reasonably requested by Vendor and at the sole cost of Vendor or Parent, as applicable.

7.03 Confidential Information

After the Closing Time, the Vendor shall and shall cause its Affiliates to maintain the confidentiality of all Confidential Information, except any disclosure of such information and records as may be required by Applicable Law or permitted by the Purchaser in writing. If the Vendor, its Affiliate, or any of their respective representatives, becomes legally compelled by deposition, interrogatory, request for documents, subpoena, civil investigative demand, or similar judicial or administrative process, to disclose any such information, such party shall provide Purchaser with reasonably prompt prior oral or written notice of such requirement (including any report, statement, testimony or other submission to such Governmental Authority) to the extent legally permissible and reasonably practicable, and cooperate with Purchaser, at Purchaser's expense, to obtain a protective order or similar remedy to cause such information not to be disclosed; provided that in the event that such protective order or other similar remedy is not obtained, Vendor shall, or shall cause its Affiliate or representative to, furnish only that portion of such information that has been legally compelled, and shall, or shall cause such Affiliate or representative to, exercise its commercially reasonable efforts to obtain assurance that confidential treatment will be accorded such disclosed information. The Vendor shall instruct its Affiliates and representatives having access to such information of such obligation of confidentiality and shall be responsible for any breach of the terms of this Section 7.03 by any of its Affiliate or representatives. At Closing Time, the Vendor shall handover all Confidential Information to the Purchaser and Kognitiv Solutions, as applicable, or destroy such Confidential Information in its possession at Purchaser's request. The Vendor shall not make or retain copies or excerpts of or from the Confidential Information or in any way re-create the substance or contents of the Confidential Information at any time on or after Closing.

7.04 Personal Information

The Purchaser shall at all times comply with all Laws governing the protection of Personal Information with respect to Personal Information disclosed or otherwise provided to Purchaser by Vendor or Kognitiv

Solutions under this Agreement. Purchaser shall only collect, use or disclose such Personal Information for the purposes of investigating Kognitiv Solutions and the Business as contemplated by this Agreement and completing the Transaction. Purchaser shall safeguard all Personal Information collected from Vendor Kognitiv Solutions in a manner consistent with the degree of sensitivity of the Personal Information and maintain at all times the security and integrity of the Personal Information. Purchaser shall not make copies or excerpts of or from the Personal Information or in any way re-create the substance or contents of the Personal Information if the Transaction is not completed for any reason, and shall return all Personal Information to Vendor and Kognitiv Solutions, as applicable, or destroy such Personal Information at Vendor's request.

7.05 Covenants Relating to this Agreement

- (1) Each of the Parties shall perform all obligations required to be performed by the applicable Party under this Agreement, co-operate with the other Party in connection therewith and do all such other acts and things as may be necessary or desirable in order to consummate and make effective, as soon as reasonably practicable and prior to the Outside Date, the Transaction and, without limiting the generality of the foregoing, from the date hereof until the Closing Time, each Party shall and, where appropriate, shall cause each of its Affiliates to:
 - (i) negotiate in good faith and use its commercially reasonable efforts to take or cause to be taken all actions and to do, or cause to be done, all things necessary, proper or advisable to satisfy the conditions precedent to the obligations of such Party hereunder, and to cause the fulfillment at the earliest practicable date of all of the conditions precedent to the other Party's obligations to consummate the Transaction; and
 - (ii) not take any action, or refrain from taking any action, or permit any action to be taken or not taken, which would reasonably be expected to prevent, materially delay or otherwise impede the consummation of the Transaction.
- (2) From the date hereof until the Closing Date, subject to Applicable Laws, each Party hereby agrees, and hereby agrees to cause its representatives to, keep the other Party informed on a reasonably current basis, and as reasonably requested by the other Party as to such Party's progress in terms of the satisfaction of the conditions precedent contained herein.
- (3) During the Pre-Closing Period, the Parties shall negotiate in good faith the terms of an Escrow Agreement between the Purchaser, the Vendor and the Escrow Agent to be entered into at Closing, which shall be substantially in form and substance acceptable to both Parties (the "**Escrow Agreement**").
- (4) Each Party agrees to execute and deliver such other documents, certificates, agreements and other writings, and to take such other actions to consummate or implement the Transaction, as soon as reasonably practicable and in accordance with the terms of this Agreement.

7.06 Further Assurances

After the Closing, the Parties will execute such further documents, and perform such further acts, as may be necessary or reasonably required to transfer and convey the Purchased Assets, Assumed Liabilities and

Purchased Shares to the Purchaser, on the terms set forth herein, and to otherwise comply with this Agreement and consummate the Transaction.

Article 8 - CLOSING DELIVERIES

8.01 Closing Deliveries of Vendor

At Closing, Vendor will deliver, or cause to be delivered, to Purchaser the following, in each case, in form and substance satisfactory to Purchaser, acting reasonably:

- (1) a true copy of the Sale Order;
- (2) a certificate duly executed by an officer of the Vendor certifying that attached thereto are true, complete and correct copies of the resolutions of the Vendor's board of directors, authorizing the execution, delivery and performance of this Agreement and the other transaction documents ancillary thereto and the Transaction, which resolutions have not been modified, rescinded or revoked;
- (3) resignations, as requested by the Purchaser prior to the Closing Date, of all of Kognitiv Solutions' officers and directors, including releases by such directors and officers in favour of Kognitiv Solutions;
- (4) a general release of Claims in favour of Kognitiv Solutions, duly executed by the Vendor and the Parent (each on its own behalf and on behalf of their respective Affiliates);
- (5) a general release of Claims in favour of Kognitiv Solutions, duly executed by each of the Secured Creditors;
- (6) a restrictive covenant agreement, duly executed by the Vendor and Kognitiv LLC (the "**Restrictive Covenant Agreement**");
- (7) an intellectual property assignment agreement respecting the Purchased Assets, duly executed by the Vendor (the "**IP Assignment Agreement**");
- (8) good standing certificates (or similar equivalents in any jurisdiction) with respect to each of Kognitiv Solutions and the Vendor from the province, state or jurisdiction of its formation or incorporation and each province or jurisdiction where it is qualified to conduct business, dated within ten (10) days prior to the Closing Date;
- (9) a certificate effective as of the Closing Date, duly executed by the Vendor, confirming that the conditions set forth in Sections 6.02(1) and 6.02(2) have been satisfied.
- (10) the Escrow Agreement, duly executed by the Escrow Agent and the Vendor;
- (11) share certificate(s) representing the Purchased Shares duly endorsed in blank for transfer or accompanied by duly signed powers of attorney for transfer in blank;
- (12) copies of all Pre-Closing Employee Reorg Documents;
- (13) a certificate effective as of the Closing Date, duly executed by the Kognitiv Solutions, Kognitiv LLC and the Vendor (on its own behalf and on behalf of any Related Persons), confirming the following: (i) that the covenant set out in Section 7.01(13) has been

performed or complied with by the Vendor at or prior to the Closing Time, and (ii) that any net receivables or net payables (as applicable) owing by the Vendor to any of Kognitiv LLC or Kognitiv Solutions (or vice-versa) as of the Closing Time have been fully waived, released, or settled, as applicable;

- (14) evidence that the Parent has formally withdrawn its motion to approve the Initial Agreement; and
- (15) such other documents, certificates or instruments as the Purchaser may reasonably request in order to affect the Transaction or to vest in the Purchaser good and valid title to the Purchased Shares.

8.02 Closing Deliveries of Purchaser

- (1) At Closing, the Purchaser will deliver, or cause to be delivered, to the Escrow Agent the applicable payments contemplated by Section 3.04 above.
- (2) At Closing, the Purchaser will deliver, or cause to be delivered, to the Vendor the following, in each case, in form and substance satisfactory to the Vendor, acting reasonably:
 - (i) a certificate duly executed by a manager or officer of the Purchaser certifying that attached thereto are true, complete and correct copies of the resolutions of the Purchaser's members or governing body, authorizing the execution, delivery and performance of this Agreement and the other transaction documents ancillary thereto and the Transaction, which resolutions have not been modified, rescinded or revoked;
 - (ii) a certificate effective as of the Closing Date, duly executed by the Purchaser, confirming that the conditions set forth in Sections 6.03(1) and 6.03(2) have been satisfied;
 - (iii) good standing certificate (or similar equivalent in any jurisdiction) with respect to the Purchaser from the state or jurisdiction of its formation or incorporation and each state or jurisdiction where it is qualified to conduct business, dated within ten (10) days prior to the Closing Date;
 - (iv) the Escrow Agreement, duly executed by the Purchaser;
 - (v) the Restrictive Covenant Agreement, duly executed by the Purchaser;
 - (vi) the General Conveyance, duly executed by the Purchaser;
 - (vii) the IP Assignment Agreement, duly executed by the Purchaser; and
 - (viii) the Preliminary Closing Statement, in accordance with Section 3.03.

Article 9 – CLOSING ARRANGEMENTS

9.01 Closing

The Closing shall take place on the Closing Date, effective as of the Closing Time electronically by exchange of executed pdf documents.

Article 10 – TERMINATION

10.01 Termination

This Agreement may be terminated at any time prior to Closing as follows:

- (1) Automatically, upon due termination of the Kognitiv APA in accordance with its terms;
- (2) by mutual written consent of each of Vendor and Purchaser;
- (3) by Purchaser or Vendor, if Closing has not occurred on or before the Outside Date, provided that the terminating Party has not breached of any representation, warranty, covenant or other agreement in this Agreement which prevent the satisfaction of the conditions in Article 5 or the completion of Closing by the Outside Date;
- (4) by Purchaser, upon the appointment of a receiver or trustee in bankruptcy in respect of itself, Kognitiv Solutions or any of the property of the Vendor or Kognitiv Solutions, other than with the prior written approval of Purchaser; and
- (5) by Purchaser or Vendor, if a court of competent jurisdiction or other Governmental Authority, has issued an Order or taken any other action to restrain, enjoin or otherwise prohibit the consummation of Closing and such Order or action has become a Final Order.

The Party desiring to terminate this Agreement pursuant to this Section 10.01 (other than pursuant to Section 10.01(1)) shall give written notice of such termination to the other Party specifying in reasonable detail the basis for such Party's exercise of its termination rights.

10.02 Effect of Termination

Each Party's right of termination under Article 10 is in addition to any other rights it may have under this Agreement or otherwise, and the exercise of a right of termination will not be an election of remedies. Nothing in this Article 10 limits or affects any other rights or causes of action any Party may have with respect to the representations, warranties, covenants and indemnities in its favour contained in this Agreement. If a Party waives compliance with any of the conditions, obligations or covenants contained in this Agreement, the waiver will be without prejudice to any of its rights of termination in the event of non-fulfillment, non-observance or non-performance of any other condition, obligation or covenant in whole or in part.

10.03 Deposit

- (1) If Closing does not occur due to a material breach of this Agreement by Purchaser, which breach is not curable, or the failure of Purchaser to fulfill the conditions in this Agreement, the Deposit shall be forfeited by Purchaser to Vendor for the account of Vendor absolutely.

- (2) If Closing does not occur due to any reason other than as addressed in Section 10.03(1), the Deposit shall be paid to Purchaser for the account of Purchaser absolutely.
- (3) In the event of termination of this Agreement under Section 10.03(1), pursuant to which Vendor shall be entitled to retain the Deposit, the Parties agree that the amount of the Deposit constitutes a genuine pre-estimate of liquidated damages representing Vendor's losses and liabilities as a result of Closing not occurring and agree that Vendor shall not be entitled to recover from Purchaser any amounts that are in excess of the Deposit as a result of Closing not occurring. Purchaser hereby waives any claim or defence that the amount of the Deposit is a penalty or is otherwise not a genuine pre estimate of Vendor's damages.

Article 11 - GENERAL

11.01 Survival

The representations and warranties and covenants of the Parties contained in this Agreement to be performed after the Closing or termination of this Agreement shall survive Closing or termination, as applicable, and remain in full force and effect.

11.02 Tax Matters

- (1) From and after the Closing Date, the Purchaser shall cause Kognitiv Solutions to duly and timely make, prepare and file all Tax Returns required to be so made, prepared and filed by it (1) for any period which ends on or before the Closing Date and for which Tax Returns have not been filed as of such date, and (2) for any period beginning before and ending after the Closing Date. All such Tax Returns shall be prepared in a manner consistent with past practice, Applicable Law and without a change of any election or any accounting method. The Purchaser shall submit to the Vendor all such Tax Returns at least thirty (30) days prior to the due date (including extensions) of such Tax Returns. The Vendor may provide comments to the draft Tax Returns and the Purchaser shall reflect any comments from the Vendor on such draft Tax Returns to the extent such comments are reasonable, consistent with past practice and Applicable Law and are received by the Purchaser not less than five (5) Business Days before the due date for filing such Tax Returns.
- (2) The Purchaser shall give prompt written notice to the Vendor of the receipt of any written notice by Kognitiv Solutions which involves the assertion of any Claim by any Taxing Authority in respect of which an indemnity may be sought by the Purchaser pursuant to Article 5. The Vendor shall have the right to elect to control the conduct of any such Claim attributable to any taxable period ending on or prior to the Closing Date with respect to which the Vendor may reasonably have any liability or obligation, and make all decisions in connection therewith provided that (A) the Vendor will keep the Purchaser reasonably informed with respect to any material issue relating to such Claim, (B) the Purchaser will have the right to participate in (but not control) such Claim at its own expense and to employ counsel of its choice for such purpose, the fees and expenses of which separate counsel shall be borne solely by the Purchaser; and (C) the Vendor will not settle any such Claim, or enter into any resolution, closing or other agreement with respect thereto without the prior written consent of the Purchaser, such consent not to be unreasonably withheld, conditioned or delayed.
- (3) The Vendor shall provide the Purchaser with such cooperation and information as the Purchaser reasonably may request in filing any Tax Return pursuant to this Section 11.02 or in connection with any audit or other proceeding in respect of Taxes of Kognitiv Solutions. Such cooperation and information shall include providing copies of relevant Tax Returns or portions thereof, together

with accompanying schedules, related work papers and documents relating to rulings or other determinations by tax authorities, and the reasonable assistance of the employees or personnel of the Vendor and its accounting and legal and other representatives and advisors.

11.03 Specific Performance

Each Party acknowledges that the Parties will be irreparably harmed and that there will be no adequate remedy at law for any violation by any Party of any of the covenants or agreements contained in this Agreement. It is accordingly agreed that, in addition to any other remedies which may be available upon the breach of any such covenants or agreements, each Party shall be entitled to equitable relief, without proof of actual damages, including an injunction or injunctions or Orders for specific performance to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement, in addition to any other remedy to which they are entitled at Law or in equity as a remedy for any such breach or threatened breach. Each Party further agrees that no other Party or any other Person shall be required to obtain, furnish or post any bond or similar instrument in connection with or as a condition to obtaining any remedy referred to in this Section 11.03, and each Party irrevocably waives any right it may have to require the obtaining, furnishing or posting of any such bond or similar instrument. Each Party further agrees that the only permitted objection that it may raise in response to any action for equitable relief is that it contests the existence of a breach or threatened breach of this Agreement.

11.04 Further Assurances

Each Party will from time to time execute and deliver all such further documents and instruments and do all acts and things as the other Parties may, either before or after the Closing Date, reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement.

11.05 Time of the Essence

Time is of the essence of this Agreement.

11.06 Fees and Commissions

Each Party will pay its respective legal and accounting costs and expenses incurred in connection with the preparation, execution and delivery of this Agreement and all documents and instruments executed pursuant to this Agreement and any other costs and expenses whatsoever and howsoever incurred.

11.07 Benefit of the Agreement

This Agreement will enure to the benefit of and be binding upon the respective heirs, executors, administrators, other legal representatives, successors and permitted assigns of the Parties.

11.08 Public Announcements

During the Pre-Closing Period, no public announcement or press release concerning any of the Transaction shall be made by any Party, or any of their respective Affiliates, without the prior consent of the other Party (such consent not to be unreasonably withheld, conditioned or delayed); provided, however, that subject to the last sentence of this Section 11.08, any Party may, without such consent, make such disclosure if the same is required by Applicable Law (including the Proposal Proceedings) or by any stock exchange on which any of the securities of such Party or any of its Affiliates are listed, or by any insolvency or other court or securities commission, or other similar Governmental Authority having jurisdiction over such Party or any of its Affiliates, and, if such disclosure is required, the Party making such disclosure shall use

commercially reasonable efforts to give prior oral or written notice to the other Party to the extent legally permissible and reasonably practicable, and if such prior notice is not legally permissible or reasonably practicable, to give such notice reasonably promptly following the making of such disclosure. Nothing in this Section 11.08 will be deemed to prohibit the Purchaser or any of their Affiliates from making disclosures to their respective, or their Affiliates' respective, officers, employees, directors, managers, shareholders, investors or lenders or prospective investors or lenders, on a need-to-know and confidential basis.

11.09 Entire Agreement

This Agreement, the Disclosure Letter, Kognitiv APA and the Non-Solicitation Agreement constitute the entire agreement between the Parties with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements between the Parties with respect thereto, including the offer for the purchase of the Purchased Assets and Purchased Shares submitted by the Purchaser on February 14, 2025 and the Bidding Procedures prepared by the BDO. Without limiting the foregoing sentence, there are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the Parties other than as expressly set forth in this Agreement.

11.10 Paramountcy

In the event of any conflict or inconsistency between the provisions of this Agreement, and any other agreement, document or instrument executed or delivered in connection with this Transaction or this Agreement, the provisions of this Agreement shall prevail to the extent of such conflict or inconsistency.

11.11 Amendments and Waivers

No amendment to this Agreement will be valid or binding unless set forth in writing and duly executed by all of the Parties. No waiver of any breach of any provision of this Agreement will be effective or binding unless made in writing and signed by the Party purporting to give the same and, unless otherwise provided, will be limited to the specific breach waived.

11.12 Independent Legal Advice

The Parties acknowledge having obtained independent legal advice from their respective solicitors, or having been given the opportunity to obtain independent legal advice, with respect to the terms of this Agreement prior to its execution, and each of the Parties further acknowledges and agrees that it understands the terms, and its rights and obligations under this Agreement.

11.13 Assignment

This Agreement may not be assigned by any Party without the written consent of the other Party, which consent may be arbitrarily withheld, provided that Purchaser may designate one or more nominees to take title in and to the Purchased Assets and Purchased Shares, or any part thereof, by giving Vendor written notice of such assignment at least two (2) Business Days prior to the date of the hearing of the application for the Sale Order.

11.14 Notices

Any notice or other communication required or permitted to be given or made under this Agreement shall be in writing and shall be effectively given and made if: (i) delivered personally; (ii) sent by prepaid courier

service; or (iii) sent by email or other similar means of electronic communication, in each case to the applicable address set out below:

- (a) in the case of Vendor as follows:

Loyalty Solutions Holdings US Inc.
161 Bay St., Suite 2700
Toronto, ON M5J 2S1

Attention: Grant McLeod
Email: grant.mcleod@kognitiv.com

with a copy to Vendor's counsel at:

Aird & Berlis LLP
Brookfield Place,
181 Bay Street, Suite 1800
Toronto, Canada M5J 2T9

Attention: Kyle Plunkett and Marek Lorenc
Email: kplunkett@airdberlis.com and mlorenc@airdberlis.com

- (b) in the case of Purchaser, as follows:

Capillary Technologies
#360, bearing PID No:101/360,
15th Cross Rd, Sector 4,
HSR Layout, Bengaluru,
Karnataka-560102

Attention: Aneesh Reddy Boddu
Email: aneesh@capillarytech.com

with a copy to Purchaser's counsel at:

Borden Ladner Gervais LLP
Bay Adelaide Centre, East Tower
22 Adelaide Street West, Suite 3400
Toronto, Ontario M5H 4E3

Attention: Stefan Timms and Sam Babe
Email: stimms@blg.com and sbabe@blg.com

or to such other street address, individual or electronic communication number or address as may be designated by notice given by the applicable Party to the other Party. Any demand, notice or other communication given by personal delivery will be conclusively deemed to have been given on the day of actual delivery thereof and, if given by electronic communication, on the day of transmittal thereof if given during the normal business hours of the recipient(s) and on the Business Day during which such normal business hours next occur if not given during such hours on any day.

11.15 Governing Law

This Agreement shall be governed by and construed in accordance with the law of the Province of Ontario, without regard to the conflicts of law rules of such state.

11.16 Jurisdiction

For the purpose of all Proceedings, this Agreement will be deemed to have been performed in the Province of Ontario and the courts of the Province of Ontario will have jurisdiction to entertain any action arising under this Agreement. The Parties each attorns to the jurisdiction of the courts of the Province of Ontario.

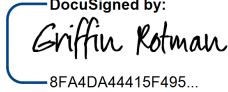
11.17 Counterparts and Electronic Signatures

This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original and all of which taken together will be deemed to constitute one and the same instrument. The counterparts of this Agreement may be executed and delivered by facsimile or other electronic signature (including portable document format) by any of the Parties and the receiving Parties may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF the Parties have executed this Share Purchase Agreement.

LOYALTY SOLUTIONS HOLDINGS US INC.

Per: 
8FA4DA44415F495...
Name: Griffin Rotman
Title: Director

CAPILLARY TECHNOLOGIES LLC

Per: *anant.choubey*

Name: Anant Choubey

Title: Chief Operating Officer

EXHIBIT A

ILLUSTRATIVE CALCULATION OF TERMINATED CUSTOMER CONTRACTS REVENUE INDEMNITY

If, 5 months following the Closing Date, a customer provides 3 months' prior written notice of their intention to terminate their customer contract effective as of the 8th month following the Closing Date, such terminated customer contract will be considered a Terminated Customer Contract.

If the Terminated Customer Contracts Revenue for such Terminated Customer Contract (i.e. total of contractual annual recurring revenue calculated in reference to the trailing twelve (12) month period for that specific Terminated Customer Contract) is \$1,000,000, then the amount of Losses recoverable by the Purchaser under Section 5.01(14), would be calculated as follows:

- Terminated Customer Contracts Revenue: \$1,000,000
- Deductible for Terminated Customer Contracts Revenue: \$456,000
- Excess Amount: $\$1,000,000 - \$456,000 = \$544,000$
- Multiple to Determine Losses: $\$544,000 \times 1.57 = \$821,440$

As such, the Purchaser would be entitled to Losses in the amount of \$821,440 pursuant to Section 5.01(14).

March 31, 2025

PRIVATE AND CONFIDENTIAL

Capillary Technologies LLC
Attention: Aneesh Reddy Boddu

Re: Loyalty Solutions Holdings US LLC (the “Vendor”) Disclosure Letter to Capillary Technologies LLC (“Purchaser”) pursuant to the Purchase and Sale Agreement between the dated as of the date hereof (the “Purchase Agreement”)

This letter and its sections constitutes the Disclosure Letter of, and is being delivered by, the Vendor, as is referred to in the Purchase Agreement. Capitalized terms used in this Disclosure Letter that are not defined herein have the meanings given to such terms in the Purchase Agreement.

This Disclosure Letter and all information contained in it is subject to the confidentiality and non-disclosure obligations in the Purchase Agreement. The disclosure of any item herein shall constitute disclosure which has been accepted by the Purchaser pursuant to the Purchase Agreement.

This disclosure letter is qualified in its entirety by reference to the Purchase Agreement, and is not intended to constitute, and shall not be construed as constituting, representations or warranties of the Vendor, except as and to the extent provided in the Purchase Agreement. Items and information disclosed herein in response to provisions in the Purchase Agreement that are qualified by “materiality” and “Material Adverse Effect” and other similar qualifications are not necessarily material. The mere inclusion of an item in this disclosure letter (including the schedules hereto) as an exception to a provision will not be deemed an admission by Kognitiv that such item (or any non-disclosed item or information of comparable or greater significance) is required to be disclosed in connection with the representations, warranties or covenants made by the parties in the Purchase Agreement or represents a material exception or fact, event or circumstance or that such item has had, or would reasonably be expected to have, a Material Adverse Effect in respect of Kognitiv or the Acquired Companies.

The information contained in any part of this disclosure letter (including the schedules hereto) is disclosed solely for the purposes of the Purchase Agreement and descriptions or terms of agreements and documents herein are summaries only and are qualified in their entirety by the specific terms of such agreements and documents. No reference herein to any agreement or document shall be construed as an admission or indication by any party to the Purchase Agreement to any third party of any matter whatsoever, including, without limitation, that there are any obligations remaining to be performed or any rights that may be exercised under such agreement or document, except as otherwise explicitly set forth in this disclosure in writing or the Arrangement Agreement. No disclosure herein relating to any possible breach or violation of any agreement, law or regulation shall be construed as an admission or indication that any such breach or violation exists or has actually occurred.

The titles and headings in this Disclosure Letter are for convenient reference only and are not to affect the interpretation of the Purchase Agreement or this Disclosure Letter.

[Signature page follows.]

**LOYALTY SOLUTIONS HOLDINGS
US Inc**

DocuSigned by:
Griffin Rotman
8FA4DA44415F495...

Per: _____
Name: Griffin Rotman
Title: director

Schedule 1.01
Aged Accounts Receivable

1. Any and all amounts related to asset purchase agreement between Kognitiv GmbH (formerly Seekda
2. GmbH as seller and GGP Holding erste GmbH as purchaser dated June 5, 2023.
3. Al Meera Consumer Goods Company (Q.P.S.C.) approximately in the amount of \$511,850.84.
4. Sharjah Co-Operative Society approximately in the amount of \$52,776.20.
5. DuluxGroup (New Zealand) Pty Ltd. approximately in the amount of \$23,089.37.
6. DuluxGroup (Australia) Pty Ltd. approximately in the amount of \$227,327.58.

Schedule 1.01
Purchased Assets

[Vendor's right title and interest in and to the Owned Intellectual Property (including any intercompany licence agreement in respect of such Owned Intellectual Property) and any Licensed Intellectual Property, as more particularly set out in Schedule 1.01 of the Disclosure Letter, in each case, for greater certainty, excluding the Excluded Assets.]

Owned Intellectual Property

- any and all intellectual property or proprietary rights of every kind and description in respect of all applications and registrations set out in Schedule 7.01(18).
- any and all intellectual property or proprietary rights of every kind and description anywhere in the world, whether registered or unregistered, including technology rights, copyright, source code, object code and documentation in respect thereof in respect of the following Software:
 - Inspire
 - Pulse
 - Ignite
 - Amplify
 - Kognition
 - Data Hub
 - SmartJourney
- any and all intellectual property or proprietary rights of every kind and description anywhere in the world, whether registered or unregistered, in respect of the Internet Domain names used in connection with the Business
- any and all rights of every kind in any other Intellectual Property owned or purported to be owned by the Vendor in connection with the Business.

Licensed Intellectual Property

- any and all rights of every kind in any Intellectual Property used in connection with the Business that is not Owned Intellectual Property.

Schedule 4.01(17)(v)
SaaS Business Balance Sheet

[Schedule 4.01(17)(v) of the Disclosure Letters sets forth a copy of the carved-out pro forma balance sheet of the Business of the Subject Companies as at December 31, 2024 (the “SaaS Business Balance Sheet”)]

CAD \$000s	Consolidated Balance Sheet per Proforma	Proforma Balance Sheet (as at Dec 31, 2024)			Consolidated SaaS Balance Sheet
		Kognitiv US LLC	Malaysia	Kognitiv Solutions Inc.	
Assets					
<i>Current assets:</i>					
Cash	0				0
Restricted cash	479	479			479
Income tax receivable	87		87		87
Prepaid and other assets	414	20	13	380	414
Accounts receivable	2,517	1,320	14	1,183	2,517
Other current assets	674			674	674
Total current assets	4,171	1,819	114	2,237	4,171
Total assets	4,171	1,819	114	2,237	4,171
Liabilities and invested capital					
<i>Current liabilities:</i>					
Accounts payable and accrued liabilities	1,716	619	28	1,070	1,716
Contract liabilities	102	24		78	102
Deposit liabilities	766	479		287	766
Total current liabilities	2,584	1,122	28	1,435	2,584
Other non-current liabilities	140	140			140
Total non-current liabilities	140	140	0	0	140
Total Liabilities	2,724	1,262	28	1,435	2,724
Net Assets / (Liabilities)	1,447	557	86	803	1,447

Schedule 4.01(22)
Al Meera Receivable

[All portions of Accounts Receivable owing by Al Meera Consumer Goods Company (Q.P.S.C.) which are not considered Aged Accounts Receivable, as set forth in Schedule 4.01(22)(ii) of the Disclosure Letter (the "Al-Meera Receivables"),]

CAD \$ Receivable	Sum of Current	Sum of 1 - 30	Sum of 31 - 60	Total <60
AL MEERA CONSUMER GOODS (Q.S.C)	75,754.47	74,812.16	72,839.78	223,406.41

Schedule 4.01(23)(iv)
Intellectual Property

[Except as disclosed in Schedule 4.01(23)(vi) of the Disclosure Letter, the Subject Companies have not received any notice, claim, invitation to license or similar communication alleging that the use of the Business Intellectual Property or the conduct of the Business, including the manufacture, marketing, distribution, importation, licensing or selling of any Company Product, infringes any Intellectual Property of any other Person, and no Proceedings have been instituted or are pending or, to the knowledge of the Vendor, threatened, alleging any such infringement.]

On May 18, 2023, Kognitiv received a letter from representatives of Schoeneckers, Inc. d/b/a BI Worldwide (“**BI Worldwide**”) who owns a portfolio of patents related to portable and customizable incentive applications. BI Worldwide’s representatives suggested Kognitiv may wish to examine U.S. Patent Nos. 8,765,764, 9,779,421, and 11,501,339 (the “**Bunchball Patents**”) to determine whether a non-exclusive license under the patents is needed. Kognitiv reviewed the Bunchball Patents and deemed the letter to be a “fishing expedition” and did not respond.

On January 31, 2025, Kognitiv received a follow-up letter from BI Worldwide’s representatives requesting a substantive response from Kognitiv regarding whether Kognitiv would like to take a non-exclusive license to the Bunchball Patents. Kognitiv conducted another review of the patents and determined there is no overlap between any technology developed or used by Kognitiv and the Bunchball Patents.

The Bunchball Patents refer to a portable incentive application that enables the delivery of incentives to website visitors based on their previous website visitation to the presenting website or other websites in a network. Kognitiv has not developed, and does not possess or use portable incentive application technology for websites in any capacity.

Kognitiv responded to BI Worldwide on February 18, 2025 advising that Kognitiv considers this matter closed.

Schedule 4.01(30)
Customers

[Except as disclosed in Schedule 4.01(30) of the Disclosure Letter, neither of the Subject Companies have received notice of, and there is not, any intention on the part of any current customer to cease doing business with the Subject Companies or to modify or change in any material manner any existing arrangement with the Subject Companies for the Subject Companies' supply of products or services.]

Following a competitive RFP that started in February 2024, Dulux notified us in June 2024 that they will migrate off Inspire. Their contract ended on 30 November 2024 but they request an extension through 31 March 2025. As of this writing, we do not expect any further extensions. This has been shared verbally with Capillary.

Globo notified us on 16 December 2024 that they will be fully separated from Aldo on 1 March 2025 and will be transitioning to another loyalty program sometime in March 2025. As their contract end date is mid-May 2025, we will continue invoice for fees until that time. This has been shared verbally with Capillary.

Curaleaf has agreed to a one-year Inspire subscription. Renewal contracting is underway. The monthly fee in new contract is US\$80k/mo at their current membership level.

DFI has agreed to a 3-year renewal with an increased Inspire subscription fee. New MSA paper is in final redlines along with an Escrow agreement.

Coutts has committed to a 5-year renewal (improvement over the current 3-year renewal) with modest subscription increases.

Schedule 4.01 (34)
End of Service Benefits

[except as set out in Schedule 4.01(34) of the Disclosure Letter, all end-of-service and defined benefit obligations that have accrued to employees of the Kognitiv Solutions or Transferred Employees through the Closing Date in connection with their employment prior to Closing pursuant to Statutory Plans]

[except as set out in Schedule 4.01(34) of the Disclosure Letter, all obligations for accrued but unused vacation of employees of Kognitiv Solutions and/or in respect of Transferred Employees through the Closing Date]

The Vendor and Purchaser have agreed to equally share the accrued but unused vacation of employees of the Acquired Companies through the Closing Date and all end-of-service and defined benefit obligations.

[Bank Accounts and Attorneys - Schedule 4.01(36) of the Disclosure Letter is a true, accurate and complete list of the accounts and safety deposit boxes of Kognitiv Solutions and of Persons holding general or special powers of attorney from Kognitiv Solutions.]

-

Schedule 4.01(37)
Required Approvals

Written consent of The Star Entertainment Group Limited is required pursuant to the terms of the Master Agreement IT Products and Services dated December 11, 2015 between The Star Entertainment Group Limited and Kognitiv Solutions (as successor in interest of Kognitiv Australia Pty Ltd.) and other related agreements and amendments, in the event of a change of control of Kognitiv Solutions.

Schedule 7.01(10)
Pre-Closing Employee Reorg

*[During the Pre-Closing Period, (i) Kognitiv Solutions shall, or the Vendor shall cause Kognitiv LLC to, terminate the employment of those employees set forth in Schedule 0 of the Disclosure Letter (the “**Terminated Employees**”), and (ii) the Vendor shall cause the completion of, as applicable, the termination of employment and/or transfers of employees to the Purchaser or one of its Affiliates, as applicable, as set forth in Schedule 0 of the Disclosure Letter (the “**Transferred Employees**”) ((i) and (ii) collectively, the “**Pre-Closing Employee Reorg**”), and the Vendor or its applicable Affiliates shall pay all Termination Expenses owing to the Terminated Employees and Transferred Employees, as applicable, in connection with the Pre-Closing Employee Reorg.]*

1. Terminated Employees (Termination Expenses Payable and Release to be obtained) [Note: These are employees of Kognitiv Solutions and Kognitiv LLC who will be terminated prior to Closing with no further role with the Business after Closing.]

a. Kognitiv Solutions

■	████████████████████
■	██████████████████
■	██████████████

b. Kognitiv LLC

■	████████████████████
■	██████████████

c. Other

■	██████████████████
■	████████████████████
■	████████████████████
■	████████████████████
■	████████████████████
■	████████████████████

2. Transferred Employees [Note: These are employees, other than the Kognitiv LLC ‘Offered Employees’, who will be either (i) terminated and transferred the Purchaser or one of its Affiliates, or (ii) transferred to the Purchaser or one of its Affiliates.]

(i) Terminated and Transferred (Termination Expenses Payable and Release to be obtained)

a. Kognitiv Solutions

■	██████████████
■	██████████████
■	██████████████

b. Kognitiv LLC

■	██████████████
■	██████████████
■	██████████████

c. **Other**

(ii) Transferred (No Termination Expenses Payable)

Schedule 7.01(18)
Intellectual Property Registrations

[Following the Closing, the Vendor shall promptly register, or cause to be registered on the Purchaser's behalf, all such Owned Intellectual Property set out in Schedule 7.01(18) of the Disclosure Letter in the names directed therein and in each jurisdiction where such registration is required or advisable, as determined by the Purchaser, acting reasonably.]

<u>COLLABORATIVE COMMERCE</u>	USA Published, September 10, 2024 Office Status: Published For Opposition Int'l Class: 35,42 First Use: October, 2017 Filed: May 4, Principal Register	Int'l Class: 35, 42 (Int'l Class: 35) Conducting consumer loyalty, reward, affinity and incentive programs for commercial promotion and advertising purposes to promote the rental of hotel rooms, purchase of airfare, rental of automobiles; business consulting services in the field of travel and operation of travel-related businesses; business administration in the nature of organization, administration of loyalty programs which provides consumer incentives such as discounts on goods and information; business data analysis; business research; Business administration of consumer loyalty programs; Administration of a consumer loyalty program to promote restaurant services and retail services of others; data analysis and research services for retailers, namely, the collection, reporting, and analysis of point of sale data for business purposes (Int'l Class: 42) Design of information technology systems; computer software design; Software as a service (SAAS) services featuring software for gaining access to an online database containing information about the travel industry, namely, information on hotel and travel packages, costs, utilization and vacancies and guest profiles; software as a service travel industry, namely, information on hotel and travel packages, costs, utilization and vacancies and guest profiles; providers and sending hotel reservation information to travel industry providers; software as a service (SAAS) featuring software for accessing a tourist agency database for travel industry providers; software as a service services featuring software for managing and using virtual currency or rewards points for purchasing goods services on electronic communications networks; software as a service (SAAS) services featuring software for conducting customer loyalty, reward, affinity and incentive programs; software as a service (SAAS) services software for promoting and marketing the goods and services of others via electronic communications computer software design and maintenance of computer software for the travel industry, namely, application of software for creating dynamic packaging and facilitating individual sale of travel products, in particular, air, car, travel activities and cruises and administering network connectivity between suppliers and distributors of products; Software as a service (SAAS) services featuring software for accessing and analyzing information travel industry contained in online computer databases; Software as a service (SAAS) services featuring conducting data analysis and performing business analytics, inventory management, setting pricing and distribution, loyalty marketing data collection, administering loyalty program rewards and execution of retail orders, payment processing; Software as a service (SAAS) services featuring software platforms for trading currencies, goods and services, and collecting zero-party data	Kognitiv Us LLC (Delaware Limited Liability Company) 100 North Sixth Street, Suite 650C, MINNEAPOLIS, Minnesota 55403 United States of America	SN: 97394898
<u>COLLABORATIVE COMMERCE</u>	Canada Filed Pending	Int'l Class: 35, 42 (Int'l Class: 35) Services: Conducting consumer loyalty, reward, affinity and incentive programs for commercial promotion and advertising purposes; business consulting services in the field of travel and operation of travel-related	Kognitiv US LLC 100 North Sixth Street Suite 650C	AN: 2207673

	Application Last Status Received: Pending Application, September 2, 2022 Office Status: Formalized		Minneapolis, MN 55403, United States of America	

	Filed: September 2, 2022	(Int'l Class: 42) Services: Design of information technology systems; computer software design; Software as a service (SAAS) services featuring software for gaining access to an online database containing information about the travel industry, namely, information on hotel and travel packages, costs, utilization and vacancies and guest profiles; software as a service (SAAS) services featuring software for gaining access to an online computer network to analyze information about the travel industry, namely, information on hotel and travel packages, costs, utilization and vacancies and guest profiles; software as a service (SAAS) services featuring software for taking and processing hotel reservations by travel industry providers and sending hotel reservation information to travel industry providers; software as a service (SAAS) services featuring software for accessing a tourist agency database for travel industry providers; software as a service (SAAS) services featuring software for managing and using virtual currency or rewards points for purchasing goods and services on electronic communications networks; software as a service (SAAS) services featuring software for conducting customer loyalty, reward, affinity and incentive programs; software as a service (SAAS) services featuring software for promoting and marketing the goods and services of others via electronic communications networks; computer software design and maintenance of computer software for the travel industry, namely, application support of software for creating dynamic packaging and facilitating individual sale of travel products, including air, room, car, travel activities and cruises and administering network connectivity between suppliers and distributors of travel products; Software as a service (SAAS) services to access and analyze information about the travel industry contained in online computer databases; Software as a service (SAAS) services for data analysis and business analytics, inventory management, pricing and distribution, loyalty marketing data collection, loyalty program rewards and execution, payment processing; Software as a service (SAAS) services platform for exchanging and trading currencies, goods and services, and zero-party data		

SMARTJOURNEY	USA Registered, March 12, 2019 Office Status: Registered Int'l Class: 35,42 First Use: January 16,	Int'l Class: 35, 42 (Int'l Class: 35) Advertising; organization, administration of loyalty programs which provides consumer incentives such as discounts on goods and services purchased through retail outlets; promotional services, namely, promoting the sale of goods and services of others by awarding points redeemable for consumer merchandise and distributing coupons; business management and administration consultancy; business advice and information; business advisory and consultancy services relating to database management and marketing; business data analysis; business research and analysis of markets; Business administration of consumer loyalty programs; Administration of a consumer loyalty program to promote restaurant services and retail services of others; Customer loyalty services and customer club services, for commercial, promotional	Aimia Us Inc. (Delaware Corporation) 100 North Sixth Street, Suite 650C, MINNEAPOLIS, Minnesota 55403	RN: 5698627 SN: 87702961

	2018 Filed: November 30, 2017 Registered: March 12, 2019 Register Type: Principal Register	and/or advertising purposes; promoting the sale of wares and services of others through a consumer loyalty program; advertising agencies, namely, promoting the goods and services of others; advertising and promotion of the sales of goods and services of others through purchase continuity programs consisting of the distribution of points or miles which can be redeemed for goods, services or money from a catalogue, participating merchants and service providers; advertising services rendered to third parties, namely, organization, operation and supervision of sales and promotional incentive schemes; advertising and marketing services, namely, promoting the goods and services of others through the dissemination of advertising matter, publication of publicity texts, opinion polls, sales promotion, management of data files, information and business inquiries, service of promotion attached to programs of development of customer loyalty, organization, implementing and supervision of sales and of a method of promotional premiums; advertising and marketing services, namely, the organization, operation and supervision of sales and promotional incentive schemes; sales promotion services; advisory and consultancy services relating to database management and marketing; market research consultation; analysis of market research data; advertising and marketing services for others, namely, arranging, conducting and administration of customer loyalty reward and promotional incentive programs for commercial and advertising purposes in the field of customer loyalty reward and sales and promotional incentive programs and sales promotions; business consultancy and providing business information relating to sales and promotional incentive or loyalty schemes; business data analysis; business information, namely, providing marketing, systems and operational information regarding the operation of reward programs; business management; business research; business services, namely, providing others and managing for others computer databases regarding customer loyalty reward and sales and promotional incentive programs and sales promotions and companies participating in loyalty reward and sales and promotional incentive programs; collecting and analyzing information relating to market analysis and research for business purposes; data compiling and	United States of America

		analyzing relating to market research; business services for retailers, namely, the collection, reporting, and analysis of point of sale data for business purposes; market research consultation; business consultation services in the field of the issuance, redemption and expiry of points or miles which can be redeemed for goods and services of participating merchants and service providers, and the calculation thereof and the calculation of estimates of points or miles issued that will never be redeemed; customer loyalty services for commercial, promotional and advertising purposes, namely, providing incentive reward programs for customers to promote the sale of products and services of others; providing incentive reward programs for customers through the issuance and processing of loyalty coupons for frequent use of participating businesses; market analysis services; market research services; market research consultation in the field of customer loyalty strategies, promotion strategies and pricing strategies; development of marketing strategies and concepts, namely, strategies to obtain and maintain customer loyalty to third party companies, namely, customer base identification strategies and customer knowledge and relationship management, retention strategies and added value services management, as in prizes and rewards and provision of commercial or business information; providing incentive reward programs for customers through issuance and processing of loyalty points for on-line purchase of company's goods and services; promoting, advertising and marketing customer loyalty programs of others; business services provided to the consumer retail industry, namely, the collection, reporting, and analysis of point of sale data for business purposes; providing incentive reward programs for customers, employees and business partners through the distribution of prepaid stored value cards for the purpose of promoting and rewarding loyalty; providing business or commercial information in the field of on-line computer tracking of sales objectives and fulfillment services for performance incentives by means of a global computer network; provision of business management information; publicity and sales promotion services; promotional services, namely, design and distribution of catalogs and promotional items of others for publicity purposes; Business research in the field of customer loyalty, loyalty reward programs, marketing, advertising and commercial data analytics (Int'l Class: 42) Design of information technology systems; computer software design		
SMARTJOURNEY	Canada Registered Last Status Received: Registered, December 4, 2020 Office Status: Registered Filed: December 12, 2017 Registered: December 4, 2020 Expiration Date: December 4, 2030	Int'l Class: 35, 38, 42 (Int'l Class: 35) Services: Advertising the goods and services of others; organization, administration of loyalty programs which provides consumer incentives such as discounts on goods and services purchased through retail outlets; promotional services, namely, promoting the sale of goods and services of others by awarding points redeemable for consumer merchandise and distributing coupons; business management and administration consultancy; business marketing advice and information; business advisory and consultancy services relating to database management and marketing; business management services relating to data analysis; business research and analysis of markets; Business administration of consumer loyalty programs; Administration of a consumer loyalty program to promote restaurant services and retail services of others; organization and management of customer loyalty programs and customer club programs for commercial, promotional and advertising purposes; Administration of a customer loyalty program which provides free and discount automobile parts if customers maintain their vehicles at an automobile dealership; promoting the sale of wares and services of others through a consumer loyalty program; advertising agencies, namely, promoting the goods and services of others; advertising and promotion of the sales of goods and services of others through purchase continuity programs consisting of the distribution of points and miles which can be redeemed for goods, services and money from a catalogue, participating merchants and service providers; advertising services rendered to third parties, namely, organization, operation and supervision of sales and promotional incentive schemes; advertising and marketing services, namely, promoting the goods and services of others through the dissemination of advertising matter for others, publication of publicity texts, organization of trade exhibitions for commercial purposes in the field of loyalty programs which provide consumer incentives, opinion polling, sales promotion through a consumer loyalty program, distribution of samples for publicity purposes, computerized business data file management, information and business advice in the field of loyalty programs which provide consumer incentives, promoting customer loyalty	Aimia US Inc. 100 North 6th Street, Suite 650 C Minneapolis, MN 55403, United States of America	RN: TMA1089191 AN: 1872610

		programs for others, organizing, implementing and supervising sales and promotional incentive schemes involving premiums; advertising and marketing services, namely, the organization, operation and supervision of sales and promotional incentive award schemes to promote the goods and services of others; sales promotion for others by means of privileged card; advisory and consultancy services relating to database management and database marketing services in the form of compiling customer specific databases; market research consultation; analysis of market research data; advertising and marketing services for		
		others, namely, arranging, conducting and administration of customer loyalty reward and promotional incentive programs and trade show exhibitions for commercial and advertising purposes in the field of customer loyalty reward and sales and promotional incentive programs and sales promotions; business strategy consultancy and providing business information relating to retail sale matters and marketing through promotional incentive award schemes and customer loyalty programs; business management services relating to information, namely, providing marketing and operational information regarding the operation of customer incentive reward programs; business management; conducting business and market research surveys for others; business services, namely, providing information regarding customer loyalty reward and sales and promotional incentive programs and sales promotions and companies participating in loyalty reward and sales and promotional incentive programs; collecting and analyzing information relating to market analysis and research for business purposes; data compiling and analyzing relating to market research; business services for retailers, namely, the collection, reporting, and analysis of point of sale data for business purposes; conducting employee incentive reward programs for others to promote, recognize, and reward employee performance through the distribution of prepaid stored-value cards and points and miles which can be redeemed for goods and services from a catalogue, participating merchants and service providers; business consultation services in the field of the issuance, redemption and expiry of points and miles which can be redeemed for goods and services of participating merchants and service providers, and the calculation thereof and the calculation of estimates of points and miles issued that will never be redeemed; customer loyalty services for commercial, promotional and advertising purposes, namely, providing incentive reward programs for customers to promote the sale of products and services of others; providing incentive reward programs for customers through the issuance and processing of loyalty coupons for frequent use of participating businesses; market analysis services; market research services; market research consultation in the field of customer loyalty strategies, promotion strategies and pricing strategies; development of marketing strategies and concepts, namely, strategies to obtain and maintain customer loyalty to third party companies, namely, customer base identification strategies and customer knowledge and relationship management, retention strategies and added value services management, as in prizes and rewards and access to information; promoting the sale of credit card accounts of others through the administration of incentive reward programs; providing incentive reward programs for customers through issuance and processing of loyalty points for on-line purchase of company's goods and services; promoting, advertising and marketing customer loyalty programs of others; business services provided to the consumer retail industry, namely, the collection, reporting, and analysis of point of sale data for business purposes; providing incentive reward programs for customers, employees and business partners through the distribution of prepaid stored value cards for the purpose of promoting and rewarding loyalty; providing information in the field of on-line computer tracking of sales objectives and fulfillment services for performance incentives by means of a global computer network; provision of business management information; marketing by transmission of on-line publicity for third parties through electronic communications networks; promotional services, namely, design and distribution of catalogs and advertising materials of others; research in the fields of customer loyalty, loyalty reward programs, marketing, advertising and marketing data compiling and analyzing; providing information in the fields of customer loyalty reward programs, marketing, advertising, and customer relationship management for registered users in virtual communities and social networks via a chat room on a website (Int'l Class: 38) Services: Providing others access to computer databases regarding customer loyalty reward and sales and promotional incentive programs and sales promotions and companies participating in loyalty reward and sales and promotional incentive programs; Providing an on-line chat room featuring an on-line community, for registered users to form virtual communities and engage in social networking in the fields of customer loyalty reward programs, marketing, advertising, and customer relationship management via a website (Int'l Class: 42) Services: Design of computer systems for storing, retrieving and sending information; interactive hosting services which allow the user to publish and share their own content and images online; new product research and development services for others; design and development of computer software applications for mobile phones and portable devices; computer software design; hosting computer databases regarding customer loyalty reward and sales and promotional incentive programs and sales promotions and companies participating in loyalty reward and sales and promotional incentive programs		

SMARTJOURNEY	Canada Registered	Int'l Class: 09, 35, 42 (Int'l Class: 09) Goods: Downloadable computer software for use in customer relationship management (CRM)	Aimia US Inc. 100 North 6th Street,	RN: TMA1247692 AN: 1983716
	Last Status Received: Registered, August 2, 2024 Office Status: Registered Filed: September 5, 2019 Registered: August 2, 2024 Expiration Date: August 2, 2034	(Int'l Class: 35) Services: Outsource service provider in the field of customer relationship management, customer relationship management (CRM) (Int'l Class: 42) Services: Providing temporary use of non-downloadable cloud-based software for customer relationship management (CRM)	Suite 650 C Minneapolis, MN 55403, United States of America	

SMARTJOURNEY	United Kingdom Registered Last Status Received: Registered, December 27, 2019 Filed: October 4, 2019 Registered: December 27, 2019 Expiration Date: October 4, 2029	Int'l Class: 09, 35, 42 (Int'l Class: 09) Downloadable computer software for use in customer relationship management (CRM). (Int'l Class: 35) Advertising; organization, administration of loyalty programs which provides consumer incentives such as discounts on goods and services purchased through retail outlets; promotional services, namely, promoting the sale of goods and services of others by awarding points redeemable for consumer merchandise and distributing coupons; business management and administration consultancy; business advice and information; business advisory and consultancy services relating to database management and marketing; business data analysis; business research and analysis of markets; Business administration of consumer loyalty programs; Administration of a consumer loyalty program to promote restaurant services and retail services of others; Customer loyalty services and customer club services, for commercial, promotional and/or advertising purposes; promoting the sale of wares and services of others through a consumer loyalty program; advertising agencies, namely, promoting the goods and services of others; advertising and promotion of the sales of goods and services of others through purchase continuity programs consisting of the distribution of points or miles which can be redeemed for goods, services or money from a catalogue, participating merchants and service providers; advertising services rendered to third parties, namely, organization, operation and supervision of sales and promotional incentive schemes; advertising and marketing services, namely, promoting the goods and services of others through the dissemination of advertising matter, publication of publicity texts, opinion polls, sales promotion, management of data files, information and business inquiries, service of promotion attached to programs of development of customer loyalty, organization, implementing and supervision of sales and of a method of promotional premiums; advertising and marketing services, namely, the organization, operation and supervision of sales and promotional incentive schemes; sales promotion services; advisory and consultancy services relating to database management and marketing; market research consultation; analysis of market research data; advertising and marketing services for others, namely, arranging, conducting and administration of customer loyalty reward and promotional incentive programs for commercial and advertising purposes in the field of customer loyalty reward and sales and promotional incentive programs and sales promotions; business consultancy and providing business information relating to sales and promotional incentive or loyalty schemes; business data analysis; business information, namely, providing marketing, systems and operational information regarding the operation of reward programs; business management; business research; business services, namely, providing others and managing for others computer databases regarding customer loyalty reward and sales and promotional incentive programs and sales promotions and companies participating in loyalty reward and sales and promotional incentive programs; collecting and analyzing information relating to market research; business services for retailers, namely, the collection, reporting, and analysis of point of sale data for business purposes; market research consultation; business consultation services in the field of the issuance, redemption and expiry of points or miles which can be redeemed for goods and services of participating merchants and service providers, and the calculation thereof and the calculation of estimates of points or miles issued that will never be redeemed; customer loyalty services for commercial, promotional and advertising purposes, namely, providing incentive reward programs for	Aimia US Inc. (Company or Organisation Delaware) 100 North Sixth Street, Suite 650C, 55403, Minneapolis, Minnesota, United States of America	AN: UK00003434022

		customers to promote the sale of products and services of others; providing incentive reward programs for customers through the issuance and processing of loyalty coupons for frequent use of participating businesses; market analysis services; market research services; market research consultation in the field of customer loyalty strategies, promotion strategies and pricing strategies; development of marketing strategies and concepts, namely, strategies to obtain and maintain customer loyalty to third party companies, namely, customer base identification strategies and customer knowledge and relationship management, retention strategies and added value services management, as in prizes and rewards and provision of commercial or business information; providing incentive reward programs for customers through issuance and processing of loyalty points for on-line purchase of company's goods and services; promoting, advertising and marketing customer loyalty programs of others; business services provided to the consumer retail industry, namely, the collection, reporting, and analysis of point of sale data for business purposes; providing incentive reward programs for customers, employees and business partners through the distribution of prepaid stored value cards for the purpose of promoting and rewarding loyalty; providing business or commercial information in the field of on-line computer tracking of sales objectives and fulfillment services for performance incentives by means of a global computer network; provision of business management information; publicity and sales promotion services; promotional services, namely, design and distribution of catalogs and promotional items of others for publicity purposes; Business research in the field of customer loyalty, loyalty reward programs, marketing, advertising and commercial data analytics; Outsourcing service provider in the field of customer relationship management, customer		

SMARTJOURNEY	United Kingdom Registered Last Status Received: Registered, June 27, 2020 Filed: October 4, 2019 Registered: June 27, 2020 Expiration Date: October 4, 2029	Int'l Class: 09, 35, 42 (Int'l Class: 09) Downloadable computer software for use in customer relationship management (CRM). (Int'l Class: 35) Advertising; organization, administration of loyalty programs which provides consumer incentives such as discounts or loyalty coupons on goods and services purchased through retail outlets; promotional services, namely, promoting the sale of goods and services of others by awarding points redeemable for consumer merchandise and distributing coupons; business management and administration consultancy; business advice and information; business advisory and consultancy services relating to database management and marketing; business data analysis; business research and analysis of markets; Business administration of consumer loyalty programs; Administration of a consumer loyalty program to promote restaurant services and retail services of others; Customer loyalty services and customer club services, for commercial, promotional and/or advertising purposes; promoting the sale of wares and services of others through a consumer loyalty program; advertising agencies, namely, promoting the goods and services of others; advertising and promotion of the sales of goods and services of others through purchase continuity programs consisting of the distribution of points or miles which can be redeemed for goods, services or money from a catalogue, participating merchants and service providers; advertising services rendered to third parties, namely, organization, operation and supervision of sales and promotional incentive schemes; advertising and marketing services, namely, promoting the goods and services of others through the dissemination of advertising matter, publication of publicity texts, opinion polls, sales promotion, management of data files, information and business inquiries, service of promotion attached to programs of development of customer loyalty, organization, implementing and supervision of sales and of a method of promotional premiums; advertising and marketing services, namely, the organization, operation and supervision of sales and promotional incentive schemes; sales promotion services; advisory and consultancy services relating to database management and marketing; market research consultation; analysis of market research data; advertising and marketing services for others, namely, arranging, conducting and administration of customer loyalty reward and promotional incentive programs for commercial and advertising purposes in the field of customer loyalty reward and sales and promotional incentive programs and sales promotions; business consultancy and providing business information relating to sales and promotional incentive or loyalty schemes; business information, namely, providing marketing, software system and operational information regarding the operation of reward programs; business management; business research; business services, namely, providing and managing for others computer databases regarding customer loyalty reward and sales and promotional incentive programs and sales promotions and companies participating in loyalty reward and sales and promotional incentive programs; collecting and analyzing information relating to market	Aimia US Inc. (Company or Organisation Delaware) 100 North Sixth Street, Suite 650C, 55403, Minneapolis, United States of America	AN: UK00918132917

		analysis and research for business purposes; data compiling and analyzing relating to market research; business services for retailers, namely, the collection, reporting, and analysis of point of sale data for business purposes; business consultation services in the field of the issuance, redemption and expiry of points or miles which can be redeemed for goods and services of participating merchants and service providers, and the calculation thereof and the calculation of estimates of points or miles issued that will never be redeemed; customer loyalty services for commercial, promotional and advertising purposes, namely, providing incentive reward programs for customers to promote the sale of products and services of others; providing incentive reward programs for customers through the processing of loyalty coupons for frequent use of participating businesses; market analysis services; market research services; market research consultation in the field of customer loyalty strategies, promotion strategies and pricing strategies; development of marketing strategies and concepts, namely, strategies to obtain and maintain customer loyalty to third party companies, namely, customer base identification strategies and customer knowledge and relationship management, retention strategies and added value services management, as in prizes and rewards and provision of commercial or business information; providing incentive reward programs for customers through issuance and processing of loyalty points for on-line purchase of company's goods and services; promoting, advertising and marketing customer loyalty programs of others; business services provided to the consumer retail industry, namely, the collection, reporting, and analysis of point of sale data for business purposes; providing incentive reward programs for customers, employees and business partners through the distribution of prepaid stored value cards for the purpose of promoting and rewarding loyalty; providing business or commercial information in the field of on-line computer tracking of sales objectives and fulfillment services for performance incentives by means of a global computer network; provision of business management information; publicity and sales promotion services; promotional services, namely, design and distribution of catalogs and promotional items of others for publicity purposes; Business research in the field of customer loyalty, loyalty reward programs, marketing, advertising and commercial data analytics; Outsource service provider in the field of customer relationship management, customer relationship management (CRM).		

SMARTJOURNEY	Singapore Published Last Status Received: Published, October 7, 2019 Filed: October 7, 2019	Int'l Class: 09, 35, 42 (Int'l Class: 09) Downloadable computer software for use in customer relationship management (CRM). (Int'l Class: 35) Advertising; organization, administration of loyalty programs which provides consumer incentives such as discounts on goods and services purchased through retail outlets; promotional services, namely, promoting the sale of goods and services of others by awarding points redeemable for consumer merchandise and distributing coupons; business management and administration consultancy; business advice and information; business advisory and consultancy services relating to database management and marketing; business data analysis; business research and analysis of markets; Business administration of consumer loyalty programs; Administration of a consumer loyalty program to promote restaurant services and retail services of others; Customer loyalty services and customer club services, for commercial, promotional and/or advertising purposes; promoting the sale of wares and services of others through a consumer loyalty program; advertising agencies, namely, promoting the goods and services of others; advertising and promotion of the sales of goods and services of others through purchase continuity programs consisting of the distribution of points or miles which can be redeemed for goods, services or money from a catalogue, participating merchants and service providers; advertising services rendered to third parties, namely, organization, operation and supervision of sales and promotional incentive schemes; advertising and marketing services, namely, promoting the goods and services of others through the dissemination of advertising matter, publication of publicity texts, opinion polls, sales promotion, management of data files, information and business inquiries, service of promotion attached to programs of development of customer loyalty, organization, implementing and supervision of sales and of a method of promotional premiums; advertising and marketing services, namely, the organization, operation and supervision of sales and promotional incentive schemes; sales promotion services; advisory and consultancy services relating to database management and marketing; market research consultation; analysis of market research data; advertising and marketing services for others, namely, arranging, conducting and administration of customer loyalty reward and promotional incentive programs for commercial and advertising purposes in the field of customer loyalty reward and sales and promotional incentive programs and sales promotions; business	Aimia US Inc.	AN: 40201921863W

		consultancy and providing business information relating to sales and promotional incentive or loyalty schemes; business data analysis; business information, namely, providing marketing, systems and operational information regarding the operation of reward programs; business management; business research; business services, namely, managing for others computer databases regarding customer loyalty reward and sales and promotional incentive programs and sales promotions and companies participating in loyalty reward and sales and promotional incentive programs; collecting and analyzing information relating to market analysis and research for business purposes; data compiling and analyzing relating to market research; business services for retailers, namely, the collection, reporting, and analysis of point of sale data for business purposes; market research consultation; business consultation services in the field of the issuance, redemption and expiry of points or miles which can be redeemed for goods and services of participating merchants and service providers, and the calculation thereof and the calculation of estimates of points or miles issued that will never be redeemed; customer loyalty services for commercial, promotional and advertising purposes, namely, providing incentive reward programs for customers to promote the sale of products and services of others; providing incentive reward programs for customers through the issuance and processing of loyalty coupons for frequent use of participating businesses; market analysis services; market research services; market research consultation in the field of customer loyalty strategies, promotion strategies and pricing strategies; development of marketing strategies and concepts, namely, strategies to obtain and maintain customer loyalty to third party companies, namely, customer base identification strategies and customer knowledge and relationship management, retention strategies and added value services management, as in prizes and rewards and provision of commercial or business information; providing incentive reward programs for customers through issuance and processing of loyalty points for on-line purchase of company's goods and services; promoting, advertising and marketing customer loyalty programs of others; business services provided to the consumer retail industry, namely, the collection, reporting, and analysis of point of sale data for business purposes; providing incentive reward programs for customers, employees and business partners through the distribution of prepaid stored value cards for the purpose of promoting and rewarding loyalty; providing business or commercial information in the field of on-line computer tracking of sales objectives and fulfillment services for performance incentives by means of a global computer network; provision of business management information; publicity and sales promotion services; promotional services, namely, design and distribution of catalogs and promotional items of others for publicity purposes; Business research in the field of customer loyalty, loyalty reward programs, marketing, advertising and commercial data analytics; Outsource service provider in the field of customer relationship management, customer relationship management (CRM).		

SMARTJOURNEY	European Union Registered Last Status Received: Registered, June 30, 2020 Filed: October 4, 2019 Registered: June 27, 2020 Expiration Date: October 4, 2029	Int'l Class: 09, 35, 42 (Int'l Class: 09) Downloadable computer software for use in customer relationship management (CRM). (Int'l Class: 35) Advertising; organization, administration of loyalty programs which provides consumer incentives such as discounts or loyalty coupons on goods and services purchased through retail outlets; promotional services, namely, promoting the sale of goods and services of others by awarding points redeemable for consumer merchandise and distributing coupons; business management and administration consultancy; business advice and information; business advisory and consultancy services relating to database management and marketing; business data analysis; business research and analysis of markets; Business administration of consumer loyalty programs; Administration of a consumer loyalty program to promote restaurant services and retail services of others; Customer loyalty services and customer club services, for commercial, promotional and/or advertising purposes; promoting the sale of wares and services of others through a consumer loyalty program; advertising agencies, namely, promoting the goods and services of others; advertising and promotion of the sales of goods and services of others through purchase continuity programs consisting of the distribution of points or miles which can be redeemed for goods, services or money from a catalogue, participating merchants and service providers; advertising services rendered to third parties, namely, organization, operation and supervision of sales and promotional incentive schemes; advertising and marketing services, namely, promoting the goods and services of others through the dissemination of advertising matter, publication of publicity texts, opinion polls, sales promotion, management of data files, information and business inquiries, service of promotion attached to programs of development of customer loyalty, organization, implementing and supervision of sales and of a method of promotional premiums;	Aimia US Inc. (legal entity Delaware) 100 North Sixth Street, Suite 650C, 55403, Minneapolis, Minnesota, United States of America	RN: 018132917 AN: 018132917

		advertising and marketing services, namely, the organization, operation and supervision of sales and promotional incentive schemes; sales promotion services; advisory and consultancy services relating to database management and marketing; market research consultation; analysis of market research data; advertising and marketing services for others, namely, arranging, conducting and administration of customer loyalty reward and promotional incentive programs for commercial and advertising purposes in the field of customer loyalty reward and sales and promotional incentive programs and sales promotions; business consultancy and providing business information relating to sales and promotional incentive or loyalty schemes; business information, namely, providing marketing, software system and operational information regarding the operation of reward programs; business management; business research; business services, namely, providing and managing for others computer databases regarding customer loyalty reward and sales and promotional incentive programs and sales promotions and companies participating in loyalty reward and sales and promotional incentive programs; collecting and analyzing information relating to market analysis and research for business purposes; data compiling and analyzing relating to market research; business services for retailers, namely, the collection, reporting, and analysis of point of sale data for business purposes; business consultation services in the field of the issuance, redemption and expiry of points or miles which can be redeemed for goods and services of participating merchants and service providers, and the calculation thereof and the calculation of estimates of points or miles issued that will never be redeemed; customer loyalty services for commercial, promotional and advertising purposes, namely, providing incentive reward programs for customers to promote the sale of products and services of others; providing incentive reward programs for customers through the processing of loyalty coupons for frequent use of participating businesses; market analysis services; market research services; market research consultation in the field of customer loyalty strategies, promotion strategies and pricing strategies; development of marketing strategies and concepts, namely, strategies to obtain and maintain customer loyalty to third party companies, namely, customer base identification strategies and customer knowledge and relationship management, retention strategies and added value services management, as in prizes and rewards and provision of commercial or business information; providing incentive reward programs for customers through issuance and processing of loyalty points for on-line purchase of company's goods and services; promoting, advertising and marketing customer loyalty programs of others; business services provided to the consumer retail industry, namely, the collection, reporting, and analysis of point of sale data for business purposes; providing incentive reward programs for customers, employees and business partners through the distribution of prepaid stored value cards for the purpose of promoting and rewarding loyalty; providing business or commercial information in the field of on-line computer tracking of sales objectives and fulfillment services for performance incentives by means of a global computer network; provision of business management information; publicity and sales promotion services; promotional services, namely, design and distribution of catalogs and promotional items of others for publicity purposes; Business research in the field of customer loyalty, loyalty reward programs, marketing, advertising and commercial data analytics; Outsource service provider in the field of customer relationship management, customer relationship management (CRM).		

SMARTJOURNEY	United Arab Emirates Registered Last Status Received: Registered Filed: November 17, 2019	Int'l Class: 35 (Translation) (Int'l Class: 35) Category: Advertising; Organizing, and managing loyalty programsThat provides incentives to consumers like discounts onGoods and services purchased through sales outletsRetail; promotional services, i.e. promotion for sellingGoods and services of others by awarding scalable pointsFor reimbursement of consumer goods and the distribution of vouchers;Business administration and management consulting; adviceBusiness information; business consulting servicesAnd base management consulting servicesData and Marketing; Business Data Analysis; ResearchCommercial and market analysis; business management softwareConsumer loyalty; manage the consumer loyalty programTo promote catering and retail servicesFor others; customer loyalty services and club servicesCustomers, for commercial, promotional and / orAdvertising; promotion of selling tools and servicesTo others through the consumer loyalty program; agenciesAdvertising, in particular, the promotion of other goods and services;Advertising and promotion of sales of goods and servicesTo others through which purchase continuity programsIt consists of a distribution of points or miles that can beReplace it with goods, services, or money fromThe catalog, participating merchants and service providers;Advertising services provided to third parties,Specifically, organize,	Aimia US Inc. Minneapolis, United States of America	AN: 320735
		operate, and monitor sales plansPromotional incentives; advertising and marketing services,Any promotion of other goods and services through publicationAdvertising materials and publishing propaganda textsPolls, sales promotion and management02/2020 / Trademark Bulletin - No. 209 Issue Date: 27Data files, information and inquiriesCommercial and promotion service accompanying development programsCustomer loyalty, sales organization, implementation and supervisionAdvertising and promotional premiums; advertising servicesMarketing, any organization, operation and supervision of plansSales and promotional incentives; promotion servicesSales; Consultancy related consulting servicesManages and markets databases; research consultingMarket; market research data analysis; servicesAdvertising and marketing to others, i.e. organization, actionCustomer loyalty reward management and incentive programsPromotional for commercial and advertising purposes in the fieldCustomer loyalty reward, sales programs, and programsPromotional incentives and sales promotion; consultingCommercial and provide related commercial informationWith sales, promotional incentive or loyalty programs;Business data analysis, business information,Specifically, providing marketing, systems and informationOperating related to the operation of rewards programs; managementBusiness; commercial research; business services,Specifically providing others and managing databasesOthers' computer regarding rewardCustomer loyalty, sales programs, and promotional incentivesSales promotions and companies participating in the programsCustomer loyalty rewards and promotional salesPromotional incentives; collection and analysis of informationRelating to market analysis and research for business purposes;Collecting and analyzing data related to market research;Business services for retailers, specifically, pluralPOS data, reporting and analysisCommercial purposes; market research consulting;Business consulting services in the field of issuanceRedeem and expire points or miles that can beRedeem them for goods and services of merchants and providersParticipant services, calculation, and calculation of estimatesPoints or miles issued that have never been redeemedPurchased; customer loyalty services for commercial purposesAnd promotional and advertising, that is, providing bonus programsIncentives for customers to encourage the sale of products and servicesOthers; provide incentive reward programs for clients fromDuring the issuance and processing of loyalty coupons to useFrequent companies involved; market analysis services;Market research services; market research consultancyIn the area of customer loyalty strategies, strategiesPromotion and pricing strategies; developmentMarketing strategies and concepts, in particular,Strategies for obtaining and maintaining customer loyaltyIt is for third-party companies, specifically, strategiesDefine a customer base, customer knowledge and managementRelationships, retention strategies and service managementValue added, as in prizes, rewards and savingsBusiness or business information; provideIncentive reward programs for clients through issuanceLoyalty points are addressed for online purchases of merchandiseThe company and its services; merchandising, advertising and marketingCustomer loyalty programs for others; business servicesProvided to the consumer retail sector, ieCollecting and reporting POS dataBusiness analysis and analysis; providing reward programsIncentives for clients, employees, and business partnersBy distributing paid stored value cardsAdvance to enhance and reward loyalty; savingBusiness or commercial information in the tracking fieldComputer online for sales and service goalsFulfillment of performance incentives through a computer networkGlobal; providing information about business administration;Advertising and sales promotion services; servicesPromotional, specifically, design and distribution of catalogsPromotional materials for others for advertising purposes;Business research in customer loyalty and programsLoyalty reward, marketing, advertising, and analysisBusiness data; outsourcing service providerExternal in customer relationship management and managementCustomer Relations) C. RM (.		11

SMARTJOURNEY	United Arab Emirates Registered Last Status Received: Registered Filed: November 17, 2019	Int'l Class: 42 (Translation) (Int'l Class: 42) Category: IT systems design;Computer software design; providing temporary useFor non-downloadable cloud management software for relationshipsClients (CRM).	Aimia US Inc. Minneapolis, United States of America	AN: 320736
SMARTJOURNEY	Australia Registered	Int'l Class: 09, 35, 42 (Int'l Class: 09) Downloadable computer software for use in customer relationship management (CRM)	Aimia US Inc. Minnesota 55403,	RN: 2041832 AN: 2041832

	Last Status Received: Registered Office Status: Registered: Registered/protected Filed: October 4, 2019 Registered: October 4, 2019 Expiration Date: October 4, 2029	(Int'l Class: 35) Advertising; organization, administration of loyalty programs which provides consumer incentives such as discounts on goods and services purchased through retail outlets; promotional services, namely, promoting the sale of goods and services of others by awarding points redeemable for consumer merchandise and distributing coupons; business management and administration consultancy; business advice and information; business advisory and consultancy services relating to database management and marketing; business data analysis; business research and analysis of markets; Business administration of consumer loyalty programs; Administration of a consumer loyalty program to promote restaurant services and retail services of others; Customer loyalty services and customer club services, for commercial, promotional and/or advertising purposes; promoting the sale of wares and services of others through a consumer loyalty program; advertising agencies, namely, promoting the goods and services of others; advertising and promotion of the sales of goods and services of others through purchase continuity programs consisting of the distribution of points or miles which can be redeemed for goods, services or money from a catalogue, participating merchants and service providers; advertising services rendered to third parties, namely, organization, operation and supervision of sales and promotional incentive schemes; advertising and marketing services, namely, promoting the goods and services of others through the dissemination of advertising matter, publication of publicity texts, opinion polls, sales promotion, management of data files, information and business inquiries, service of promotion attached to programs of development of customer loyalty, organization, implementing and supervision of sales and of a method of promotional premiums; advertising and marketing services, namely, the organization, operation and supervision of sales and promotional incentive schemes; sales promotion services; advisory and consultancy services relating to database management and marketing; market research consultation; analysis of market research data; advertising and marketing services for others, namely, arranging, conducting and administration of customer loyalty reward and promotional incentive programs for commercial and advertising purposes in the field of customer loyalty reward and sales and promotional incentive programs and sales promotions; business consultancy and providing business information relating to sales and promotional incentive or loyalty schemes; business data analysis; business information, namely, providing marketing, systems and operational information regarding the operation of reward programs; business management; business research; business services, namely, providing others and managing for others computer databases regarding customer loyalty reward and sales and promotional incentive programs and sales promotions and companies participating in loyalty reward and sales and promotional incentive programs; collecting and analyzing information relating to market analysis and research for business purposes; data compiling and analyzing relating to market research; business services for retailers, namely, the collection, reporting, and analysis of point of sale data for business purposes; market research consultation; business consultation services in the field of the issuance, redemption and expiry of points or miles which can be redeemed for goods and services of participating merchants and service providers, and the calculation thereof and the calculation of estimates of points or miles issued that will never be redeemed; customer loyalty services for commercial, promotional and advertising purposes, namely, providing incentive reward programs for customers to promote the sale of products and services of others; providing incentive reward programs for customers through the issuance and processing of loyalty coupons for frequent use of participating businesses; market analysis services; market research services; market research consultation in the field of customer loyalty strategies, promotion strategies and pricing strategies; development of marketing strategies and concepts, namely, strategies to obtain and maintain customer loyalty to third party companies, namely, customer base identification strategies and customer knowledge and relationship management, retention strategies and added value services management, as in prizes and rewards and provision of commercial or business information; providing incentive reward programs for customers	United States of America	

		Design of information technology systems; computer software design; Providing temporary use of non-downloadable cloud-based software for customer relationship management (CRM)		

KOGNITIV	USA Registered, July 14, 2020 Office Status: Registered Filed: September 28, 2017 Registered: July 14, 2020 Register Type: Principal Register	Int'l Class: 09, 35, 42 (Int'l Class: 09) Computer software, namely, software for maintaining and providing third party access to databases containing information about the travel industry including information on hotel and travel packages, costs, utilization and vacancies and guest profiles; computer software, namely, software for maintaining and providing third party access to a global computer network to analyze information about the travel industry including information on hotel and travel packages, costs, utilization and vacancies and guest profiles; computer software, namely, software for providing third party access to online hotel reservation and tourist agency services for travel industry providers (Int'l Class: 35) Market research services, namely, collecting, analyzing and providing access to data about the travel industry including information on hotel and travel packages, costs, utilization and vacancies and guest profiles; customer loyalty services and customer club services for commercial, promotional and advertising purposes; conducting consumer loyalty, reward, affinity and incentive programs for commercial promotion and advertising purposes; business consulting services in the field of travel and operation of travel-related businesses; advertising services, namely, promoting and marketing the goods and services of other via electronic communications networks (Int'l Class: 42) Software as a service (SAAS) services featuring software for gaining access to an online database containing information about the travel industry, namely, information on hotel and travel packages, costs, utilization and vacancies and guest profiles; software as a service (SAAS) services featuring software for gaining access to an online computer network to analyze information about the travel industry, namely, information on hotel and travel packages, costs, utilization and vacancies and guest profiles; software as a service (SAAS) services featuring software for taking and processing hotel reservations by travel industry providers and sending hotel reservation information to travel industry providers; software as a service (SAAS) services featuring software for accessing a tourist agency database for travel industry providers; software as a service (SAAS) services featuring software for managing and using virtual currency or rewards points for purchasing goods and services on electronic communications networks; software as a service (SAAS) services featuring software for conducting customer loyalty, reward, affinity and incentive programs; software as a service (SAAS) services featuring software for promoting and marketing the goods and services of others via electronic communications networks; computer software design and maintenance of computer software for the travel industry, namely, application support of software for creating dynamic packaging and facilitating individual sale of travel products, including air, room, car, travel activities and cruises and administering network connectivity between suppliers and distributors of travel products	Kognitiv Corporation (Canada Corporation) P.O. Box 40022, Waterloo Square, WATERLOO, ONTARIO N2J 4V1 Canada	RN: 6098507 SN: 87626583
KOGNITIV	Canada	Int'l Class: 36, 39, 41, 43	Kognitiv	RN: TMA960208

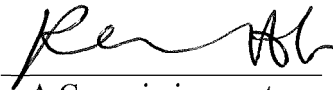
	Registered Last Status Received: Registered, January 16,	(Int'l Class: 36) Services: Real estate agency services; rental of apartments; (Int'l Class: 39) Services: Tourist agency services; (Int'l Class: 41) Services: Providing electronic information concerning travel and travel destinations, educational services pertaining to travel and travel destinations.	Corporation PO BOX 40022 Waterloo Square Waterloo, N2J4V1, ONTARIO, Canada	AN: 1765429
	2017 Office Status: Registered Filed: January 28, 2016 Registered: January 16, 2017 Expiration Date: January 16, 2032	(Int'l Class: 43) Services: Hotel reservation services;		
KOGNITIV	Canada Registered Last Status Received: Registered, January 24, 2020 Office Status: Registered Filed: September 27, 2017 Registered: January 24, 2020 Expiration Date: January 24, 2030	Int'l Class: 09, 35, 42 (Int'l Class: 09) Goods: Computer software, namely, software for maintaining and providing third party access to databases containing information about the travel industry including information on hotel and travel packages, costs, utilization and vacancies and guest profiles; Computer software, namely, software for maintaining and providing third party access to a global computer network to analyze information about the travel industry including information on hotel and travel packages, costs, utilization and vacancies and guest profiles; Computer software, namely, software for providing third party access to online hotel reservation and tourist agency services for travel industry providers. (Int'l Class: 35) Services: Market research services, namely, collecting, analyzing and providing access to data about the travel industry including information on hotel and travel packages, costs, utilization and vacancies and guest profiles; customer loyalty services and customer club services for commercial, promotional and advertising purposes; conducting consumer loyalty, reward, affinity and incentive programs for commercial promotion and advertising purposes; business consulting services in the field of travel and operation of travel-related businesses; advertising services, namely, advertising the goods and services of others via electronic communications networks (Int'l Class: 42) Services: Software as a service (SAAS) services featuring software for gaining access to an online database containing information about the travel industry, namely, information on hotel and travel packages, costs, utilization and vacancies and guest profiles; Software as a service (SAAS) services featuring software for gaining access to an online computer network to analyze information about the travel industry, namely, information on hotel and travel packages, costs, utilization and vacancies and guest	Kognitiv Corporation PO Box 40022 Waterloo Square Waterloo, N2J4V1, ONTARIO, Canada	RN: TMA1070724 AN: 1859880

		profiles; software as a service (SAAS) services featuring software for taking and processing hotel reservations by travel industry providers and sending hotel reservation information to travel industry providers; software as a service (SAAS) services featuring software for accessing a tourist agency database for travel industry providers; Software as a service (SAAS) services featuring software for managing and using virtual currency or rewards points for purchasing goods and services on electronic communications networks; Software as a service (SAAS) services featuring software for conducting customer loyalty, reward, affinity and incentive programs; Software as a service (SAAS) services featuring software for advertising the goods and services of others via electronic communications networks; Computer software design and maintenance of computer software for the travel industry, namely application support of software for creating dynamic packaging and facilitating individual sale of travel products, including air, room, car, travel activities and cruises and administering network connectivity between suppliers and distributors of travel products		

KOGNITIV and Design	Hong Kong Registered Last Status Received: Registered, March 2, 2018 Filed: September 6, 2017 Registered: March 2, 2018 Expiration Date: September 5, 2027	Int'l Class: 09, 35, 36, 39, 42, 43 (Int'l Class: 09) Computer software, namely, software for maintaining and providing third party access to databases containing information about the travel industry including information on hotel and travel packages, costs, utilization and vacancies and guest profiles; Computer software, namely, software for maintaining and providing third party access to a global computer network to analyze information about the travel industry including information on hotel and travel packages, costs, utilization and vacancies and guest profiles; Computer software, namely, software for providing third party access to online hotel reservation and tourist agency services for travel industry providers; scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; compact discs, DVDs and other digital recording media; mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment, computers; computer software; fire-extinguishing apparatus (Int'l Class: 35) Market research services, namely, collecting, analyzing and providing access to data about the travel industry including information on hotel and travel packages, costs, utilization and vacancies and guest profiles; customer loyalty services and customer club services for commercial, promotional and advertising purposes; conducting consumer loyalty, reward, affinity and incentive programs for commercial promotion and advertising purposes; business consulting services in the field of travel and operation of travel-related businesses; advertising services, namely, promoting and marketing the goods and services of other via electronic communications networks; advertising; business management; business administration; office functions (Int'l Class: 36) Real estate agency services; rental of apartments; insurance; financial affairs; monetary affairs; real estate affairs (Int'l Class: 39) Tourist agency services, namely, making reservations and bookings for transportation for tourists, travel booking agencies; providing electronic information concerning travel and travel destination; transport; packaging and storage of goods; travel arrangement (Int'l Class: 42) Software as a service (SAAS) services featuring software for gaining access to an online database containing information about the travel industry, namely, information on hotel and travel packages, costs, utilization and vacancies and guest profiles; Software as a service (SAAS) services featuring software for gaining access to an online computer network to analyze information about the travel industry, namely, information on hotel and travel packages, costs, utilization and vacancies and guest profiles; software as a service (SAAS) services featuring software for taking and processing hotel reservations by travel industry providers and sending hotel reservation information to travel industry providers; software as a service (SAAS) services featuring software for accessing a tourist agency database for travel industry providers; Software as a service (SAAS) services featuring software for managing and using virtual currency or rewards points for purchasing goods and services on electronic communications networks; Software as a service (SAAS) services featuring software for conducting customer loyalty, reward, affinity and incentive programs; Software as a service (SAAS) services featuring software for promoting and marketing the goods and services of others via	Kognitiv Corporation P O BOX 40022, Waterloo Square; Waterloo N2J 4V1, Ontario; CANADA, Canada	RN: 304264768 AN: 304264768

		electronic communications networks; Computer software design and maintenance of computer software for the travel industry, namely application support of software for creating dynamic packaging and facilitating individual sale of travel products, including air, room, car, travel activities and cruises and administering network connectivity between suppliers and distributors of travel products; scientific and technological services and research and design relating thereto; industrial analysis and research		
KOGNITIV	European Union	services; design and development of computer hardware and software (Int'l Class: 43) Hotel reservation services; services for providing food and drink; temporary accommodation 9, 35, 36, 39, 42, 43	Demeure Operating Company Ltd.	015067341
KOGNITIV	United Kingdom	9 - Computer software, in particular for use in the field of travel arrangement. 35 - Marketing and promotion (advertising) in relation to travel. 36 - Arranging of travel insurance; Issuing of travel vouchers; Financial services relating to travel. 39 - Passenger transport; Passenger transport; Providing of transport information; Transportation of travellers' baggage; Agency services for arranging the transportation of travellers' luggage; Travel consultancy and information services; Travel agency; Travel agency and booking services; Tour operator services; Providing information relating to the planning and booking of travel and transportation via electronic media. 42 - Development, Programming and implementation of computer software, In particular for use in the field of travel arrangement. 43 - Booking of accommodation for travellers; Reservation of tourist accommodation; Providing of accommodation information; Travel agency services for booking restaurants.	Demeure Operating Company Ltd. 3 Regina Street North, Waterloo, N2J 2Z7, Canada	UK00915067341

This is Exhibit "P" of
the Affidavit of **GRANT MCLEOD**
Sworn before me this 9th day of February 2026


A Commissioner, etc.

Reem Atallah, a
Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 28, 2026.

Fill in this information to identify the case:

United States Bankruptcy Court for the:

DISTRICT OF DELAWARE

Case number (if known)

Chapter 11☐ Check if this is an amended filing

Official Form 201

Voluntary Petition for Non-Individuals Filing for Bankruptcy

04/25

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals*, is available.

1. Debtor's name Kognitiv US LLC

2. All other names debtor used in the last 8 years

Include any assumed names, trade names and doing business as names

FDBA Aimia US Inc.
FDBA Loyalty Solutions LLC
FDBA Aimia US LLC

3. Debtor's federal Employer Identification Number (EIN) 82-0764765

4. Debtor's address

Principal place of business

Mailing address, if different from principal place of business

121 Washington Ave. N, 4th Floor
Minneapolis, MN 55401

Number, Street, City, State & ZIP Code

P.O. Box, Number, Street, City, State & ZIP Code

Hennepin
County

Location of principal assets, if different from principal place of business

Number, Street, City, State & ZIP Code

5. Debtor's website (URL) www.kognitiv.com

6. Type of debtor

☒ Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))☐ Partnership (excluding LLP)☐ Other. Specify: _____

Debtor **Kognitiv US LLC**
Name

Case number (if known)

7. Describe debtor's business**A. Check one:**

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ☐ Railroad (as defined in 11 U.S.C. § 101(44))
- ☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))
- ☒ None of the above

B. Check all that apply

- ☐ Tax-exempt entity (as described in 26 U.S.C. §501)
- ☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. §80a-3)
- ☐ Investment advisor (as defined in 15 U.S.C. §80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See <http://www.uscourts.gov/four-digit-national-association-naics-codes>.

5415**8. Under which chapter of the Bankruptcy Code is the debtor filing?****Check one:**

- ☐ Chapter 7
- ☐ Chapter 9

☒ Chapter 11. **Check all that apply:**

- ☐ Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$3,424,000 (amount subject to adjustment on 4/01/28 and every 3 years after that).
- ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). If the debtor is a small business debtor, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if all of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
- ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D), and it chooses to proceed under Subchapter V of Chapter 11.
- ☐ A plan is being filed with this petition.
- ☐ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
- ☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
- ☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.

☐ Chapter 12**9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?**

- ☒ No.
- ☐ Yes.

If more than 2 cases, attach a separate list.

District _____

District _____

When _____

When _____

Case number _____

Case number _____

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?

- ☒ No
- ☐ Yes.

Debtor **Kognitiv US LLC**
Name

Case number (if known)

List all cases. If more than 1,
attach a separate listDebtor
District

When

Relationship

Case number, if known

11. Why is the case filed in this district?*Check all that apply:*

- ☒ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.
- ☐ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?☒ No☐ Yes.

Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (Check all that apply.)☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.

What is the hazard?

☐ It needs to be physically secured or protected from the weather.☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).☐ Other**Where is the property?**

Number, Street, City, State & ZIP Code

Is the property insured?☐ No☐ Yes.

Insurance agency

Contact name

Phone

Statistical and administrative information**13. Debtor's estimation of available funds***Check one:*

- ☒ Funds will be available for distribution to unsecured creditors.
- ☐ After any administrative expenses are paid, no funds will be available to unsecured creditors.

14. Estimated number of creditors☒ 1-49☐ 50-99☐ 100-199☐ 200-999☐ 1,000-5,000☐ 5001-10,000☐ 10,001-25,000☐ 25,001-50,000☐ 50,001-100,000☐ More than 100,000**15. Estimated Assets**☐ \$0 - \$50,000☐ \$50,001 - \$100,000☐ \$100,001 - \$500,000☐ \$500,001 - \$1 million☐ \$1,000,001 - \$10 million☒ \$10,000,001 - \$50 million☐ \$50,000,001 - \$100 million☐ \$100,000,001 - \$500 million☐ \$500,000,001 - \$1 billion☐ \$1,000,000,001 - \$10 billion☐ \$10,000,000,001 - \$50 billion☐ More than \$50 billion**16. Estimated liabilities**☐ \$0 - \$50,000☐ \$50,001 - \$100,000☐ \$100,001 - \$500,000☐ \$500,001 - \$1 million☐ \$1,000,001 - \$10 million☒ \$10,000,001 - \$50 million☐ \$50,000,001 - \$100 million☐ \$100,000,001 - \$500 million☐ \$500,000,001 - \$1 billion☐ \$1,000,000,001 - \$10 billion☐ \$10,000,000,001 - \$50 billion☐ More than \$50 billion

Debtor **Kognitiv US LLC**
Name

Case number (if known)

Request for Relief, Declaration, and Signatures**WARNING** -- Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.**17. Declaration and signature
of authorized
representative of debtor**

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

I have been authorized to file this petition on behalf of the debtor.

I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on **April 2, 2025**
MM / DD / YYYY**X /s/ Tim Sullivan**

Signature of authorized representative of debtor

Tim Sullivan

Printed name

Title **Authorized Signatory****18. Signature of attorney****X /s/ Patrick A. Jackson**

Signature of attorney for debtor

Date **April 2, 2025**

MM / DD / YYYY

Patrick A. Jackson

Printed name

Faegre Drinker Biddle & Reath LLP

Firm name

222 Delaware Avenue**Suite 1410****Wilmington, DE 19801**

Number, Street, City, State & ZIP Code

Contact phone **302-467-4200**Email address **patrick.jackson@faegredrinker.com****4976 DE**

Bar number and State

ACTION BY WRITTEN CONSENT OF THE SOLE MEMBER

OF

KOGNITIV US LLC

April 2, 2025

The undersigned, being the representative of Loyalty Solutions Holdings US Inc., a Delaware corporation (the “**Member**”), which is the sole member of Kognitiv US LLC, a Delaware limited liability company (the “**Company**”), acting by written consent without a meeting pursuant to Sections 18-402 and 18-404 of the Delaware Limited Liability Company Act and the Limited Liability Company Agreement of the Company, dated as of May 27, 2020, as amended by that First Amendment to Limited Liability Company Agreement, dated as of June 4, 2020, and as amended by that Second Amendment to Limited Liability Company Agreement, dated as of September 16, 2021 (as amended, the “**LLC Agreement**”) (capitalized terms not defined herein have the meanings assigned to them in the LLC Agreement), does hereby consent to the adoption of the following resolutions with respect to the Company:

WHEREAS the Company is an indirect wholly owned subsidiary of Kognitiv Corporation, a privately held Ontario corporation (the “**Parent**”), which is the subject of a proceeding (the “**NOI Proceeding**”) before the Superior Court of Justice in Toronto, Ontario under Canada’s *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3, as amended;

WHEREAS in the NOI Proceeding, the Parent carried out a sale process with the assistance of its restructuring advisor, Roystone Capital Management LP (“**Roystone Capital**”), and its proposal trustee, BDO Canada Limited (in such capacity, the “**Proposal Trustee**”), for the sale of its operations and assets (the “**Sale Process**”);

WHEREAS as a result of the Sale Process, the Parent reached an agreement with Capillary Pte. Ltd., as purchaser (the “**Purchaser**”), on a transaction by which the Purchaser would acquire the Parent’s operations and assets (the “**Transaction**”), which Transaction is supported by the Proposal Trustee;

WHEREAS the structure of the Transaction was originally conceived as a sale by the Parent to the Purchaser of all of the outstanding securities of the Member, which is the Parent’s direct wholly-owned subsidiary; however, the Purchaser opted instead to require agreements with the Member and the Company for the purchase of their respective assets;

WHEREAS with respect to the Company, the Purchaser further required that the purchase occur through a sale under section 363 of the United States Bankruptcy Code, 11 U.S.C. §§ 101–1532 (the “**Bankruptcy Code**”), in the context of a case under chapter 11 of the Bankruptcy Code;

WHEREAS the Member has reviewed and considered the financial and operational condition of the Company and the Company’s business on the date hereof, including the historical performance of the Company, the assets of the Company, the current and long-term liabilities of the Company, the market for the Company’s assets, and credit market conditions; and

WHEREAS the Member has received, reviewed, and considered the recommendations of the management of the Company and the Company's legal, financial, and other advisors as to the relative risks and benefits of pursuing a bankruptcy proceeding under the provisions of chapter 11 of the Bankruptcy Code.

NOW, THEREFORE, IT IS:

Pre-Petition Bridge Financing

RESOLVED, that the Authorized Officers (as defined below) of the Company be, and each of them, acting alone or in any combination, hereby is, authorized, directed, and empowered, on behalf of and in the name of the Company, to obtain pre-petition bridge financing according to terms negotiated, or to be negotiated, by the management of the Company; and to enter into any guarantees and to pledge and grant liens on its assets as may be contemplated by or required under the terms of such post-petition financing or cash collateral agreements; and in connection therewith, the Authorized Officers be, and each of them, acting alone or in any combination, hereby is authorized, directed, and empowered to execute appropriate loan agreements, security agreements, promissory notes, and related ancillary documents; and it is further

RESOLVED, that the Authorized Officers be, and each of them, acting alone or in any combination, hereby is, authorized, directed, and empowered, on behalf of and in the name of the Company, to secure the payment and performance of any pre-petition bridge financing by (i) pledging or granting liens or mortgages on, or security interests in, all or any portion of the Company's assets, whether now owned or hereafter acquired, and (ii) entering into such credit agreements, guarantees, other debt instruments, security agreements, pledge agreements, control agreements, inter-creditor agreements, mortgages, deeds of trust, and other agreements as are necessary, appropriate, or desirable to effectuate the intent of, or matters reasonably contemplated or implied by, this resolution in such form, covering such collateral and having such other terms and conditions as are approved or deemed necessary, appropriate, or desirable by the Authorized Officer executing the same, the execution thereof by such Authorized Officer to be conclusive evidence of such approval or determination; and it is further

Commencement and Prosecution of Chapter 11 Case

RESOLVED, that, in the judgment of the Member, it is desirable and in the best interests of the Company, its creditors, stockholders, and other interested parties, that a voluntary petition (the "**Petition**") be filed by the Company in the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**") commencing a case (the "**Chapter 11 Case**") under the provisions of chapter 11 of the Bankruptcy Code; and it is further

RESOLVED, that the Authorized Officers (as defined below) of the Company be, and each of them, acting alone or in any combination, hereby is, authorized, directed, and empowered, in the name of and on behalf of the Company, to execute, acknowledge, deliver, and verify the Petition and to cause the same to be filed with the Bankruptcy Court at such time as such Authorized Officer may determine; and it is further

RESOLVED, that the Authorized Officers be, and each of them, acting alone or in any combination, hereby is, authorized, directed, and empowered in the name of and on behalf of the

Company, to execute, acknowledge, deliver, and verify and file any and all schedules, statements of affairs, lists, and other papers and to take any and all related actions that such Authorized Officers may deem necessary or proper in connection with the filing of the Petition and commencement of the Chapter 11 Case; and it is further

RESOLVED, that the Authorized Officers be, and each of them, acting alone or in any combination, hereby is, authorized, directed, and empowered, from time to time in the name and on behalf of the Company, to perform the obligations of the Company under the Bankruptcy Code, with all such actions to be performed in such manner, and all such certificates, instruments, guaranties, notices, and documents to be executed and delivered in such form, as any Authorized Officer performing or executing the same shall approve, and the performance or execution thereof by such Authorized Officer shall be conclusive evidence of the approval thereof by such Authorized Officer and by the Company; and it is further

RESOLVED, that the Authorized Officers be, and each of them, acting alone or in any combination, hereby is, authorized, directed, and empowered from time to time in the name and on behalf of the Company, to cause the Company to enter into, execute, deliver, certify, file, record, and perform such agreements, instruments, motions, affidavits, applications for approvals or rulings of governmental or regulatory authorities, certificates or other documents, to pay all expenses, including filing fees, and to take such other actions, as in the judgment of such Authorized Officers, shall be necessary, proper, and desirable to prosecute to a successful completion the Chapter 11 Case and to effectuate the restructuring or liquidation of the Company's debt, other obligations, organizational form and structure, and ownership of the Company, all consistent with the foregoing resolutions and to carry out and put into effect the purposes of these resolutions, and the transactions contemplated by these resolutions, their authority thereunto to be evidenced by the taking of such actions; and it is further

Retention of Professionals

RESOLVED, that the law firm of Faegre Drinker Biddle & Reath LLP ("**Faegre Drinker**") be, and hereby is, authorized, directed, and empowered to represent the Company as corporate, finance, restructuring, and bankruptcy counsel to represent and assist the Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance the Company's rights, including the preparation of pleadings and filings in the Chapter 11 Case; and in connection therewith, the Authorized Officers be, and each of them, acting alone or in any combination, hereby is, authorized, directed, and empowered, on behalf of and in the name of the Company to execute appropriate retention agreements, pay appropriate retainers prior to the filing of the Chapter 11 Case, and to cause to be filed an appropriate application for authority to retain the services of Faegre Drinker; and it is further

RESOLVED, that the Authorized Officers be, and each of them, acting alone or in any combination, hereby is, authorized, directed, and empowered, on behalf of and in the name of the Company to employ any other individual and/or firm as professionals, consultants, financial advisors, or investment bankers to the Company as are deemed necessary to represent and assist the Company in carrying out its duties under the Bankruptcy Code, and in connection therewith, the Authorized Officers be, and each of them, acting alone or in any combination, hereby is, authorized, directed, and empowered, on behalf of and in the name of the Company to execute

appropriate retention agreements, pay appropriate retainers prior to the filing of the Chapter 11 Case, and to cause to be filed an appropriate application for authority to retain the services of such firms; and it is further

Sale

RESOLVED, that the Authorized Officers be, and each of them, acting alone or in any combination, hereby is, authorized, directed, and empowered, on behalf of and in the name of the Company, to enter into that certain Asset Purchase Agreement dated as of March 31, 2025 (the “**Asset Purchase Agreement**”), between the Company, as vendor, and Capillary Technologies LLC (an affiliate of the Purchaser), as purchaser, and to take any and all actions in furtherance of consummating the transactions contemplated by the Asset Purchase Agreement as they may deem necessary or appropriate; and it is further

Post-Petition Financing

RESOLVED, that the Authorized Officers be, and each of them, acting alone or in any combination, hereby is, authorized, directed, and empowered, on behalf of and in the name of the Company, to obtain post-petition financing according to terms negotiated, or to be negotiated, by the management of the Company, including under debtor-in-possession credit facilities or relating to the use of cash collateral, if any; and to enter into any guarantees and to pledge and grant liens on its assets as may be contemplated by or required under the terms of such post-petition financing or cash collateral agreements; and in connection therewith, the Authorized Officers be, and each of them, acting alone or in any combination, hereby is authorized, directed, and empowered to execute appropriate loan agreements, cash collateral agreements, and related ancillary documents; and it is further

RESOLVED, that the Authorized Officers be, and each of them, acting alone or in any combination, hereby is, authorized, directed, and empowered, on behalf of and in the name of the Company, to secure the payment and performance of any post-petition financing by (i) pledging or granting liens or mortgages on, or security interests in, all or any portion of the Company’s assets, whether now owned or hereafter acquired, and (ii) entering into such credit agreements, guarantees, other debt instruments, security agreements, pledge agreements, control agreements, inter-creditor agreements, mortgages, deeds of trust, and other agreements as are necessary, appropriate, or desirable to effectuate the intent of, or matters reasonably contemplated or implied by, this resolution in such form, covering such collateral and having such other terms and conditions as are approved or deemed necessary, appropriate, or desirable by the Authorized Officer executing the same, the execution thereof by such Authorized Officer to be conclusive evidence of such approval or determination; and it is further

General Resolutions

RESOLVED, that the Member hereby adopts any resolution required under the applicable securities laws of any jurisdiction to be adopted in connection with any of the transactions contemplated hereby, if (i) in the opinion of any Authorized Officer, the adoption of such resolution is necessary or advisable, and (ii) the secretary of the Company evidences such adoption by inserting into the minute book of the Company a copy of such resolution which will thereupon

be deemed to have been adopted by the Member with the same force and effect as if specifically presented to and executed by the Member; and it is further

RESOLVED, that the Company's Chief Executive Officer and General Counsel (the "Authorized Officers") are hereby each severally authorized in the name of and on behalf of the Company to perform any and all acts as may be necessary or desirable to execute, file and deliver all instruments and other documents contemplated by the foregoing resolutions and to take any and all further action that such person or persons may deem necessary or desirable to effectuate any action authorized by these resolutions and otherwise to carry out the purposes and intentions of the foregoing resolutions; and the execution by any such person or persons of any such documents or the performance by any such person or persons of any such act in connection with the foregoing matters shall conclusively establish his or her authority therefor from the Company and the approval and ratification by the Company of the documents so executed and the actions so taken; and it is further

RESOLVED, that any and all actions heretofore taken by any Authorized Officer in connection with the transactions and other matters contemplated by the foregoing resolutions are hereby ratified, approved, confirmed and accepted in all respects; and it is further

RESOLVED, that these resolutions may be executed by facsimile, email, or other electronic means, and when so executed and delivered shall be deemed to be an original.

[Signature page follows.]

IN WITNESS WHEREOF, the undersigned has signed this instrument as of the date first set out above.

LOYALTY SOLUTIONS HOLDINGS US INC.,
the sole member

By: /s/ Tim Sullivan
Authorized signatory

Name: Tim Sullivan

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

Kognitiv US LLC,

Debtor.¹

Chapter 11

Case No. 25-____ (____)

**COMBINED CORPORATE OWNERSHIP STATEMENT AND
LIST OF EQUITY SECURITIES HOLDERS PURSUANT TO
FED. R. BANKR. P. 1007(a)(1), 1007(a)(3)**

Pursuant to Rules 1007(a)(1), 1007(a)(3), and 7007.1 of the Federal Rules of Bankruptcy Procedure, Kognitiv US LLC (the “Debtor”) certifies that the following corporate entity (i) directly or indirectly owns 10% or more of the Debtor and (ii) directly or indirectly holds 100% of the equity interests of the Debtor:

Name and Address	Ownership & Interest
Loyalty Solutions Holdings US Inc. 121 Washington Ave. N 4th Floor Minneapolis, MN 55401	100% Direct Ownership 100% of Equity Interest

¹ The last four digits of the Debtor’s federal tax identification number are 4765. The Debtor’s mailing address is 121 Washington Ave. N, 4th Floor, Minneapolis, Minnesota 55401.

Fill in this information to identify the case:

Debtor name **Kognitiv US LLC**
 United States Bankruptcy Court for the: **DISTRICT OF DELAWARE**
 Case number (if known): _____

☐ Check if this is an
 amended filing

Official Form 204**Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims and Are Not Insiders**

12/15

A list of creditors holding the 20 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person or entity who is an insider, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 20 largest unsecured claims.

Name of creditor and complete mailing address, including zip code	Name, telephone number and email address of creditor contact	Nature of claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
KPMG LLP PO Box 4348 Station A Toronto, ON M5W 7A6 Canada	kpmg-ar@kpmg.ca	Professional Services				\$31,236.06
Carry Technologies dba Hightouch 2261 Market Street #5225 San Francisco, CA 94114	accounting@hightouch.io 1-402-649-0812	Software Licenses				\$15,000.00
Thomson Reuters West 610 Opperman Drive Eagan, MN 55123-1396	CSM-WC@thomsonreuters.com	Professional Services				\$11,425.84
Emarketer Inc. One Liberty Plaza, 9th Floor New York, NY 10006	accounting@emarketer.com	Professional Services				\$8,100.00
Husch Blackwell PO Box 802765 Kansas City, MO 64180	ARInfo@huschblackwell.com	Professional Services				\$8,060.50
Figg, Incorporated 2561 Territorial Road Saint Paul, MN 55114	rmcdonald@gofigg.com	IT Services				\$5,452.50
CT Corporation System PO Box 4349 Carol Stream, IL 60197	ctlegalnotice@wolterskluwer.com	Professional Fees				\$2,363.65
Privacy Toll Free 2093 Philadelphia Pike #4678 Claymont, DE 19703	mailto:contact@ccpatollfree.com	Professional Services				\$332.67

Debtor **Kognitiv US LLC**
Name

Case number (if known)

Name of creditor and complete mailing address, including zip code	Name, telephone number and email address of creditor contact	Nature of claim (for example, trade debts, bank loans, professional services,	Indicate if claim is contingent, unliquidated, or disputed	Amount of claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
Advanced Records Management 13700 Water Tower Circle Plymouth, MN 55441		Professional Services				\$50.00

Fill in this information to identify the case:Debtor name Kognitiv US LLCUnited States Bankruptcy Court for the: DISTRICT OF DELAWARE

Case number (if known) _____

☐ Check if this is an amended filing

Official Form 202

Declaration Under Penalty of Perjury for Non-Individual Debtors

12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

WARNING -- Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Declaration and signature

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.

I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- ☐ *Schedule A/B: Assets—Real and Personal Property* (Official Form 206A/B)
- ☐ *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 206D)
- ☐ *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 206E/F)
- ☐ *Schedule G: Executory Contracts and Unexpired Leases* (Official Form 206G)
- ☐ *Schedule H: Codebtors* (Official Form 206H)
- ☐ *Summary of Assets and Liabilities for Non-Individuals* (Official Form 206Sum)
- ☐ *Amended Schedule*
- ☒ *Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims and Are Not Insiders* (Official Form 204)
- ☒ Other document that requires a declaration **Corporate Ownership Statement**

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 2, 2025X /s/ Tim Sullivan

Signature of individual signing on behalf of debtor

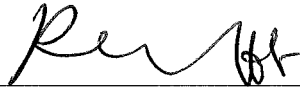
Tim Sullivan

Printed name

Authorized Signatory

Position or relationship to debtor

This is Exhibit "Q" of
the Affidavit of **GRANT MCLEOD**
Sworn before me this 9th day of February 2026

A handwritten signature in black ink, appearing to read 'Reem Atallah', written over a horizontal line.

A Commissioner, etc.

**Reem Atallah, a
Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 28, 2026.**

BRIDGE LOAN AND SECURITY AGREEMENT

THIS BRIDGE LOAN AND SECURITY AGREEMENT is entered into as of March 31, 2025, by and between KOGNITIV US LLC, a Delaware limited liability company (the “**Borrower**”), and Guines, LLC, a Delaware limited liability company, and Aimia Inc. (each a “**Lender**” and together the “**Lenders**”) and Guines, LLC, as the collateral agent for the Lenders.

The Borrower has requested that Lenders, severally and not jointly, extend credit to the Borrower, and each Lender is willing to do so on the terms and conditions set forth herein. In consideration of the mutual promises and agreements hereinafter contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. DEFINITIONS.

1.1 Definitions. All capitalized terms not otherwise defined in this Agreement shall have the meanings set forth on EXHIBIT A.

1.2 Accounting Terms. All accounting terms not specifically defined herein shall be construed in accordance with GAAP or such other accounting method as Lender may previously approve in writing in its sole discretion.

1.3 Uniform Commercial Code. As used herein, the following terms are defined in accordance with the UCC from time to time: “Chattel Paper,” “Commercial Tort Claim,” “Deposit Account,” “Document,” “Equipment,” “General Intangibles,” “Goods,” “Instrument,” “Investment Property,” “Letter-of-Credit Right” and “Supporting Obligation.”

1.4 Fundamental Provisions; Exhibits; Schedules. This Agreement shall include the Fundamental Provisions and all of the exhibits and schedules attached hereto, all of which are incorporated herein by reference and made a part hereof.

1.5 Principles of Construction. The terms “herein,” “hereof,” “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular section, paragraph or subdivision. The singular shall include the plural and the plural shall include the singular. Any pronoun used shall be deemed to cover all genders. In the computation of periods of time from a specified date to a later specified date, “from” means “from and including,” and “to” and “until” each mean “to but excluding.” The terms “including” and “include” shall mean “including, without limitation”. Section titles appear as a matter of convenience only and shall not affect the interpretation of any Loan Document. If more than one lender, borrower or guarantor shall be a party to this Agreement, then all references herein to “Lender,” and “Borrower” shall mean, respectively, all such lenders and borrowers, collectively and individually. All references to (a) laws include all related regulations, interpretations, supplements, amendments and successor provisions; (b) any document, instrument or agreement include any amendments, waivers and other modifications, extensions or renewals (to the extent permitted by the Loan Documents); (c) any section mean, unless the context otherwise requires, a section of this Agreement; (d) any exhibits or schedules mean, unless the context otherwise requires, exhibits and schedules attached hereto, which are hereby incorporated by reference; (e) any Person include successors and assigns; (f) time of day mean time of day at Lender’s notice address set forth in the Fundamental Provisions; or (g) discretion of Lender means the sole and absolute discretion of Lender. All references to the Loan, Obligations and other amounts herein shall be denominated in Dollars, unless expressly provided otherwise, and all determinations (including calculations of financial covenants) made from time to time under the Loan Documents shall be made in light of the circumstances existing at such time.

Borrower shall have the burden of establishing any alleged gross negligence or willful misconduct by Lender under any Loan Documents. No provision of any Loan Documents shall be construed against any party by reason of such party having, or being deemed to have, drafted the provision.

2. THE LOAN.

2.1 Loan. Subject to the terms and conditions of this Agreement and the other Loan Documents, the Lenders agrees, severally and not jointly, to make advances to the Borrower in the aggregate principal amount not to exceed \$2,000,000 (the “**Loan**”) in accordance with each Lender’s Loan Commitment Amount. The Loan is not a revolving credit facility; Borrower shall have no right to reborrow any portion of the Loan that has been prepaid.

2.2 Note. The Loan shall each be evidenced by one or more Notes and, if not sooner paid, shall be paid in full on the Maturity Date.

2.3 Interest; MOIC.

(a) The outstanding principal amount under the Loan shall bear interest at a rate per annum equal to fifteen percent 15.00%. From and after the date of any Event of Default hereunder, interest on all principal amounts outstanding under the Notes shall accrue at the Default Rate until such Event of Default is cured by Borrower. All interest, as well as fees and other charges calculated on a per annum basis, shall be computed on the basis of a three hundred and sixty (360) day year for the actual number of days elapsed. Each determination by Lenders of any interest, fees or interest rate hereunder shall be final, conclusive and binding for all purposes, absent manifest error. In no event shall the Loan bear interest at a rate higher than the maximum rate of interest permitted by applicable Law.

(b) Upon the repayment in full of the Loan (whether upon maturity, acceleration or otherwise) and, in any case, not later than the Maturity Date, and after giving effect to (and without duplication of) all amounts payable hereunder, including without limitation, interest, the Borrower shall pay to the Lenders an amount sufficient for each Lender to achieve a multiple-on-invested-capital of 1.15 on each such Lender’s Loan Commitment (the “**MOIC Amount**”).

2.4 Payments. The Borrower shall pay the Lenders on the Maturity Date the entire outstanding principal balance under the Note, all accrued and unpaid interest thereon and the MOIC Amount.

2.5 Prepayment. The Borrower may prepay all or any part of the Loan at any time without permission or penalty, but with written notice provided to Lenders.

2.6 Use of Proceeds. The Borrower shall use the proceeds of each advance of the Loan solely to pay fees and expenses incurred in connection with this Agreement and related transactions, for working capital and general corporate purposes of the Borrower.

2.7 Obligations Unconditional. The payment and performance by the Borrower of the Obligations shall be absolute and unconditional, irrespective of any defense or any rights of set-off, recoupment or counterclaim it might otherwise have against any Lender, and the Borrower shall pay absolutely all of the Obligations, free of any deductions and without abatement, diminution or set-off.

2.8 Advances. Except with respect to the initial advance, which shall occur on the Closing Date, the Borrower shall give notice to Lenders of each requested advance not later than 12:00 Eastern Time at least five Business Day prior to the proposed date of such advance. Each such notice shall be effective upon receipt by Lenders, shall be in writing in form and substance satisfactory to Lenders and shall (a) specify the amount of the advance, (b) specify the date of the advance (which shall be a Business Day), and (c) include a description of the use of proceeds of such advance, together with invoices, statements or such other evidence regarding such use of proceeds as Lender may request. Subject to satisfaction of the conditions precedent set forth in Article III with respect to each such advance, Lender shall fund such advance by depositing or wire transferring such proceeds to the credit of the Borrower's Designated Collection Account. Any advances made after the initial advance shall be at the sole discretion of the Lenders.

2.9 Priority of Payments. Each Lender's right to payments on its Note shall rank equally and pari passu; and Borrower shall make all payments on the Notes on an equal and pro rata basis among the Lenders (based on the aggregate principal amount of all then outstanding Notes).

3. CONDITIONS PRECEDENT.

3.1 Conditions Precedent to the Loan. The obligation of Lender to make any advance on the Loan hereunder is subject to the satisfaction of the following conditions, in the case, in form and substance satisfactory to Lender:

- (a) Lender shall have received each of the Loan Documents, duly executed by the Borrower and all other applicable parties.
- (b) There shall be no Events of Default.
- (c) Borrower's representations and warranties set forth herein shall be true, accurate and correct.
- (d) Asset purchase agreements (each an "**APA**", and together, the "**APAs**") by and between Borrower and Capillary Technologies LLC ("**Capillary**") and Loyalty Solutions Holdings US Inc. ("**Loyalty Solutions**") and Capillary shall have been executed and in effect (with any amendment or modification thereto approved by Lenders).
- (e) Lenders shall have received an executed guaranty agreement ("**LSH Guaranty**") and security agreement ("**LSH Security Agreement**") from Loyalty Solutions.

4. COLLATERAL.

4.1 Security Interest. To secure the prompt payment and performance of its Obligations, the Borrower hereby grants to the Agent (on behalf and for the benefit of the Lenders), a continuing security interest in and Lien upon all property and assets of the Borrower, whether real, personal or mixed, or tangible or intangible, including all of the following, whether now owned or hereafter acquired, and wherever located:

- (a) all Accounts,
- (b) all Chattel Paper, including electronic chattel paper,
- (c) all Commercial Tort Claims,

- (d) all Deposit Accounts, (e) all Documents,
- (f) all General Intangibles, including Intellectual Property,
- (g) all Goods, including Inventory, Equipment and fixtures,
- (h) all Instruments,
- (i) all Investment Property,
- (j) all Letter-of-Credit Rights,
- (k) all Supporting Obligations,

(l) all monies, whether or not in the possession or under the control of Agent, or a bailee or Affiliate of Lender,

(m) all accessions to, substitutions for, and all replacements, products, and cash and non-cash proceeds of the foregoing, including proceeds of and unearned premiums with respect to insurance policies, and claims against any Person for loss, damage or destruction of any Collateral, and

(n) all books and records (including customer lists, files, correspondence, tapes, computer programs, print-outs and computer records) pertaining to the foregoing.

4.2 General Provisions.

(a) The Borrower authorizes Agent to file any financing statement that describes the Collateral as “all assets” or “all personal property” of the Borrower, or words to similar effect without the signature of the Borrower, and ratifies any action taken by Agent to effect or perfect Agent’s Lien on any Collateral. The Borrower agrees, upon request, to deliver any other documents which Agent may reasonably request to perfect or maintain the priority of the security interests granted in Section 4.

(b) The Borrower agrees that, in respect to any of the Collateral which is personalty, fixtures or otherwise subject to the provisions of the UCC, Agent shall have all of the rights and remedies of a secured party thereunder as well as any other rights and remedies provided in this Agreement.

(c) The Borrower shall from time to time, at the request of Agent, furnish Agent with a schedule of the Accounts which shall include the names and addresses of each account debtor, and an aging report indicating whether such Accounts are outstanding, and the duration and extent of any delinquencies. Agent shall have the right to make test verification of the Accounts or any portion thereof.

(d) The Borrower shall keep accurate and complete records of its Inventory, including costs and daily withdrawals and additions, and upon request shall submit to Agent inventory and reconciliation reports in form reasonably satisfactory to Agent.

(e) The Borrower shall keep accurate and complete records of its Equipment, including kind, quality, quantity, cost, acquisitions and dispositions thereof, and upon Agent’s request shall submit to Agent’s a current schedule thereof, in form reasonably satisfactory to Agent.

(f) No part of the Collateral consists or will consist of consumer goods, crops, farm products, timber, or minerals and the like (including oil and gas) or accounts resulting from the sale thereof.

5. REPRESENTATIONS AND WARRANTIES.

The Borrower hereby represents and warrants to Lenders as follows:

5.1 Organization and Qualification. The Borrower is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization and has qualified to do business and is in good standing in each jurisdiction in which it is necessary in the conduct of its business.

5.2 Power and Authority. The Borrower is duly authorized to execute, deliver, and perform all of its obligations under each of the Loan Documents to which it is a party. The execution, delivery and performance by the Borrower of the Loan Documents have been duly authorized by all necessary action.

5.3 Enforceability. This Agreement has been, and each other Loan Document, when delivered hereunder, will have been, duly executed and delivered by the Borrower. This Agreement constitutes, and each other Loan Document when so delivered will constitute, a legal, valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, receivership, moratorium or other Laws affecting creditors' rights generally and by general principles of equity.

5.4 Consents. No approval, consent, exemption, authorization, or other action by, or notice to, or 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, the Borrower of this Agreement or any other Loan Document, except for such approvals, consents, exemptions, authorizations, actions or notices that have been duly obtained, taken or made and in full force and effect.

5.5 Taxes. The Borrower has filed all federal, state, county, municipal, and city income tax returns required to have been filed by it and has paid all taxes and related liabilities which have become due pursuant to such returns or pursuant to any assessments received by it. Borrower has no knowledge of any basis for any additional assessment in respect of any such taxes and related liabilities for prior years.

5.6 Financial. All financial statements and financial information furnished to Lenders by or on behalf of the Borrower fairly and accurately represent the financial conditions and the results of operations of the Borrower as of, and for the portion of the fiscal year ending on, the date or dates thereof and have been prepared in accordance with GAAP. There have been no material or adverse changes in the financial condition of Borrower since the date or dates thereof, and the Borrower has not incurred any material or adverse liability (including, without limitation, any additional borrowings), direct or indirect, fixed or contingent.

5.7 Brokerage Fees. No brokerage fees or commissions are payable by Borrower or any of its Affiliates to any Person in connection with the Loan or any of the transactions contemplated by the Loan Documents.

5.8 No Margin Stock. No portion of the Loan is being made for the purpose of purchasing or carrying "margin stock" within the meaning of Regulation G, T, U or X issued by the Board of

Governors of the Federal Reserve System, and Borrower agrees to execute all instruments necessary to comply with all the requirements of Regulation U of the Federal Reserve System, as at any time amended.

5.9 Investment Company. The Borrower is not an “investment company” within the meaning of the Investment Company Act.

5.10 Complete Disclosure. No Loan Document contains any material misstatement of fact, nor omits to state any material fact necessary to make the statements contained therein not materially misleading.

5.11 Independent Transaction. The Borrower agrees and acknowledges that the terms of this Loan and this Agreement were offered, negotiated, and agreed to independent of any consideration of any prior, current or future loans, equity investments or other transactions with Lenders or any of their respective affiliates.

5.13 APAs. Borrower has provided true, accurate and complete APAs to Lenders.

6. COVENANTS AND AGREEMENTS.

As long as the Loan remains outstanding and this Agreement remains in effect, Borrower shall comply with the following covenants and agreements:

6.1 Maintenance of Existence. The Borrower shall maintain its existence in good standing under the laws of the jurisdiction of its organization and in each jurisdiction where it is necessary to qualify to do business in the conduct of its business. The Borrower shall provide Lenders with evidence of the Borrower’s compliance with this Section upon Lenders’ request.

6.2 Subsidiaries; Equity Interests. The Borrower shall not establish or permit the existence of any subsidiary, nor shall the Borrower permit any subsidiary to issue any Equity Interests, or sell, assign, transfer, hypothecate, pledge or otherwise encumber any Equity Interests.

6.3 Compliance with Laws. Borrower shall comply in all material respects with all Laws, ordinances, governmental rules and regulations promulgated by any Governmental Authority and applicable to its assets (including the Collateral) and the conduct of its business. Borrower shall obtain and maintain all licenses, permits, certificates, franchises or other governmental authorizations necessary for the ownership and operation of its assets (including the Collateral) and the conduct of its business.

6.4 Maintenance. Borrower will maintain the Collateral in good condition and repair and preserve it against loss, damage or depreciation in value, other than normal wear and act of God, will take all steps necessary to preserve and maintain the Collateral and its value, and will not permit anything to be done to the Collateral which may impair its value or security.

6.5 Taxes. Borrower shall pay and discharge before the same shall become delinquent, all lawful governmental claims, taxes, assessments, charges and levies, except where contested in good faith by proper proceedings, if adequate reserves therefor have been established on the books of Borrower in conformity with GAAP.

6.6 Affiliate Transactions. Borrower shall not enter into or be party to any transaction with an Affiliate, except (a) the payment of reasonable compensation to officers and employees for services actually rendered, and the payment of customary directors' fees and indemnities; and (b) transactions with

Affiliates in the ordinary course of business, upon fair and reasonable terms fully disclosed to Lenders and no less favorable than would be obtained in a comparable arm's-length transaction with a non-Affiliate.

6.7 Further Acts. The Borrower shall, at the Borrower's sole cost and expense, take all actions reasonably requested by Lenders to maintain each Loan Document in full force and effect and enforceable in accordance with its terms, including: (a) making filings and recordations; (b) making payments of fees and other charges; or (c) issuing, and if necessary, filing or recording supplemental documentation.

6.8 No Additional Debt. Borrower shall not incur any indebtedness other than customary trade payables due within ninety (90) days after they are incurred.

6.9 Modification of APA. Borrower shall not modify, amend, waive or terminate the APA with Capillary without Lenders' express written consent.

7. REPORTING AND NOTICE REQUIREMENTS.

7.1 Financial Statements. The Borrower will deliver to Lenders, as soon as available, but in any event no later than Friday of each calendar week during the period commencing on the Closing Date through the Maturity Date (a) Borrower has made all expenditures and disbursements set forth in the Budget for such week, disclosing the amount and payee of each disbursement made with proceeds of the Loan and containing a report reflecting actual disbursements as of the end of the applicable week; and (b) a description of the status of the APA by and between Borrower and Capillary.

7.2 Notices. The Borrower shall promptly notify Lenders and Agent in writing of any noncompliance with any covenants or agreement contained in this Agreement or any other Loan Document of which the Borrower has knowledge.

8. FEES AND EXPENSES.

8.1 Loan Expenses and Fees. The Borrower shall pay, or cause to be paid, on demand all costs and expenses in connection with the preparation, negotiation, execution, delivery, filing, recording and administration (including amendments and modifications) of the Loan Documents, including, but not limited to: (i) all taxes and recording expenses, including all intangible, registration and stamp taxes, if any; (ii) title insurance premiums, appraiser fees and environmental audit fees; (iii) if any, fees due to brokers in connection with the Collateral or this Agreement (other than any broker hired by or contracted for by Lenders); (iv) all reasonable legal fees and expenses, including, without limitation, each Lender's and Agent's counsel's fees and expenses for services performed and sums advanced or disbursed in connection with the transactions contemplated by this Agreement, plus reimbursement of all out of pocket expenses incurred in connection therewith; (v) all fees incurred in connection with the delivery of the legal opinions; (vi) all costs incurred in the servicing, enforcement and collection of the Loan; (vii) all costs incurred in connection with the sale, acquisition, operation and disposition of any Collateral; and (viii) all other amounts due under any other Loan Documents.

8.2 Taxes; Additional Taxes.

(a) Any and all payments by Borrower hereunder shall be made free and clear of and without deduction for any and all present or future taxes, levies, imposts, deductions, charges or withholdings, and all liabilities with respect thereto. If Borrower shall be required by Law to deduct or withhold any such

taxes from or in respect of any sum payable hereunder to each Lender, the sum payable shall be increased as may be necessary so that after making all required deductions or withholdings such Lender receives an amount equal to the sum it would have received had no such deductions or withholdings been made. Borrower agrees to pay any present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies of any applicable Governmental Authority which arise from any payment made under any Loan Document or from the execution, delivery or registration of, or otherwise with respect to, any Loan Document.

(b) The Borrower further agrees that if, during the term of the Loan, the State imposes or assesses against any Lender any fees or taxes, including, without limitation, financial institutions excise tax, or franchise, gross receipts or other similar tax (but not a tax in the nature of an income tax or annual minimum limited liability company taxes and fees) in connection with the business of such Lender or the making of the Loan, and Borrower shall pay an amount equal to such additional tax to such Lender upon presentation by such Lender of documentation evidencing the assessment of such additional tax against such Lender and the amount thereof.

9. DEFAULT.

9.1 Events of Default. Each of the following events shall be an Event of Default:

(a) Borrower shall fail to pay any amount due hereunder or under any other Loan Document when the same becomes due and payable and Borrower shall fail to cure such default within five (5) days;

(b) Any representation or warranty contained in this Agreement or any other Loan Document shall prove to have been incorrect in any material respect when made;

(c) Any provision of any Loan Document shall for any reason cease to be valid and binding on any Borrower, or any Borrower shall so state in writing;

(d) Any failure, breach or violation of any covenant or agreement contained in this Agreement which remains uncured for a period of 5 consecutive calendar days (other than a failure, breach or violation specified in any other provision in Section 9.1); or

(e) Any default or event of default shall occur (and shall continue uncured after such notice and/or grace or cure period as shall be applicable thereto) under any other Loan Document.

(f) Amendment, modification, waiver or termination of the APA by and between Borrower and Capillary without the prior written authorization of Lenders.

9.2 Remedies. Upon the occurrence and during the continuance of an Event of Default:

(a) Agent may, but shall have no obligation to, perform the act required to be performed by the Borrower, for the Borrower's account, and any monies expended in so doing shall be chargeable to the Borrower with interest at the rate set forth in Section 2.3 and shall be added to the Obligations.

(b) Agent may, but shall have no obligation, to do any one or more of the following: (i) declare all principal, interest, the MOIC Amount and other sums owing with respect to the Loan to be immediately due and payable without demand, protest, notice of protest, notice of default, presentment for payment or further notice of any kind; (ii) offset against the Obligations, without notice, any and all credits, stocks, bonds or other securities or property of any nature whatsoever held by or in the possession

of Agent and to the credit of or for the account of Borrower; (iii) to the extent permitted by applicable Law, enter upon Borrower's premises peaceably, by Agent's own means or with legal process, and take possession of the Collateral, or render it unusable, or dispose of the Collateral on Borrower's premises, and Borrower agrees not to resist or interfere with any such action; (iv) require Borrower to assemble the Collateral and make it available to Agent at a place to be designated by Agent; (v) impose the Default Rate of interest under the Note; (vi) file suit against Borrower; (vii) seek specific performance or injunctive relief to enforce performance of the Obligations, whether or not a remedy at law exists or is adequate and/or (viii) proceed to enforce such other and additional rights and remedies as may be available to Agent and/or under a Lender under this Agreement or under any other Loan Document, or in accordance with applicable Law. Unless personal property Collateral is perishable or threatens to decline speedily or is of a kind customarily sold on a recognized market, Agent will give Borrower reasonable notice of the time and place of any public sale of personal property Collateral, or the time after which any private sale or other intended disposition of personal property Collateral is to be made in accordance with applicable Law. The requirement of reasonable notice will be met if such notice is delivered at least ten (10) days prior to the time of sale or disposition. Nothing contained herein shall require Agent or Lenders to send any notice not otherwise required by applicable Law.

(c) Agent may, but shall have no obligation, to do any one or more of the following: (i) notify account debtors obligated on any account receivable to make payments thereon directly to Agent, and to take control of the cash and non-cash proceeds of any such accounts; (ii) compromise, extend or renew any of the Collateral constituting accounts receivable or deal with any of the Collateral as Agent may deem advisable; (iii) release its interest in, make exchanges or substitutions for and/or surrender, all or any part of Borrower's interest in all or any part of Collateral; (iv) remove from Borrower's place(s) of business all books, records, ledger sheets, correspondence, invoices and documents relating to or evidencing any of the Collateral, or without cost or expense to Agent, make such use of Borrower's place(s) of business as may be reasonably necessary to administer, control and collect the Collateral; (v) repair, alter or supply goods, if any, necessary to fulfill in whole or in part the purchase order of any account debtor; (vi) demand, collect, receipt for and give renewals, extensions, discharges and releases of all or any part of the Collateral; (vii) institute and prosecute legal and equitable proceedings to enforce collection of, or realize upon, all or any part of the Collateral; (viii) settle, renew, extend, compromise, compound, exchange or adjust claims with respect to all or any part of the Collateral or any legal proceedings brought with respect thereto; (ix) endorse the name of Borrower upon any items of payment relating to the Collateral or upon any proof of claim in bankruptcy against any account debtor; and (x) file financing statements and continuation statements covering the Collateral without the signature of Borrower. Borrower hereby irrevocably appoints Agent as its agent and attorney-in-fact, with power of substitution, having full power and authority in the name of Agent, in the name of Borrower or otherwise (but at the cost and expense of Borrower and without notice to Borrower) to exercise the rights described in this subsection.

(d) Agent may, but shall have no obligation, to collect, in its own name or in the name of the Borrower, the accounts, contract rights, instruments, or obligations under chattel paper forming a part of the Collateral, or require the proceeds of, or any payments with respect to any item of, the Collateral to be made directly or indirectly to it or to its designee.

(e) Agent shall have the right to exercise any and all rights and remedies in respect of a Default or Event of Default that are provided for in this Agreement or any of the other Loan Documents, or are provided by law, including, without limitation, appointment of a receiver or trustee for the Collateral. It is expressly understood and agreed that Agent may exercise its rights under this Agreement or any of the other Loan Documents providing security for the Loan without exercising its rights under or affecting the security afforded by any other security instrument, and it is further understood and agreed

that Agent may proceed against all or any portion or portions of the Collateral in such order and at such times as Agent, in its sole discretion, sees fit. Borrower hereby expressly waives any rights under the doctrine of marshalling of assets.

9.3 Liens; Set-off. As security for the payment and performance of the Obligations, the Borrower hereby grants to Agent a continuing security interest and lien on, in and upon all indebtedness owing to, and all deposits (general or special), credits, balances, monies, securities and other property of, the Borrower and all proceeds thereof, both now and hereafter held or received by, in transit to, or due by, Agent and any of its Affiliates. In addition to, and without limitation of, any rights of Agent under applicable laws, or any Event of Default occurs, Agent may at any time and from time to time thereafter, set-off, hold, segregate, appropriate and apply at any time and from time to time thereafter all such indebtedness, deposits, credits, balances (whether provisional or final and whether or not collected or available), monies, securities and other property toward the payment of all or any part of the Obligations in such order and manner as Agent in its sole discretion may determine and whether or not the Obligations or any part thereof shall then be due or demand for payment thereof made by Agent.

9.4 No Conditions Precedent to Exercise of Remedies. The Borrower shall not be relieved of any obligation by reason of the failure of Lenders or Agent to comply with any request of the Borrower or of any other person to take action to foreclose on the Collateral or otherwise to enforce any provisions of this Agreement or any of the other Loan Documents, or by reason of the release, regardless of consideration, of all or any part of the Collateral, or by reason of any agreement of stipulation between any subsequent owner of all or any part of the Collateral and Lenders extending the time of payment or modifying the terms of the Notes or any of the Loan Documents without first having obtained the consent of the Borrower; and in the latter event, the Borrower shall continue to be liable to make payments according to the terms of any such extension or modification agreement, unless expressly released and discharged in writing by Lenders.

9.5 Remedies Cumulative and Concurrent. No remedy herein conferred upon or reserved to Lenders or Agent is intended to be exclusive of any other remedies provided for in the Note or in the Loan Documents, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder, or under the Note or the Loan Documents, or now or hereafter existing at law or in equity or by statute. Every right, power and remedy given by the Note and the Loan Documents to Lenders and/or Agent shall be concurrent and may be pursued separately, successively or together against the Borrower or the Collateral or any part thereof, or any one or more of them; and every right, power and remedy given by the Note or the Loan Documents may be exercised from time to time as often as may be deemed expedient by Lenders or Agent.

9.6 No Waiver. No delay or omission of Lender to exercise any right, power or remedy accruing upon the happening of an Event of Default shall impair any such right, power or remedy or shall be construed to be a waiver of any such Event of Default or any acquiescence therein. No delay or omission on the part of Lenders or Agent to exercise any option for acceleration of the maturity of the Obligations, or for foreclosure of the Collateral or any portion thereof following any Event of Default as aforesaid, or any other option granted to Lenders or Agent hereunder in any one or more instances, or the acceptance by Lender of any partial payment on account of the Obligations shall constitute a waiver of any such Event of Default and each such option shall remain continuously in full force and effect.

10. MISCELLANEOUS.

10.1 Notices. Any notice required or permitted to be given under this Agreement shall be in writing and shall be effective when actually received if delivered by hand or overnight courier, or when

confirmed by receipt if transmitted by electronic mail, or other form of rapid transmission if notices given by such means of communication are capable of being confirmed upon delivery by electronic means, or three days after being sent by registered or certified mail, postage prepaid, the certification receipt therefore being deemed the date of such notice, and addressed to the parties at the addresses set forth in EXHIBIT B. Any party may change its address for notice (including different or additional addresses for copies) by giving the other party prior notice in accordance with the foregoing provisions. A failure by Lender to deliver copies of notices to any party's counsel shall not in any way impair or diminish Lender's rights and remedies under this Agreement.

10.2 Amendments; Waivers; Other Actions. Neither this Agreement nor any provision hereof may be changed, waived, discharged or terminated except by an instrument in writing signed by the Majority Lender and the Borrower. Any other action or decision to be taken by the Lenders under the Loan Documents shall be taken on the approval of the Majority Lenders. Notwithstanding the foregoing, with respect to a change, waiver, discharge, termination, decision or any other action which affects a Lender differently from the Lenders generally, unanimous consent of the Lenders is required.

10.3 Additional Remedies. The remedies herein provided shall be in addition to and not in substitution for the rights and remedies which would otherwise be vested in Lenders or the Agent in any Loan Document or at law or in equity, all of which rights and remedies are specifically reserved by Lenders and Agent. The remedies herein provided or otherwise available to Lenders and/or Agent shall be cumulative and may be exercised concurrently. The failure to exercise any of the remedies herein provided shall not constitute a waiver thereof, nor shall use of any of the remedies hereby provided prevent the subsequent or concurrent resort to any other remedy or remedies. It is intended that all remedies herein provided for or otherwise available to Lenders and/or Agent shall continue and be available to Lenders and/or Agent until all Obligations have been fully paid and performed by the Borrower without loss or damage to Lenders and/or Agent.

10.4 Additional Documents. The Borrower agrees upon demand to do any act or execute any additional documents (including, without limitation, security agreements on any personalty included or to be included in the Collateral) as may be reasonably required by Lenders and/or Agent to secure the Obligations or to confirm the Liens granted to Agent under this Agreement and the other Loan Documents. All of said documents shall be in form and substance prepared by or acceptable to Lenders and Agent.

10.5 Binding Effect; Continuing Agreement. The terms, conditions, covenants, agreements, powers, privileges, notices and authorizations herein contained shall extend to, be binding upon and available to the successors and assigns of each of the respective parties hereto. Notwithstanding the foregoing, Borrower shall not, without the prior written consent of Lenders and Agent, assign or transfer this Agreement, whether voluntarily or by operation of law. An assignment or transfer in violation of this provision shall be invalid, of no force or effect and an Event of Default hereunder. A Lender may assign its interest in this Agreement in any manner (including, without limitation, rights to payments of principal or interest on the Loan) to any party without notice to or consent of the Borrower or any other Person. The Obligations and the covenants, representations and warranties of the Borrower hereunder shall continue beyond the final disbursement of the Loan made hereunder for so long as Borrower has any obligations outstanding to Lender hereunder or under any of the other Loan Documents, or Lender has any Lien on any property of the Borrower.

10.6 Governing Law. This Agreement and the other Loan Documents 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 Delaware.

10.7 Headings. The titles and headings of the Sections of this Agreement have been inserted for convenience of reference only and are not intended to summarize or otherwise describe, or limit, modify or expound upon the subject matter of such Sections.

10.8 Counterparts. This Agreement may be signed in any number of counterpart copies and by the parties hereto on separate counterparts, but all such copies shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Agreement by electronic mail or facsimile transmission shall be effective as delivery of a manually executed counterpart. Any party so executing this Agreement by electronic mail or facsimile transmission shall promptly deliver a manually executed counterpart; provided, however, that any failure to do so shall not affect the validity of the counterpart executed by electronic mail or facsimile transmission.

10.9 Time is of the Essence. Time is of the essence in the performance of this Agreement and the other Loan Documents by the Borrower, and each and every term hereof and thereof.

10.10 Survival. The representations, warranties, acknowledgments, and agreements set forth herein shall survive the date of this Agreement and continue through and until all of the Obligations have been satisfied in full.

10.11 Further Performance. The Borrower, whenever and as often as it shall be requested by Agent, shall execute, acknowledge, and deliver, or cause to be executed, acknowledged, and delivered to Agent and/or Lenders, such further instruments and documents, and do any and all things as may be requested in order to carry out the intent and purpose of this Agreement and the other Loan Documents.

10.12 Attorneys' Fees. In the event a suit or action is instituted to enforce any of the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees at trial, on any appeal, on any petition for review, in an arbitration proceeding, and in any bankruptcy proceeding, in addition to all other sums provided by law. Whether or not any court action is involved, all costs and expenses incurred by Lenders and/or Agent that are necessary at any time for the protection of Lender's interest or the enforcement of its rights shall become a part of the Obligations, payable on demand and shall bear interest from the date of expenditure until repaid at the applicable rate of interest provided in the Note.

10.13 Indemnification. The Borrower agrees to indemnify, protect, hold harmless and defend each Lender, Agent and their respective Affiliates and each of their respective directors, managers, members, officers, employees, lenders, representatives, consultants and attorneys (each, an "**Indemnified Person**" and collectively, the "**Indemnified Persons**"), from and against any and all losses, liabilities, suits, actions, obligations, fines, damages, judgments, penalties, claims, causes of action, charges, costs and expenses (including, without limitation, reasonable attorneys', accountants', experts', consultants' fees, disbursements and court costs prior to trial, at trial and on appeal) which are imposed on, incurred or paid by, or asserted against an Indemnified Person by reason or on account of, or in connection with, (i) any Event of Default hereunder; (ii) any material breach of any representation or covenant of the Borrower in any of the Loan Documents; (iii) any gross negligence, fraud or willful misconduct of the Borrower or any Affiliate thereof or any of their respective directors, managers, members, officers, employees, representatives, consultants, or attorneys; and (iv) any claim arising from the operation of the Collateral (including without limitation any other real property owned or managed by the Borrower) and any business conducted by the Borrower including without limitation, claims by or on behalf of

contractors, neighbors, tenants, and community groups. Notwithstanding the foregoing, the Borrower shall not have any liability for losses, liabilities, suits, actions, obligations, fines, damages, judgments, penalties, claims, causes of action, charges, costs and expenses of an Indemnified Person caused by the gross negligence, fraud or willful misconduct of or by an Indemnified Person. In addition and without limiting the generality of the foregoing, if an Indemnified Person shall be made a party to any litigation commenced by or against the Borrower or otherwise in connection with the Loan, then the Borrower shall protect and hold such Indemnified Person harmless and shall be obligated to pay immediately when due all costs, expenses and reasonable attorneys' fees of Lender in connection with such litigation. The obligations of Borrower under this Section shall survive the making and repayment of the Loan.

10.14 Waiver of Special Damages. TO THE EXTENT PERMITTED BY APPLICABLE LAWS, BORROWER SHALL NOT ASSERT, AND BORROWER HEREBY WAIVES, ANY CLAIM AGAINST ANY OF THE LENDERS AND THE AGENT, 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 OR ANY AGREEMENT OR INSTRUMENT CONTEMPLATED HEREBY, THE TRANSACTIONS, THE LOAN OR THE USE OF THE PROCEEDS THEREOF.

10.15 Purpose and Effect of Approval. Agent's or Lenders' approval of any matter in connection with the Loan is for the sole purpose of protecting their security and rights. No such approval shall result in a waiver of any default of the Borrower. In no event shall the Agent's or Lenders' approval be a representation of any kind with regard to the matter being approved.

10.16 Conflicts. In the case of any inconsistency between or within this Agreement and any of the other Loan Documents, the more restrictive provision shall control over the less restrictive provision, and, if incapable of being so resolved, the provisions of this Agreement shall control over those of any of the other Loan Documents.

10.17 Electronic Transmission of Data. Lenders, Agent and the Borrower agree that certain data related to the Loan (including confidential information, documents, applications and reports) may be transmitted electronically, including transmission over the Internet. This data may be transmitted to, received from or circulated among agents and representatives of the Borrower, Agent and/or Lenders and its Affiliates and other Persons involved with the subject matter of this Agreement. The Borrower acknowledges and agrees that: (a) there are risks associated with the use of electronic transmission and that Lenders does not control the method of transmittal or service providers; (b) Lenders has no obligation or responsibility whatsoever and assumes no duty or obligation for the security, receipt or third party interception of any such transmission; and (c) THE BORROWER HEREBY AGREES TO INDEMNIFY LENDER FOR, FROM AND AGAINST ANY CLAIM, DAMAGE OR LOSS THAT ARISES IN WHOLE OR PART FROM LENDER'S STRICT LIABILITY OR SOLE, COMPARATIVE OR CONTRIBUTORY NEGLIGENCE WHICH IS RELATED TO THE ELECTRONIC TRANSMISSION OF DATA.

10.18 VENUE. EACH OF THE BORROWER AND LENDER CONSENTS TO ANY ACTION OR PROCEEDING AGAINST IT BEING COMMENCED AND MAINTAINED IN ANY COURT WITHIN THE STATE OF DELAWARE OR IN THE UNITED STATES DISTRICT COURT WITHIN THE STATE OF DELAWARE, BY SERVICE OF PROCESS ON ANY SUCH OFFICER. EACH OF THE BORROWER AND LENDER AGREES THAT THE COURTS OF THE STATE OF DELAWARE AND THE UNITED STATES DISTRICT COURT WITHIN THE STATE OF DELAWARE WILL HAVE JURISDICTION WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT AND THE PERSON OF THE BORROWER.

EACH OF THE BORROWER AND LENDER AGREES NOT TO ASSERT ANY DEFENSE TO ANY PROCEEDING INITIATED BY LENDER OR THE BORROWER, AS APPLICABLE, BASED UPON IMPROPER VENUE OR INCONVENIENT FORUM IF BROUGHT AS PROVIDED IN THIS SECTION. EACH OF BORROWER AND LENDER AGREES TO COMMENCE AND MAINTAIN ANY ACTION BROUGHT BY IT ONLY IN A COURT WITHIN THE STATE OR IN THE UNITED STATES DISTRICT COURT WITHIN THE STATE.

10.19 WAIVER OF TRIAL BY JURY. THE BORROWER AND LENDER AGREE THAT ANY SUIT, ACTION OR PROCEEDING, WHETHER CLAIM OR COUNTERCLAIM, BROUGHT BY LENDER OR THE BORROWER, ON OR WITH RESPECT TO THIS AGREEMENT, OR THE DEALINGS OF THE PARTIES WITH RESPECT TO THIS AGREEMENT, MAY BE TRIED ONLY BY A COURT AND NOT BY A JURY. THE BORROWER AND LENDER EACH KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND INTELLIGENTLY WAIVE, UPON ADVICE OF THEIR RESPECTIVE COUNSEL, ANY RIGHT TO A TRIAL BY JURY IN ANY SUCH SUIT, ACTION OR PROCEEDING. THE BORROWER AND LENDER ACKNOWLEDGE AND AGREE THAT THIS SECTION IS A SPECIFIC AND MATERIAL ASPECT OF THIS AGREEMENT AND THAT LENDER WOULD NOT MAKE THE LOAN TO THE BORROWER IF THE WAIVERS SET FORTH IN THIS SECTION WERE NOT A PART HEREOF.

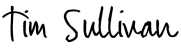
10.20 Agent. Agent is appointed as collateral agent pursuant to the terms and conditions attached hereto as Annex 1.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Bridge Loan and Security Agreement to be duly executed as of the Closing Date.

BORROWER:

KOGNITIV US LLC,
a Delaware limited liability company

Signed by:

By: AB2D7353DDDB464...
Name: Tim Sullivan
Title: CEO

IN WITNESS WHEREOF, the parties hereto have caused this Bridge Loan and Security Agreement to be duly executed as of the Closing Date.

LENDERS:

GUINES LLC

DocuSigned by:

By: _____
Name: Laura Roche
Title: COO/CFO Roystone Management Holdings LLC, its
Investment Manager

AIMIA INC.

DocuSigned by:

By: _____
Name: Steve Leonard
Title: president & CFO

EXHIBIT A

DEFINITIONS

“Affiliate” shall mean, as to any Person, any other Person: (a) that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, such Person; (b) that directly or indirectly beneficially owns or holds ten percent (10%) or more of any class of voting membership interests (units) of such Person; or (c) ten percent (10%) or more of the voting membership interests (units) of which is directly or indirectly beneficially owned or held by the Person in question. The term “control” means the possession, directly or indirectly, of the power to direct or cause direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise; provided, however, in no event shall Lenders or any of its members be deemed an Affiliate of the Borrower.

“Borrower” shall have the meaning set forth in the preamble.

“Business Day” shall mean any day other than a Saturday, Sunday or a legal holiday on which banks are authorized or required to be closed for the conduct of commercial banking business in the State of Delaware.

“Closing Date” shall mean the date of this Agreement.

“Code” shall mean the Internal Revenue Code of 1986, as amended.

“Collateral” shall mean all of the assets and property of the Borrower that are subject to Liens in favor of Lenders and created by this Agreement and any of the other Loan Documents.

“Default” shall mean an event that, with giving of notice or passage of time, or both, would constitute an Event of Default hereunder.

“Default Rate” shall mean Interest Rate plus an additional five percent (5%).

“Dollars” and **“\$”** shall mean the lawful currency of the United States of America.

“Equity Interests” shall mean, with respect to any Person, any and all shares, interests, participations or other equivalents, including membership interests (however designated, whether voting or nonvoting), of equity of such Person, including any securities convertible into, or exchangeable for, any of the foregoing.

“Event of Default” shall mean any of those events set forth in Section 9.1 hereof.

“GAAP” shall mean generally accepted accounting principles applied on a basis consistent with the accounting practices of Borrower and as historically applied in the financial statements of Borrower, except for any change in accounting practices to the extent that, due to a promulgation of the Financial Accounting Standards Board changing or implementing any new accounting standard, Borrower either (a) is required to implement such change, or (b) for future periods will be required to and for the current period may in accordance with generally accepted accounting principles implement such change, for its financial statements to be in conformity with generally accepted accounting principles (any such change is hereinafter referred to as a “Required GAAP Change”); provided that Borrower shall fully disclose in

such financial statements any such Required GAAP Change and the effects of the Required GAAP Change on Borrower's income, retained earnings or other accounts, as applicable.

"Governmental Authority" shall mean any state, federal, regulatory, or other court or governmental department, commission, board, bureau, agency or instrumentality.

"IRS" shall mean the Internal Revenue Service.

"Laws" shall mean, collectively, all federal, state and local laws, statutes, codes, ordinances, orders, rules and regulations, including judicial opinions or precedential authority, in the applicable jurisdiction.

"Lien" shall mean any mortgage, deed of trust, pledge, hypothecation, deposit agreement, encumbrance, lien (statutory or other), charge security interest or preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever which secures an obligation owed to a Person (including, without limitation, any conditional sale or other title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing, and the filing of any financing statement under the UCC or comparable laws of any jurisdiction).

"Lenders" shall have the meaning set forth in the preamble, together with its successors and assigns.

"Loan" shall have the meaning set forth in Section 2.1(a).

"Loan Documents" shall mean this Agreement, the Note, the LSH Guaranty, the LSH Security Agreement and other documents, instruments and agreements which evidence, secure or are otherwise executed in connection with the Loan, including all amendments, modifications, renewals, extensions, restatements and replacements thereof.

"Loan Proceeds" shall mean the proceeds of the Loan.

"Maturity Date" shall mean the earlier of (a) April 30, 2025, (b) the date that is 30 days after the Borrower commences a case under chapter 11 of title 11 of the United States Code, or (c) the date on which the unpaid principal balance of the Loan becomes due and payable by acceleration or otherwise pursuant to the Loan Documents.

"Majority Lenders" has the meaning given such term in Annex 1.

"Obligations" shall mean all present and future debts, obligations and liabilities of any Borrower to Lenders now existing or hereafter created or arising, direct or indirect, matured or unmatured, and whether absolute or contingent, joint, several or joint and several, and no matter how the same may be evidenced or shall arise, in each case pursuant to, or on account of, the provisions of this Agreement or any other Loan Document, including without limitation the MOIC Amount.

"Person" shall mean any individual, corporation, business trust, association, company, partnership, limited liability entity, joint venture, Governmental Authority, or other entity.

"UCC" shall mean the Uniform Commercial Code as in effect in the State or, when the laws of any other jurisdiction govern the perfection or enforcement of any Lien, the Uniform Commercial Code of such jurisdiction.

EXHIBIT B**NOTICE ADDRESSES**

<u>If to Borrower to:</u>	Kognitiv US LLC 121 Washington Avenue North, 29 th Floor Minneapolis, MN 55041 Attn: Grant McLeod E-mail: grant.mcleod@kognitiv.com
With a copy to:	Faegre Drinker Biddle LLP 222 Delaware Avenue, Suite 1410 Wilmington, Delaware 19801 Attn: Richard J. Bernard Patrick A. Jackson Email: richard.bernard@faegredrinker.com patrick.jackson@faegredrinker.com
<u>If to Guines LLC to:</u>	Guines LLC c/o Roystone Capital Management 767 Third Avenue, 29 th Floor New York, NY 10017 Attn: Rich Barrera Email: rbarrera@roystonecapital.com
With a copy to:	Haynes Boone, LLP 30 Rockefeller Plaza, 26th Floor New York, NY 10112 Attn: Greg Kramer Email: greg.kramer@haynesboone.com
<u>If to Aimia Inc. to:</u>	University Avenue, 3rd Floor Toronto, Ontario, M5J 2P1 Canada Attn: Steven Leonard Mathieu Giguère Email: Steven.Leonard@aimia.com Mathieu.Giguere@aimia.com
With a a copy to:	McCarthy Tétrault LLP 1000 De La Gauchetière Street West, Suite MZ400 Montréal, Québec, H3B 0A2 Canada Attn: Hadrien Montagne Gabriel Faure Email: hmontagne@mccarthy.ca gfaure@mccarthy.ca

Annex 1

1. **Appointment.** The Lenders hereby designate Guines, LLC (“**Secured Party**”), as the Agent to act as specified herein and the other Loan Documents. The Lenders irrevocably authorize the Secured Party to take such action on its behalf under the provisions of the Loan Documents and to exercise such powers and to perform such duties hereunder and thereunder as are specifically delegated to or required of the Secured Party by the terms hereof and thereof, and such other powers as are reasonably incidental thereto. The Secured Party may perform any of its duties hereunder by or through its agents or employees.

2. **Nature of Duties.** The Secured Party shall have no duties or responsibilities, except those expressly set forth herein. Neither the Secured Party nor any of its partners, members, shareholders, officers, directors, employees or agents shall be liable for any action taken or omitted by it as such under the Loan Documents or hereunder or in connection herewith or therewith, or be responsible for the consequence of any oversight or error of judgment or answerable for any loss, unless caused solely by its or their , negligence, gross negligence or willful misconduct as determined by a final judgment (not subject to further appeal) of a court of competent jurisdiction. The duties of the Secured Party shall be mechanical and administrative in nature; the Secured Party shall not have by reason of any Loan Document a fiduciary relationship in respect of Borrower or Lenders, and nothing in the Agreement or any other Loan Document, expressed or implied, is intended to or shall be so construed as to impose upon the Secured Party any obligations in respect of any Loan Document, except as expressly set forth herein and therein.

3. **Lack of Reliance on the Agent.** Independently and without reliance upon the Secured Party, each Lender, to the extent it deems appropriate, has made and shall continue to make: (i) its own independent investigation of the financial condition and affairs of Borrower and its subsidiaries in connection with the extensions of credit to be made to Borrower, the creation and continuance of the Obligations, the transactions contemplated by the Loan Documents, and the taking or not taking of any action in connection therewith; and (ii) its own appraisal of the creditworthiness of Borrower and its subsidiaries, and of the value of the Collateral from time-to-time, and the Secured Party shall have no duty or responsibility, either initially or on a continuing basis, to provide the Lenders with any credit, market or other information with respect thereto, whether coming into its possession before any Obligations are incurred or at any time or times thereafter. The Secured Party shall not be responsible to Borrower or the Lenders for any recitals, statements, information, representations or warranties herein or in any document, certificate or other writing delivered in connection herewith, or for the execution, effectiveness, genuineness, validity, enforceability, perfection, collectability, priority or sufficiency of any Loan Document, or for the financial condition of Borrower or the value of any of the Collateral, or be required to make any inquiry concerning either the performance or observance of any of the terms, provisions or conditions of any other Loan Document, or the financial condition of Borrower, or the value of any of the Collateral, or the existence or possible existence of any Default or Event of Default.

4. **Certain Rights of the Agent.** The Secured Party shall have the right to take any action with respect to the Collateral, on behalf of the Lenders, subject to the Loan Documents. To the extent practical, the Secured Party shall request instructions from the Lenders with respect to any material act or action (including failure to act) in connection with the Loan Documents, and shall be entitled to act or refrain from acting in accordance with the instructions of the Lenders holding a majority of the outstanding principal balance of the Loan (the “**Majority Lenders**”); if such instructions are not provided despite the Secured Party’s request therefor, the Secured Party shall be entitled to refrain from such act or taking such action, and if such action is taken, shall be entitled to

appropriate indemnification from the Lenders in respect of actions to be taken by the Secured Party and the Secured Party shall not incur liability to any person or entity by reason of so acting or refraining. Without limiting the foregoing: (a) the Lenders shall not have any right of action whatsoever against the Secured Party as a result of the Secured Party acting or refraining from acting hereunder in accordance the Loan Documents, and Borrower shall have no right to question or challenge the authority of, or the instructions given to, the Secured Party pursuant to the foregoing; and (b) the Secured Party shall not be required to take any action which the Secured Party believes, (i) could reasonably be expected to expose it to personal liability, or (ii) is contrary to the Loan Documents or applicable law.

5. **Reliance.** The Secured Party shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, statement, certificate, telex, teletype or telecopier message, cablegram, radiogram, order or other document or telephone message signed, sent or made by the proper person or entity, and, with respect to all legal matters pertaining to the Loan Documents and its duties thereunder, upon advice of counsel selected by it and upon all other matters pertaining to the Loan Documents and its duties thereunder, upon advice of other experts selected by it. Anything to the contrary notwithstanding, the Secured Party shall have no obligation whatsoever to any Lender to assure that the Collateral exists or is owned by Borrower or is cared for, protected or insured or that the liens granted pursuant to the Agreement have been properly or sufficiently or lawfully created, perfected, or enforced or are entitled to any particular priority.

6. **Indemnification.** To the extent that the Secured Party is not reimbursed and indemnified by Borrower, the Lenders will jointly and severally reimburse and indemnify the Secured Party, in proportion to their initially purchased respective principal amounts of the Loan, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against the Secured Party in performing its duties hereunder or under any Loan Document, or in any way relating to or arising out of any Loan Document except for those determined by a final judgment (not subject to further appeal) of a court of competent jurisdiction to have resulted solely from the Secured Party's own gross negligence or willful misconduct. Prior to taking any action hereunder as Secured Party, the Secured Party may require each Lender to deposit with it sufficient sums as it determines in good faith is necessary to protect the Secured Party for costs and expenses associated with taking such action.

7. **Resignation by the Secured Party.**

(a) The Secured Party may resign from the performance of all its functions and duties under the Loan Documents at any time by giving thirty (30) days' prior written notice (as provided in the Agreement) to Borrower and the Lenders. Such resignation shall take effect upon the appointment of a successor Secured Party pursuant to clauses (b) and (c) below.

(b) Upon any such notice of resignation, the Lenders, acting through the Majority Lenders, shall appoint a successor Secured Party hereunder.

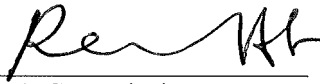
(c) If a successor Secured Party shall not have been so appointed within said thirty (30) day period, the Secured Party shall then appoint a successor Secured Party who shall serve as Secured Party until such time, if any, as the Lenders appoint a successor Secured Party as provided above. If a successor Secured Party has not been appointed within such thirty (30) day period, the Secured Party may petition any court of competent jurisdiction or

may interplead Borrower and the Lenders in a proceeding for the appointment of a successor Secured Party, and all fees, including, but not limited to, extraordinary fees associated with the filing of interpleader and expenses associated therewith, shall be payable by the Lenders on demand.

8. Rights with respect to Collateral. Each Lender agrees with all other Lenders and the Secured Party, with respect to its security interest in the Collateral, whether pursuant to any other agreement or otherwise (other than as expressly permitted by the terms of the Loan Documents), each such Lender will not seek to enforce such security interest or take or institute any action against Borrower or any of the other Secured Parties in respect of the Collateral or its rights hereunder (other than as expressly permitted by the terms of the Loan Documents), and that such Lender has no other rights with respect to the Collateral other than as set forth herein and the other Loan Documents. Upon the acceptance of any appointment as Secured Party hereunder by a successor Secured Party, such successor Secured Party shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Secured Party and the retiring Secured Party shall be discharged from its duties and obligations under the Agreement. After any retiring Secured Party's resignation or removal hereunder as Secured Party, the provisions of the Agreement, including this Annex 1, shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Secured Party.

9. Notice. Unless otherwise expressly provided herein, all notices and other communications to the Secured Party provided for hereunder or under the other Loan Documents shall be in writing (including by facsimile transmission) and mailed, faxed or delivered, to the address, facsimile number or electronic mail address specified for notices in EXHIBIT B or to such other address as shall be designated by the Secured Party in a notice to Borrower and Lenders.

This is Exhibit "R" of
the Affidavit of **GRANT MCLEOD**
Sworn before me this 9th day of February 2026


A Commissioner, etc.

Reem Atallah, a
Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 28, 2026.

GUARANTY

This GUARANTY (this “**Agreement**”), dated as of March 31, 2025, is made by and among each of the undersigned Guarantors (collectively, the “**Guarantors**” and each of them a “**Guarantor**”) and Guines LLC, as collateral agent for the Lenders (as defined below) (in such capacity and together with any successors in such capacity, the “**Collateral Agent**”).

RECITALS

WHEREAS, in consideration of the substantial direct and indirect benefits derived by each Guarantor from the loan and other extensions of credit made by the parties identified as “**Lenders**” in the Bridge Loan and Security Agreement, dated March 31, 2025, by and among Kognitiv US, LLC, as borrower (the “**Borrower**”), the Lenders, and the Collateral Agent (the “**Loan Agreement**”), the parties hereby agree as follows:

ARTICLE I DEFINITIONS

Capitalized terms used herein but not otherwise defined herein shall have the respective meanings given such terms in the Loan Agreement. In addition, for purposes of this Agreement, the following terms shall have the following meanings:

“**Bankruptcy Code**” means, as applicable, Title 11 of the United States Code, as amended or any similar foregoing, federal, state or provincial law for the relief of debtors.

“**Borrower**” has the meaning specified in the recitals.

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

“**Collateral**” means any collateral for the obligations of the Borrowers and/or the Guarantors under the Loan Documents.

“**Collateral Agent**” has the meaning set forth in the Preamble hereof.

“**Debtor Relief Laws**” means the Bankruptcy Code, the *Bankruptcy and Insolvency Act* (Canada), the *Companies’ Creditors Arrangement Act* (Canada) and all other liquidation, bankruptcy, assignment for the benefit of creditors, conservatorship, moratorium, receivership, insolvency, rearrangement, reorganization or similar debtor relief laws of the United States, Canada or other applicable jurisdictions in effect from time to time.

“**Extensions of Credit**” means the loans made to the Borrower by the Lenders as evidenced by the Loan Agreement.

“**governmental authority**” means the government of any nation or any political subdivision thereof, whether at the national, state, territorial, provincial, municipal or any other level, 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 any supra-national bodies such as the European Union or the European Central Bank).

“**Indemnatee**” has the meaning specified in **Section 6.02**.

“**Lenders**” has the meaning specified in the recitals.

“**Loan Agreement**” has the meaning specified in the recitals.

“**Obligations**” has the meaning specified in **Section 2.01(c)**.

“**Related Parties**” means, with respect to any Person, such Person’s Affiliates and the directors, officers, employees, partners, agents, trustees, administrators, managers, advisors and representatives of it and its Affiliates.

“**Termination Date**” has the meaning specified in **Section 6.06**.

ARTICLE II

AGREEMENT TO GUARANTEE OBLIGATIONS

Section 2.01 Guaranty. Each Guarantor, hereby, jointly and severally, absolutely, unconditionally and irrevocably guarantees, as primary obligor and not merely as surety,

- (a) the due and prompt payment by the Borrower of:
 - (i) the principal of and premium, and interest at the rate specified in the Loan Agreement (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding (“**Post-Petition Interest**”)) on the Extensions of Credit, when and as due, whether at scheduled maturity, date set for prepayment, by acceleration or otherwise, and
 - (ii) all other monetary obligations of the Borrower to the Lenders under the Loan Documents, when and as due, including fees, costs, expenses (including, without limitation, reasonable and documented fees and expenses of counsel incurred by the Collateral Agent or any Lender in enforcing any rights under this Agreement or any other Loan Document), contract causes of action and indemnities, whether primary, secondary, direct or indirect, absolute or contingent, fixed or otherwise (including monetary

obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding); and

(b) the due and prompt performance of all covenants, agreements, obligations and liabilities of the Borrower under or in respect of the Loan Documents; and

(c) all such obligations in subsections (a) through (c), whether now or hereafter existing, being referred to collectively as the “**Obligations**”. Each Guarantor further agrees that all or part of the Obligations may be increased, extended, substituted, amended, renewed or otherwise modified without notice to or consent from any such Guarantor and such actions shall not affect the liability of any such Guarantor hereunder. Without limiting the generality of the foregoing, each Guarantor’s liability shall extend to all amounts that constitute part of the Obligations and would be owed by any other Loan Party to the Lenders or the Collateral Agent under or in respect of the Loan Documents but for the fact that they are unenforceable or not allowable due to the existence of a bankruptcy, reorganization or similar proceeding involving such other Loan Party.

Anything herein or in any other Loan Document to the contrary notwithstanding, the maximum liability of each Guarantor hereunder and under the other Loan Documents shall in no event exceed the amount which can be guaranteed by such Guarantor under applicable federal, state, provincial and territorial laws relating to the insolvency of debtors (after giving effect to the right of contribution established in **Section 2.03**).

Section 2.02 Reinstatement. Each Guarantor agrees that its guaranty hereunder shall continue to be effective or be reinstated, as the case may be, if at any time all or part of any payment of any Obligation is rescinded or must otherwise be returned by the Lenders or any other Person upon the insolvency, bankruptcy or reorganization of the Borrower or any other Loan Party or otherwise.

Section 2.03 Right of Contribution. Each Guarantor hereby agrees that to the extent that a Guarantor shall have paid more than its proportionate share of any payment made hereunder, such Guarantor shall be entitled to seek and receive contribution from and against any other Guarantor hereunder which has not paid its proportionate share of such payment. Each Guarantor’s right of contribution shall be subject to the terms and conditions of **Section 4.01**. The provisions of this **Section 2.03** shall in no respect limit the obligations and liabilities of any Guarantor to the Collateral Agent and the Lenders, and each Guarantor shall remain liable for the Obligations up to the maximum liability of such Guarantor hereunder.

ARTICLE III

GUARANTY ABSOLUTE AND UNCONDITIONAL; WAIVERS

Section 3.01 Guaranty Absolute and Unconditional; No Waiver of Obligations. Each Guarantor guarantees that the Obligations will be paid strictly in accordance with the terms of the Loan Documents, regardless of any law, regulation or order of any governmental authority now or hereafter in effect. The Obligations of each Guarantor hereunder are independent of the Obligations of any other Loan Party under any Loan Document. A separate action may be brought against each Guarantor to enforce this Agreement, whether or not any action is brought against any other Loan Party or whether or not any other Loan Party is joined in any such action. The liability of each Guarantor hereunder is irrevocable, continuing, absolute and unconditional and the Obligations of each Guarantor hereunder shall not be discharged or impaired or otherwise effected by, and each Guarantor hereby irrevocably waives any defenses to enforcement it may have (now or in the future) by reason of:

- (a) any illegality or lack of validity or enforceability of any Obligation or any Loan Document or any related agreement or instrument;
- (b) any change in the time, place or manner of payment of, or in any other term of, the Obligations or any other obligation of any Loan Party under any Loan Document, or any rescission, waiver, amendment or other modification of any Loan Document or any other agreement, including any increase in the Obligations resulting from any extension of additional credit or otherwise;
- (c) any taking, exchange, substitution, release, impairment or non-perfection of any Collateral (as defined in the applicable Loan Document), or any taking, release, impairment, amendment, waiver or other modification of any guaranty, for the Obligations;
- (d) any manner of sale, lease, disposition or application of proceeds of any Collateral or other assets to all or part of the Obligations;
- (e) any default, failure or delay, willful or otherwise, in the performance of the Obligations;
- (f) any change, merger, amalgamation, restructuring or termination of the corporate structure, ownership or existence of any Loan Party or any insolvency, bankruptcy, reorganization or other similar proceeding affecting the Borrower or its assets or any resulting release or discharge of any Obligation;
- (g) any failure of any Lender to disclose to any Loan Party any information relating to the business, condition (financial or otherwise), operations, performance, properties or prospects of any other Loan Party now or hereafter known to any Lender; such Guarantor waiving any duty of the Lenders to disclose such information;
- (h) the failure of any Person to execute or deliver this Agreement, any other guaranty or agreement or the release or reduction of liability of any other guarantor or surety with respect to the Obligations;

(i) the failure of any Lender to assert any claim or demand or to exercise or enforce any right or remedy under the provisions of any Loan Document or otherwise;

(j) any defense, set-off or counterclaim (other than a defense of payment or performance) that may at any time be available to, or be asserted by, the Borrower against any Lender; or

(k) any other circumstance (including, without limitation, any statute of limitations) or manner of administering the Loans or any existence of or reliance on any representation by any Lender that might vary the risk of such Guarantor or otherwise operate as a defense available to, or a legal or equitable discharge of, any Loan Party or any other guarantor, obligor or surety.

Section 3.02 Waivers and Acknowledgements.

(a) Each Guarantor hereby unconditionally and irrevocably waives any right to revoke this Agreement and acknowledges that this Agreement is continuing in nature and applies to all presently existing and future Obligations.

(b) Each Guarantor hereby unconditionally and irrevocably waives promptness, diligence, notice of acceptance, presentment, demand for performance, notice of non-performance, default, acceleration, protest or dishonor and any other notice with respect to any of the Obligations and this Agreement and any requirement that any Lender protect, secure or perfect any Lien or insure any Lien or any property subject thereto.

(c) Each Guarantor hereby unconditionally and irrevocably waives any defense based on any right of set-off or recoupment or counterclaim against or in respect of the Obligations of such Guarantor hereunder.

(d) Each Guarantor acknowledges that the Collateral Agent may, at its election and without notice to or demand upon such Guarantor, foreclose on any Collateral held by the Collateral Agent by one or more judicial or non-judicial sales, accept an assignment of any such Collateral in lieu of foreclosure, compromise or adjust any part of the Obligations, make any other accommodation with any other Loan Party or exercise any other right or remedy available to it against any other Loan Party, without affecting or impairing in any way the liability of such Guarantor hereunder except to the extent the Obligations have been paid in full in cash. Each Guarantor hereby waives any defense arising out of such election even though such election operates, pursuant to applicable law, to impair or to extinguish any right of subrogation, reimbursement, exoneration, contribution or indemnification or other right or remedy of such Guarantor against the Borrower or any other Loan Party or guarantor or any Collateral.

ARTICLE IV

GUARANTOR RIGHTS OF SUBROGATION, ETC.

Section 4.01 Agreement to Pay; Subrogation, Subordination, Etc. Without limiting any other right that the Collateral Agent or any Lender has at law or in equity against each Guarantor, if any Loan Party fails to pay any Obligation when and as due, whether at maturity, by acceleration, after notice of prepayment or otherwise, each Guarantor, jointly and severally, agrees to promptly pay the amount of such unpaid Obligations to the Collateral Agent or the Lenders in cash. Upon payment by any Guarantor of any sums to the Collateral Agent or the Lenders as provided herein, all of such Guarantor's rights of subrogation, exoneration, contribution, reimbursement, indemnity or otherwise arising therefrom against the Borrower or any other Loan Party shall be subordinate and junior in right of payment to the prior indefeasible payment in full in cash of all Obligations. In addition, any indebtedness of the Borrower now or hereafter held by each Guarantor is hereby subordinated in right of payment to the prior payment in full in cash of the Obligations. If any payment shall be paid to any Guarantor in violation of the immediately preceding sentence on account of (i) such subrogation, exoneration, contribution, reimbursement, indemnity or similar right or (ii) any such indebtedness of the Borrower, such amount shall be held in trust for the benefit of the Lenders, segregated from other funds of such Guarantor, and promptly paid or delivered to the Lenders in the same form as so received (with any necessary endorsement or assignment) to be credited against the payment of the Obligations, whether due or to become due, in accordance with the terms of the Loan Documents or to be held as collateral for any Obligations

ARTICLE V

REPRESENTATIONS AND WARRANTIES; COVENANTS

Section 5.01 Representations and Warranties. Each Guarantor represents and warrants as to itself that all representations and warranties relating to it contained in the Loan Documents are true and correct. Each Guarantor further represents and warrants that:

(a) Such Guarantor is a corporation, limited liability company or limited partnership, duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, with the requisite corporate, limited liability company or limited partnership, power and authority to own and use its properties and assets and to carry on its business as currently conducted. Such Guarantor is duly qualified to do business and is in good standing as a foreign corporation, limited liability company or limited partnership in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing, as the case may be, could not, individually or in the aggregate, (x) adversely affect the legality, validity or enforceability of any of this Agreement in any material respect, (y) have a material adverse effect on the results of operations, assets or financial condition of such Guarantor or (z) adversely impair in any

material respect each Guarantor's ability to perform fully on a timely basis its obligations under this Agreement (a "Material Adverse Effect").

(b) Such Guarantor has the requisite corporate, limited liability company or limited partnership power and authority to enter into and to consummate the transactions contemplated by this Agreement, and otherwise to carry out its obligations hereunder. The execution and delivery of this Agreement by such Guarantor and the consummation by it of the transactions contemplated hereby have been duly authorized by all requisite corporate, limited liability company or limited partnership action on the part of such Guarantor. This Agreement has been duly executed and delivered by such Guarantor and constitutes the valid and binding obligation of such Guarantor enforceable against each Guarantor in accordance with its terms.

(c) The execution, delivery and performance of this Agreement by such Guarantor and the consummation by such Guarantor of the transactions contemplated hereby do not and will not (i) conflict with or violate any provision of its organizational documents or (ii) conflict with, constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument (evidencing debt or otherwise) to which such Guarantor is a party, or (iii) result in a violation of any law, rule, regulation, order, judgment, injunction, decree or other restriction of any court or governmental authority to which such Guarantor is subject, or by which any material property or asset of such Guarantor is bound or affected, except in the case of each of clauses (ii) and (iii), such conflicts, defaults, terminations, amendments, accelerations, cancellations and violations as could not, individually or in the aggregate, have or result in a Material Adverse Effect. The business of such Guarantor is not being conducted in violation of any law, ordinance or regulation of any governmental authority, except for violations which, individually or in the aggregate, do not have a Material Adverse Effect.

(d) Such Guarantor is not required to obtain any consent, waiver, authorization or order of, or make any filing or registration with, any court or other federal, state, provincial, territorial, local, foreign or other governmental authority or other person in connection with the execution, delivery and performance by such Guarantor of this Agreement.

(e) There are no conditions precedent to the effectiveness of this Agreement that have not been satisfied or waived.

(f) Such Guarantor has, independently and without reliance upon any Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement and any other Loan Document to which it is or may become a party, and has established adequate procedures for continually obtaining information pertaining to, and is now and at all times will be completely familiar with, the business, condition (financial or otherwise), operations, performance, properties and prospects of each other Loan Party.

Section 5.02 Covenants. Each Guarantor covenants and agrees that, until the Termination Date, such Guarantor will perform and observe all of the terms, covenants and agreements set forth in the Loan Documents that are required to be, or that the Borrower has agreed to cause to be, performed or observed by such Guarantor.

ARTICLE VI MISCELLANEOUS

Section 6.01 Amendments. No term or provision of this Agreement may be waived, amended, supplemented or otherwise modified except in a writing signed by each Guarantor and the Collateral Agent.

Section 6.02 Indemnification.

(a) Each Guarantor hereby, jointly and severally, agrees to indemnify and hold harmless the Collateral Agent, each Lender and each Related Party of any of the foregoing Persons (each such Person being called an “**Indemnatee**”) from any losses, damages, liabilities, claims and related expenses (including the fees and expenses of any counsel for any Indemnatee), and shall indemnify and hold harmless each Indemnatee from all fees, expenses and time charges for attorneys who are employees of any Indemnatee, incurred by any Indemnatee or asserted against any Indemnatee by any Person (including such Guarantor or any other Loan Party) arising out of, in connection with or resulting from this Agreement (including, without limitation, enforcement of this Agreement) or any failure of any Obligations to be the legal, valid, and binding obligations of any Loan Party enforceable against such Loan Party in accordance with their terms, whether brought by a third party or by such Guarantor or any other Loan Party, and regardless of whether any Indemnatee is a party thereto; *provided* that such indemnity shall not, as to any Indemnatee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnatee.

(b) To the fullest extent permitted by applicable law, each Guarantor hereby agrees not to assert, and hereby waives, any claim against any Indemnatee, 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 Extension of Credit or the use of proceeds thereof. No Indemnatee shall be liable for any damages arising from the use of any information or other materials distributed by it 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 by unintended recipients.

(c) Without prejudice to the survival of any other agreement of a Guarantor under this Agreement or any other Loan Documents, the agreements and obligations of each Guarantor contained in **Section 2.01** (with respect to enforcement expenses), **Section 2.02** and this Section shall survive termination of the Loan Documents and payment in full of the Obligations and all other amounts payable under this Agreement.

Section 6.03 Currency Indemnity. If, for the purposes of obtaining judgment in any court in any jurisdiction with respect to this Agreement, it becomes necessary to convert into the currency of such jurisdiction (the “**Judgment Currency**”) any amount due under this Agreement in any currency other than the Judgment Currency (the “**Currency Due**”), then conversion shall be made at the Exchange Rate (as hereinafter defined) at which the Collateral Agent is able, on the relevant date, to purchase the Currency Due with the Judgment Currency prevailing on the Business Day before the day on which judgment is given. In the event that there is a change in the rate of Exchange Rate prevailing between the Business Day before the day on which the judgment is given and the date of receipt by the Collateral Agent of the amount due, the applicable Guarantor will, on the date of receipt by the Collateral Agent, pay such additional amounts, if any, or be entitled to receive reimbursement of such amount, if any, as may be necessary to ensure that the amount received by the Collateral Agent on such date is the amount in the Judgment Currency which when converted at the rate of exchange prevailing on the date of receipt by the Collateral Agent is the amount then due under this Agreement in the Currency Due. If the amount of the Currency Due which the Collateral Agent is able to purchase is less than the amount of the Currency Due originally due to it, such Guarantor shall indemnify and save the Collateral Agent harmless from and against loss or damage arising as a result of such deficiency. The indemnity contained herein shall constitute an obligation separate and independent from the other obligations contained in this Agreement, shall give rise to a separate and independent cause of action, shall apply irrespective of any indulgence granted by the Collateral Agent from time to time and shall continue in full force and effect notwithstanding any judgment or order for a liquidated sum in respect of an amount due under this Agreement or under any judgment or order. As used herein, “**Exchange Rate**” shall mean the prevailing spot rate of exchange of such bank as the Collateral Agent may reasonably select for the purpose of conversion of one currency to another, at or around 11:00 a.m. Eastern Standard Time, on the date on which any such conversion of currency is to be made under this Agreement.

Section 6.04 Tax Gross-Up. Each payment to be made by a Guarantor hereunder shall be payable in the currency or currencies in which such obligations are denominated without set-off or counterclaim, and free and clear of and without deduction or withholding for or on account of any present or future income, stamp or other taxes, levies, imposts, duties, charges, fees, deductions or withholdings, now or hereafter imposed, levied, collected, withheld or assessed by any governmental authority excluding net income taxes or branch profit taxes or franchise taxes imposed in lieu of net income taxes imposed on

the Collateral Agent, any Lender or any Related Party as a result of a present or former connection between such party and the jurisdiction of the governmental authority imposing such tax or any political subdivision or taxing authority thereof or therein (other than any connection arising solely from Collateral Agent, any Lender or any Related Party having executed, delivered or performed its obligations or received a payment under, or enforced this Agreement). Without limiting the generality of the foregoing, if any taxes or amounts in respect thereof must be deducted or withheld from any amounts payable or paid by a Guarantor hereunder, such Guarantor shall pay such additional amounts as may be necessary to ensure that the Collateral Agent, any Lender or any Related Party receives a net amount equal to the full amount which it would have received had payment not been made subject to such taxes. Within 15 days of each payment by such Guarantor hereunder of taxes or in respect of taxes, such Guarantor shall deliver to the Collateral Agent satisfactory evidence (including originals, or certified copies, of all relevant receipts) that such taxes have been duly remitted to the appropriate authority or authorities. Such Guarantor agrees to indemnify the Collateral Agent, the Lenders and any Related Party for the full amount of taxes paid by such party in respect of this section and any liabilities (including penalties, interest and expenses arising from the failure of such Guarantor to pay such taxes when due) arising therefrom or therewith, in each case upon such Guarantor receiving reasonable evidence concerning the amount of such tax and liability owing. This indemnification shall be paid within 15 days after the Collateral Agent has made the demand therefor.

Section 6.05 Notices.

(a) **Notices Generally.** Except in the case of notices and other communications expressly permitted to be given by telephone (or by e-mail as provided in paragraph (b) below), all notices and other communications provided for herein shall be made in writing and mailed by certified or registered mail, delivered by hand or overnight courier service, or sent by facsimile or e-mail as follows:

(i) If to a Guarantor, 121 Washington Avenue, 29th Floor, Minneapolis, MN 55041.

(ii) If to the Collateral Agent, to it at its address (or facsimile number) set forth in the Loan Agreement.

(iii) If to a Lender, to it at its address (or facsimile number) set forth in the Loan Agreement.

Notices mailed by certified or registered mail or sent by hand or overnight courier service shall be deemed to have been given when received. Notices sent by facsimile or e-mail during the recipient's normal business hours shall be deemed to have been given when sent (and if sent after normal business hours shall be deemed to have been given at the opening of the recipient's business on the next Business Day).

(b) **Change of Address, Etc.** Any party hereto may change its address or facsimile number for notices and other communications hereunder by notice to the other parties hereto.

Section 6.06 Continuing Guaranty; Assignments Under the Loan Agreement. This Agreement is a continuing guaranty and shall (i) remain in full force and effect until the payment in full in cash of the Obligations and all other amounts payable under this Agreement and the other Loan Documents (the “**Termination Date**”), (ii) be binding on each Guarantor, its successors and assigns, and (iii) inure to the benefit of and be enforceable by the Collateral Agent and the Lenders and their respective successors and assigns. Any Lender may assign or otherwise transfer all or any portion of its rights and obligations under the Loan Agreement to any other Person in accordance with the terms of the Loan Agreement, and such other Person shall thereupon become vested with all the benefits in respect thereof granted to such Lender herein or otherwise. No Guarantor shall have the right to assign its rights or delegate its obligations hereunder or any interest herein without the prior written consent of the Collateral Agent.

Section 6.07 Counterparts; Integration; Effectiveness; Electronic Execution. This Agreement and any amendments, waivers, consents or supplements hereto may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all taken together shall constitute a single contract. This Agreement and the other Loan Documents constitute the entire contract among the parties with respect to the subject matter hereof and supersede all previous agreements and understandings, oral or written, with respect thereto. This Agreement shall become effective when it shall have been executed by the Collateral Agent and when the Collateral Agent shall have received counterparts hereof that together bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or in electronic (i.e., “pdf” or “tif”) format shall be effective as delivery of a manually executed counterpart of this Agreement.

Section 6.08 Governing Law; Jurisdiction; Etc.

(a) **Governing Law.** This Agreement and the other Loan Documents and any claim, 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 laws of the State of Delaware.

(b) **Submission to Jurisdiction.**

Each Guarantor irrevocably and unconditionally agrees that it will not commence any action, litigation or proceeding of any kind whatsoever, whether in law or equity, or whether in contract or tort or otherwise, against the Collateral Agent or any Lender, or any

of their respective Related Parties in any way relating to this Agreement or any other Loan Document or the transactions contemplated hereby or thereby, in any forum other than the courts of the State of Delaware sitting in Wilmington, Delaware and of the United States District Court for the District of Delaware, and any appellate court from any thereof, and each of the parties hereto irrevocably and unconditionally submits to the exclusive jurisdiction of such courts and agrees that any such action, litigation or proceeding may be brought in any such Delaware 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 herein or in any other Loan Document shall affect any right that the Collateral Agent or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against each Guarantor or any other Loan Party or its properties in the courts of any jurisdiction.

(c) **Waiver of Venue.** Each Guarantor irrevocably and unconditionally waives, to the fullest extent permitted by applicable law, any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court referred to in clause (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.

(d) **Service of Process.** Each party hereto irrevocably consents to the service of process in the manner provided for notices in **Section 6.05** and agrees that nothing herein will affect the right of any party hereto to serve process in any other manner permitted by applicable law.

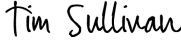
Section 6.09 Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY. EACH PARTY HERETO (A) CERTIFIES THAT NO AGENT, ATTORNEY, REPRESENTATIVE OR ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF LITIGATION, 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.

Section 6.10 Joint and Several Obligations. Each Guarantor agrees that the obligations of the “Guarantors” hereunder and under the other Loan Documents are joint and several obligations of each of the Guarantors. Each Guarantor further specifically agrees that it shall not be necessary or required, and that no Guarantor shall be entitled to require, before or as a condition precedent to the enforcement of the obligations of such Guarantor hereunder or under the other Loan Documents, that Agent or any Lender or any other Person: (a) make any effort to enforce the payment or performance by any other Guarantor of any of its obligations under this Agreement or the other Loan Documents, or (b) foreclose against or seek to realize upon collateral security or other credit support, if any, now or hereafter existing, for the Obligations or any obligations of any of the Guarantors under this Agreement or the other Loan Documents, or (c) file suit or proceed to obtain or assert a claim for personal judgment against any other Guarantor or any other Person liable for payment or performance of any of the Obligations or of any of the obligations of any of the Guarantors under this Agreement or the other Loan Documents, or (d) exercise or assert any other right or remedy to which Agent, the Lenders or any other person is or may be entitled in connection with this Agreement or the other Loan Documents, the Obligations, or any security or other guaranty therefor, or (e) assert or file any claim against the assets of the other Guarantor, or any other person liable for the Obligations or any of the obligations of any of the Guarantors under this Agreement or the other Loan Documents, or any part thereof. Each Guarantor hereby unconditionally waives any requirement that, as a condition precedent to the enforcement of the obligations of such Guarantor hereunder or under the other Loan Documents, the other Guarantors, the Agent, the Collateral Agent or any Lender be joined as parties to any proceedings for the enforcement of any provision of this Agreement or the other Loan Documents.

[Signature Pages Follow]

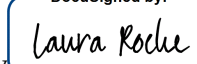
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

**LOYALTY SOLUTIONS
HOLDINGS US INC.**

Signed by:

By AB2D7353DDDD484
Name: Tim Sullivan
Title: CEO

AGREED AND ACCEPTED:

GUINES LLC,
as Collateral Agent

DocuSigned by:

By E4D8DE9B219D46C...

Name: Laura Roche

Title: COO/CFO Roystone Management Holdings LLC, its Investment Manager.

This is Exhibit "S" of
the Affidavit of **GRANT MCLEOD**
Sworn before me this 9th day of February 2026

A handwritten signature in black ink, appearing to read 'Reem Atallah', written over a horizontal line.

A Commissioner, etc.

Reem Atallah, a
Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 28, 2026.

SECURITY AGREEMENT

This Security Agreement, dated as of March 31, 2025 (this “**Agreement**”), by the undersigned (the “**Debtor**”) in favor of Guines LLC, as collateral agent (the “**Secured Party**”).

Reference is made to (1) that certain Bridge Loan and Security Agreement (the “**Loan Agreement**”), dated March 31, 2025, by and among Kognitiv US LLC, as borrower (the “**Borrower**”), the parties thereto as lenders (the “**Lenders**”) and Secured Party, as collateral agent, and (2) the Guaranty, dated March 31, 2025, made by the Debtor to Secured Party, whereby the Debtor unconditionally guarantees the obligations of the Borrower under the Loan Agreement (the “**Guaranty**”). Unless otherwise defined in this Agreement or in the Loan Agreement, terms defined in Article 8 or 9 of the UCC are used in this Agreement as such terms are therein defined. For the purposes of this Agreement, “**UCC**” shall mean the Uniform Commercial Code as in effect in the State of Delaware from time to time.

1. For valuable consideration, and to secure the payment and performance of the Obligations hereinafter described and defined, Debtor hereby grants to Secured Party, a security interest in the personal property described in Exhibit A attached hereto and incorporated herein by this reference, together with all present and future accessories, additions, attachments, proceeds, products, replacements and substitutions of or to all of the foregoing, now owned or at any time hereafter acquired and wherever located (collectively referred to as the “**Collateral**”). The Debtor acknowledges and agrees that: (a) value has been given by the Secured Party, (b) it has rights in the Collateral or the power to transfer rights in the Collateral, (c) the security interest will attach when the Debtor signs this Agreement, and (d) it has not otherwise agreed to postpone the time of attachment.
2. This Agreement and the security interest created hereby are given for the purpose of securing: (a) payment and performance of Debtor’s obligations under Guaranty; (a) payment and performance of the Borrower’s obligations under the Loan Agreement, (c) performance of each agreement of Debtor contained herein; and (d) payment and performance of all of Debtor’s and Borrower’s existing and future obligations arising under any and all amendments, restatements, modifications, renewals and/or extensions of any of the foregoing, including, but not limited to, amendments, modifications, renewals or extensions which are evidenced by new or additional instruments, documents or agreements or which change the rate of interest on any obligations secured hereby (collectively, the “**Obligations**”).
3. Debtor represents, warrants and agrees that: (a) Debtor has full title to the Collateral, free from any liens, leases, encumbrances, defenses or other claims; and the security interest in the Collateral constitutes a first, prior and indefeasible security interest (subject to customary non-consensual and involuntary liens that do not materially detract from Debtor’s rights in and to the Collateral); (b) Debtor will execute all documents (including financing statements) and take such other action as Secured Party deems necessary to create and perfect a security interest in the Collateral; (c) Debtor will, at its sole cost and expense, defend any claims that may be made against the Collateral; (d) the Collateral will be maintained in good condition and repair, and will not be used in violation of any applicable laws, rules or regulations; (e) Debtor will pay and discharge all taxes and liens on the Collateral prior to delinquency; (f) Debtor will maintain insurance on the Collateral covering such risks and in such form and amount as may be required by Secured Party from time to time, with insurers satisfactory to Secured Party and with loss payable to Secured Party as its interest may appear, and upon request Debtor will deliver the original of such policy or policies to Secured Party; (g) Debtor will

permit Secured Party to inspect the Collateral and Debtor's books and records (including computer files) pertaining thereto at any time; (h) the Collateral will at all times remain personal property; and (i) the Debtor represents that its legal name is as set out in its signature line hereto and that it does not have any other business names or other names. The Debtor shall not change its name, adopt any name in any other language or use any new business name without providing thirty (30) days written notice to the Secured Party.

4. In the event that Debtor shall fail to perform any obligation hereunder, Secured Party may, but shall not be obligated to, perform the same, and the cost thereof shall be payable by Debtor to Secured Party immediately and without demand.
5. If this Agreement is given to secure obligations of any person or entity other than Debtor (such person or entity being hereinafter referred to as "**Principal**"), Debtor waives notice of default, presentment, demand for payment, protest, notice of protest, notice of nonpayment or dishonor, and all other notices and demands of any kind whatsoever; and Debtor consents and agrees that Secured Party may, from time to time, without notice or demand and without affecting the enforceability or security hereof: (a) take, alter, enforce or release any additional security for the Obligations secured hereby; (b) renew, extend, modify, amend, accelerate, accept partial payments on, release, settle, compromise, compound, collect or otherwise liquidate the Obligations secured hereby or any security therefor, and bid and purchase at any sale; or (c) release or substitute Principal or any guarantors of the Obligations secured hereby. If any default should be made in the payment or performance of any Obligations secured hereby or in the terms and conditions of any security held therefor, Secured Party may enforce this Agreement independently of any other remedy or security Secured Party may at any time hold in connection with the Obligations secured hereby, and it shall not be necessary for Secured Party to proceed upon or against, and/or exhaust, any other security or remedy before proceeding to enforce this Agreement. Until all Obligations secured hereby are paid in full, Debtor waives all right of subrogation.
6. There shall be a "default" or an "event of default" hereunder upon the occurrence of any of the following events: (a) default in the payment or performance of any Obligations secured hereby or contained herein; or (b) occurrence of any "Default" or "Event of Default" under the Loan Agreement, the Guaranty or herein.
7. Upon the occurrence of any event of default, all Obligations secured hereby shall, at Secured Party's option, immediately become due and payable without notice or demand, and Secured Party shall have in any jurisdiction where enforcement hereof is sought, in addition to all other rights and remedies which Secured Party may have under law, all rights and remedies of a secured party under the Uniform Commercial Code and in addition the following rights and remedies, all of which may be exercised with or without further notice to Debtor: (a) to settle, compromise or release on terms acceptable to Secured Party, in whole or in part, any amounts owing on the Collateral; (b) to enforce payment and prosecute any action or proceeding with respect to any and all of the Collateral; (c) to extend the time of payment, make allowances and adjustments and issue credits in Secured Party's name or in the name of Debtor; (d) to foreclose the liens and security interests created under this Agreement or under any other agreement relating to the Collateral by any available judicial procedure or without judicial process; (e) to enter any premises where any Collateral may be located for the purpose of taking possession of or removing the same; (f) to remove from any premises where the same may be located the collateral and any and all documents instruments, files and records, and any receptacles

and cabinets containing the same, relating to the Collateral, and Secured Party may, at Debtor's cost and expense, use the supplies and space of Debtor at any or all of its places of business as may be necessary or appropriate to properly administer and control the Collateral or the handling of collections and realizations thereon; (g) to receive, open and dispose of all mail addressed to Debtor and notify postal authorities to change the address for delivery thereof to such address as Secured Party may designate; (h) to sell, assign, lease, or otherwise dispose of the Collateral or any part thereof, either at public or private sale, in lots or in bulk, for cash, on credit or otherwise, with or without representations or warranties, and upon such terms as shall be acceptable to Secured Party, all at Secured Party's sole option and as Secured Party in its sole discretion may deem advisable and (i) the Secured Party may by appointment in writing appoint a receiver, interim receiver, receiver and manager or agent (each referred to as the "**Receiver**") over all or any part of the Collateral, and may remove or replace such Receiver from time to time or may institute proceedings in any court of competent jurisdiction for the appointment of a Receiver of the Collateral; and the term "Secured Party" when used in the remedial sections of this Agreement will include any Receiver so appointed and the agents, officers and employees of such Receiver; and the Secured Party will not be in any way responsible for any misconduct or negligence of any such Receiver. The net cash proceeds resulting from the collection, liquidation, sale, lease or other disposition of the Collateral shall be applied, first, to the expenses (including all attorneys' fees) of retaking, holding, storing, processing and preparing for sale, selling, collecting, liquidating and the like, and then to the satisfaction of all Obligations and indebtedness or against principal or interest to be in Secured Party's absolute discretion. Debtor will, at Secured Party's request, assemble all Collateral and make it available to Secured Party at such place or places as Secured Party may designate which are reasonably convenient to both parties, whether at the premises of Debtor or elsewhere, and will make available to Secured Party all premises and facilities of Debtor for the purpose of Secured Party's taking possession of the Collateral or removing or putting the Collateral in saleable form. Debtor agrees to pay all costs and expenses incurred by Secured Party in the enforcement of this Agreement, including without limitation reasonable attorneys' fees, whether or not suit is filed hereon. The Secured Party shall not be required to make any demand upon, or pursue or exhaust any of their rights or remedies against, the Debtor, or any other obligor, guarantor, pledgor or any other person with respect to the payment of the Obligations. The Secured Party may grant extensions of time and other indulgences, take and give up security, accept compositions, compound, compromise, settle, grant releases and discharges and otherwise deal with the Debtor or any other Person and others and with Collateral and other security as the Secured Party may see fit without prejudice to the liability of the Debtor or the Secured Party's right to hold and realize the lien granted hereunder. Furthermore, without limiting any other provision hereof, after and during the continuance of an Event of Default, the Secured Party may demand, collect and sue on Collateral in either the Debtor or the Secured Party's name, at the Secured Party's option, and may endorse the Debtor's name on any and all cheques, commercial paper and any other Instruments (as defined in the UCC) pertaining to or constituting Collateral. Nothing herein contained shall in any way obligate the Secured Party to grant, continue, renew, extend time for payment of or accept anything which constitutes or would constitute Obligations.

8. Secured Party may execute any of its rights and remedies under this Agreement by or through agents, employees or attorneys-in-fact and shall be entitled to advice of counsel and other consultants or experts concerning all matters pertaining to such rights and remedies. Secured Party shall not be responsible for the negligence or misconduct of any agents or attorneys-in-fact selected by Secured Party with reasonable care. Secured Party may also from time to time, when the Secured Party deems it to be necessary or desirable, appoint one or more trustees, co-trustees, collateral co-agents, collateral subagents or attorneys-in-fact (each, a "**Subagent**") with respect to all or any part of the

Collateral; provided that no such Subagent shall be authorized to take any action with respect to any Collateral unless and except to the extent expressly authorized in writing by Secured Party. Should any instrument in writing from Secured Party be required by any Subagent so appointed by Secured Party to more fully or certainly vest in and confirm to such Subagent such rights, powers, privileges and duties, Debtor shall execute, acknowledge and deliver any and all such instruments promptly upon request by Secured Party. If any Subagent, or successor thereto, shall die, become incapable of acting, resign or be removed, all rights, powers, privileges and duties of such Subagent, to the extent permitted by law, shall automatically vest in and be exercised by Secured Party until the appointment of a new Subagent. Secured Party shall not be responsible for the negligence or misconduct of any agent, attorney-in-fact or Subagent that it selects in accordance with the foregoing provisions of this Section in the absence of Secured Party's gross negligence or misconduct.

9. If, for the purposes of obtaining judgment in any court in any jurisdiction with respect to this Agreement or any other security document (including any guarantee), it becomes necessary to convert into the currency of such jurisdiction (the "**Judgment Currency**") any amount due under this Agreement or under any of the other loan documents in any currency other than the Judgment Currency (the "**Currency Due**"), then conversion shall be made at the exchange rate at which Secured Party is able, on the relevant date, to purchase the Currency Due with the Judgment Currency prevailing on the business day before the day on which judgment is given. In the event that there is a change in the rate of such exchange rate prevailing between the Business Day before the day on which the judgment is given and the date of receipt by Secured Party of the amount due, Debtor will, on the date of receipt by Secured Party, pay such additional amounts, if any, or be entitled to receive reimbursement of such amount, if any, as may be necessary to ensure that the amount received by Secured Party on such date is the amount in the Judgment Currency which when converted at the rate of exchange prevailing on the date of receipt by Secured Party is the amount then due under this Agreement or any of the other security documents (including any guarantee) in the Currency Due. If the amount of the Currency Due which Secured Party is able to purchase is less than the amount of the Currency Due originally due to it, such Debtor shall indemnify and save Secured Party harmless from and against loss or damage arising as a result of such deficiency. The indemnity contained herein shall constitute an obligation separate and independent from the other obligations contained in this Agreement or any of the other security documents (including any guarantee), shall give rise to a separate and independent cause of action, shall apply irrespective of any indulgence granted by Secured Party from time to time and shall continue in full force and effect notwithstanding any judgment or order for a liquidated sum in respect of an amount due under this Agreement or any other security document (including any guarantee) or under any judgment or order. As used herein, "exchange rate" shall mean the prevailing spot rate of exchange of such bank as Secured Party may reasonably select for the purpose of conversion of one currency to another, at or around 11:00 a.m. New York time, on the date on which any such conversion of currency is to be made under this Agreement.
10. This Agreement expresses the entire understanding of the parties hereto and may not be altered or amended except with the written consent of each of the parties. This Agreement shall be binding upon and inure to the benefit of the respective heirs, executors, administrators, assigns and successors of the parties hereto. All of Secured Party's rights and remedies hereunder are cumulative and not exclusive, and are in addition to all rights and remedies provided by law or under any other agreement between Debtor and Secured Party, or otherwise. Where the context permits, the plural term shall include the singular, and vice versa. Where more than one person signs this Agreement, their obligations hereunder shall be joint and several.

11. This Agreement and your rights and obligations hereunder will be governed by and construed in accordance with the laws of the State of Delaware. Debtor agrees that any legal action or proceeding with respect to this Agreement may be brought in either the courts of the State of Delaware or the courts of the United States of America having jurisdiction over the District of Delaware. For the purpose of any such legal action or proceeding, Debtor hereby submits to the non-exclusive jurisdiction of such courts and agree not to raise and waive any objection Debtor may have based upon the venue of any such court. Debtor further agrees: (1) not to bring any legal action or proceeding referred in connection with this Agreement in any other court, unless the courts of the State of Delaware or of the United States determine that they do not have jurisdiction in the matter; and (2) to waive any limitation on the time within which an action or proceeding may be brought under or with respect to this Agreement.

12. WE HEREBY WAIVE, AND COVENANT THAT WE WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE), ANY RIGHT TO TRIAL BY JURY IN ANY FORUM IN RESPECT OF ANY ISSUE, CLAIM, DEMAND, SUIT, ACTION OR CAUSE OF ACTION ARISING OUT OF OR BASED UPON THIS AGREEMENT, THE SUBJECT MATTER HEREOF, ANY LOAN DOCUMENT, OR ANY OF OUR OBLIGATIONS, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING OR WHETHER IN CONTRACT, IN TORT OR OTHERWISE.

Loyalty Solutions Holdings US Inc., a Delaware corporation, as Debtor

Signed by:

Tim Sullivan

AB2D7363DDDD484

By:

Name:

Title:

Tim Sullivan

CEO

AGREED AND ACCEPTED:

Guines LLC, as Secured Party

DocuSigned by:

Laura Roche

E4D8DE9B219D46C

By:

Name:

Title:

Laura Roche

COO/CFO Roystone Management Holdings LLC, its Investment Manager

EXHIBIT A
DESCRIPTION OF COLLATERAL.

(a) all of Debtor's fixtures and personal property of every kind and nature, whether now owned or hereafter acquired, including all accounts, goods, equipment, inventory, documents (including, if applicable, electronic documents), instruments, promissory notes, chattel paper (whether tangible or electronic), letters of credit, securities and all other investment property, general intangibles (including all payment intangibles), money, deposit accounts, Intellectual Property, and any other contract rights or rights to the payment of money;

(b) all Proceeds and products of each of the foregoing, all books and records relating to the foregoing, all supporting obligations related thereto, and all accessions to, substitutions and replacements for, and rents, profits and products of, each of the foregoing, and any and all Proceeds of any insurance, indemnity, warranty or guaranty payable to the Debtor from time to time with respect to any of the foregoing; and

(c) but not including any "Excluded Property".

Notwithstanding any other provision of this Agreement, to the extent that any of the Collateral constitutes shares in an unlimited liability company, the Secured Party shall not, except as a result of the exercise of the Secured Party's rights, powers and remedies as provided herein, become or be deemed to become members or shareholders, or obtain or have the right to obtain any other indicia of ownership of an unlimited liability company, and no provision in this Agreement or actions taken by the Secured Party or by the Debtor without the express written consent of the Secured Party pursuant to this Agreement which might provide or be deemed to provide otherwise, in whole or in part, shall apply in respect of unlimited liability shares.

For purposes hereof the following terms have the following meanings:

"Excluded Property" means: (i) any contract, right or license (the **"Contractual Rights"**) of the Debtor, including any right of the Debtor as security holder, shareholder or holder of a partnership interest, if pursuant to the terms of such Contractual Right, or pursuant to the terms of any agreement affecting such Contractual Right, the Contractual Right would automatically terminate if it was part of the Collateral charged hereby, or would be terminable at the option of the other party or of the grantor, or would be subject to disposition, alteration or amendment at the option of another party including another security holder, shareholder or holder of a partnership interest, (ii) the last day of the term of any lease or any agreement to lease now held or hereafter acquired by the Debtor, but should the Secured Party enforce this assignment and mortgage and charge and (iii) any Consumer Goods (as defined in the Section 9-102 of the UCC).

"Intellectual Property" means the collective reference to all rights, priorities and privileges relating to intellectual property, whether arising under United States, Canada, multinational or foreign laws or otherwise, including, without limitation, (i) all copyrights arising under the laws of the United States, Canada, any other country or any political subdivision thereof, whether registered or unregistered and whether published or unpublished, all registrations and recordings thereof, and all applications in connection therewith, including, without limitation, all registrations, recordings and applications in the United States Copyright Office and the Canadian Intellectual Property Office, (ii) all letters patent of the United States, Canada any other country or any political subdivision thereof, all reissues and extensions thereof, and all applications for

letters patent of the United States, Canada or any other country and all divisions, continuations and continuations-in-part thereof, (iii) all trademarks, trade names, corporate names, trade dress, service marks, logos, domain names and other source or business identifiers, and all goodwill associated therewith, now existing or hereafter adopted or acquired, all registrations and recordings thereof, and all applications in connection therewith, whether in the United States Patent and Trademark Office, the Canadian Intellectual Property Office or in any similar office or agency of the United States, Canada, any State, province or territory thereof or any other country or any political subdivision thereof, or otherwise, and all common law rights related thereto, (iv) all trade secrets arising under the laws of the United States, Canada, any other country or any political subdivision thereof, (v) all rights to obtain any reissues, renewals or extensions of the foregoing, (vi) all licenses for any of the foregoing, and (vii) all causes of action for infringement of the foregoing.

“Proceeds” means *“proceeds”* as such term is defined in Section 9-102 of the UCC and, in any event, shall include, without limitation, all dividends or other income from the Collateral, collections thereon or distributions with respect thereto.

This is Exhibit "T" of
the Affidavit of **GRANT MCLEOD**
Sworn before me this 9th day of February 2026

A handwritten signature in black ink, appearing to read 'Reem Atallah', written over a horizontal line.

A Commissioner, etc.

Reem Atallah, a
Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 28, 2026.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

Kognitiv US, LLC,

Debtor.

Chapter 11

Case No. 25-10648 (BLS)

Ref. D.I. 4

**INTERIM ORDER PURSUANT TO 11 U.S.C. §§ 105, 361, 362, 363, 364, 503 AND 507
(I) AUTHORIZING THE DEBTOR TO OBTAIN SENIOR SECURED
SUPERPRIORITY POSTPETITION FINANCING; (II) GRANTING LIENS AND
SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS; (III) AUTHORIZING USE
OF CASH COLLATERAL; (IV) MODIFYING THE AUTOMATIC STAY;
(V) SCHEDULING A FINAL HEARING; AND (VI) GRANTING RELATED RELIEF**

Upon the *Debtor's Motion for Entry of Interim and Final Orders (I) Authorizing the Debtor to Obtain Senior Secured Superpriority Postpetition Financing; (II) Granting Liens and Superpriority Administrative Expense Status; (III) Authorizing Use of Cash Collateral; (IV) Modifying the Automatic Stay; (V) Scheduling a Final Hearing; and (V) Granting Related Relief* (the "Motion")¹ of Kognitiv US, LLC (the "Debtor") in the above-captioned chapter 11 case (the "Chapter 11 Case"), for entry of an interim order (this "Interim Order") and a final order (the "Final Order"), pursuant to sections 105, 361, 362, 363, 364(c)(1), 364(c)(2) 364(c)(3), 364(d), 364(e), 503 and 507 of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2002, 4001(b) and (c), 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rule 4001-2 of the Local Bankruptcy Rules (the "Local Rules") for the United States Bankruptcy Court for the District of Delaware (this "Court"), requesting, among other things:

(1) authorization for the Debtor to obtain postpetition financing pursuant to the DIP Loan Facility (as defined below), consisting of a senior secured super-priority term loan facility

¹ Each capitalized term used but not defined herein shall have the meaning ascribed to it in the applicable DIP Term Sheet or the Motion, as appropriate.

(the “DIP Loan Facility”), on the terms and conditions set forth in the term sheet attached hereto as **Exhibit 1** (as the same may be amended, restated, amended and restated, supplemented, waived, extended, or otherwise modified from time to time, the “DIP Term Sheet,” and, together with any other related loan agreement, documents, security agreements, or pledge agreements, including this Interim Order, the Final Order, and any Approved Budget collectively, the “DIP Loan Documents”), by and among the Debtor and the lender parties thereto (including such lenders’ designees and assignees, the “DIP Lenders”), in an aggregate principal amount of up to \$2,000,000 in term loan commitments, which shall be available as term loans (the “DIP Loans”) to the Debtor upon entry of this Interim Order and satisfaction of the other conditions set forth in the DIP Term Sheet in the principal amount of new money not to exceed \$200,000 (the “Interim DIP Loan”) prior to entry of the Final Order, and the remainder of the DIP Loan Facility available upon entry of the Final Order to the extent set forth therein;

(2) authorization for the Debtor to execute, deliver, and enter into the DIP Loan Documents and to perform all of the Debtor’s respective obligations thereunder, and such other and further acts as may be required in connection with the DIP Loan Documents;

(3) authorization for the Debtor to pay the principal, interest, fees, expenses and other amounts payable to the DIP Lenders pursuant to the DIP Loan Documents, including, without limitation, any principal, interest, fees, costs, expenses, charges, and disbursements of the respective DIP Lenders, including the reasonable and documented fees and expenses of each of the DIP Lenders’ attorneys, advisors, accountants and other consultants (the “DIP Lenders Advisors”), any obligations in respect of indemnity claims, whether contingent or absolute, in each case, to the extent constituting Debtor’s obligations of any kind under the DIP Loan Documents (such obligations, the “DIP Obligations”), which shall include a “rollup” of the Debtor’s pre-

petition bridge loan in the principal amount of \$1,600,000 (the “Bridge Loan”), whereby any and all pre-petition Bridge Loan obligations, together with accrued and unpaid interest, fees and expenses, shall be fully “rolled” into the DIP Loan Facility;

(4) authorization for the Debtor, immediately upon entry of this Interim Order, to use proceeds of the DIP Loan Facility as expressly provided in the DIP Loan Documents and solely in accordance with this Interim Order and the applicable Approved Budget (as defined below), subject to permitted variances and other exclusions set forth in the DIP Loan Documents, to: (A) pay costs, premiums, fees, and expenses related to the Chapter 11 Case and in connection with the DIP Loan Facility; and (B) provide financing for working capital and for other general corporate purposes of the Debtor;

(5) the grant and approval of superpriority administrative expense claim status, pursuant to sections 364(c)(1), 503(b)(1) and 507(b) of the Bankruptcy Code, to the DIP Lenders, for the benefit of itself in respect of all DIP Obligations, subject only to the Carve-Out (as defined below);

(6) granting the DIP Lenders valid, enforceable, non-avoidable, automatically and fully perfected DIP Liens (as defined below) in all DIP Collateral (as defined below), to secure the DIP Obligations, which DIP Liens shall be subject to the Carve-Out and Permitted Liens (as defined below);

(7) the modification of the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of this Interim Order and the other DIP Loan Documents to the extent hereinafter set forth;

(8) subject to entry of the Final Order, a waiver of the Debtor's ability to surcharge pursuant to section 506(c) of the Bankruptcy Code against any DIP Collateral and any right of the Debtor under the "equities of the case" exception in section 552(b) of the Bankruptcy Code;

(9) this Court's waiver of any applicable stay (including under Bankruptcy Rule 6004) and providing for immediate effectiveness of this Interim Order;

(10) the scheduling of a final hearing on the Motion (the "Final Hearing") to consider entry of the Final Order granting the relief requested in the Motion on a final basis, and approving the form of notice with respect to the Final Hearing; and

(11) granting the Debtor such other and further relief as is just and proper.

The initial hearing on the Motion having been held by this Court on April 4, 2025 (the "Interim Hearing"), and the Court having found that, under the circumstances, due and sufficient notice of the Motion and Interim Hearing was provided by the Debtor as set forth in Paragraph D of this Interim Order, and upon the record made by the Debtor at the Interim Hearing, including the Motion, the *Declaration of Tim Sullivan in Support of Debtor's Chapter 11 Petition and First-Day Motions* (the "First-Day Declaration"),² any exhibits in connection with the foregoing, and the filings and pleadings in this Chapter 11 Case; the Court having found that the interim relief requested in the Motion is fair and reasonable and is in the best interests of the Debtor, the Debtor's bankruptcy estate (as defined under section 541 of the Bankruptcy Code, the "Estate"), its stakeholders and other parties in interest, and represents a sound exercise of the Debtor's business judgment and is essential for the continued operation and maintenance of the Debtor's businesses; it appearing to the Court that granting the interim relief requested in the

² Capitalized terms used but not defined herein, in the DIP Term Sheet, or in the Motion shall have the meaning ascribed to them in the First-Day Declaration.

Motion is necessary to avoid immediate and irreparable harm to the Debtor and its Estate pending the Final Hearing; and all objections, if any, to the relief requested in the Motion having been withdrawn, resolved, or overruled by the Court; and after due deliberation sufficient cause appearing therefor;

THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:³

(A) Petition Date. On April 2, 2025 (the “Petition Date”), the Debtor filed a voluntary petition for relief (each, a “Petition”) under chapter 11 of the Bankruptcy Code. The Debtor continue to operate and maintain its businesses and manage its property as a debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No chapter 11 trustee or examiner has been appointed in the Chapter 11 Case.

(B) Jurisdiction and Venue. This Court has jurisdiction over this Case, the Debtor, property of the Debtor’s Estate and this matter under 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Pursuant to Rule 9013-1(f) of the Local Rules, the Debtor consents to the entry of a final judgment or order with respect to the Motion if it is determined that this Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory and legal predicates for the relief sought herein are sections 105, 361, 362, 363, 364, 503 and 507 of the

³ The findings and conclusions set forth herein constitute the Court’s findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

Bankruptcy Code and Bankruptcy Rules 2002, 4001, 6004, 9013 and 9014 and Local Rules 7007-1, 9013-1, 9013-4, and 9014-2.

(C) Committee Formation. As of the date hereof, no official committee of unsecured creditors under section 1102 of the Bankruptcy Code (the “Committee”) or any other statutory committee has been appointed in the Chapter 11 Case.

(D) Notice. Good and sufficient notice of the Motion under the circumstances has been provided in accordance with the Bankruptcy Code, the Bankruptcy Rules and the Local Rules.

(E) Parties’ Acknowledgments, Agreements, and Stipulations. In requesting the DIP Loan Facility, and in exchange for and as a material inducement to the DIP Lenders to agree to provide the DIP Loan Facility as provided herein, and as a condition to providing financing under the DIP Loan Facility as set forth herein, the Debtor permanently and irrevocably admit, stipulate, acknowledge, and agree, as follows:

(i) Indemnity. The DIP Lenders have acted in good faith, and without negligence or violation of public policy or law, in respect of all actions taken by them in connection with or related in any way to negotiating, implementing, documenting, or obtaining the requisite approvals of the DIP Loan Facility including in respect of the granting of the DIP Liens, any challenges or objections to the DIP Loan Facility, and all documents related to any and all transactions contemplated by the foregoing. Accordingly, the DIP Lenders shall be and hereby are indemnified and held harmless by the Debtor in respect of any claim or liability incurred in respect thereof or in any way related thereto, provided that no such parties will be indemnified for any cost, expense, or liability to the extent determined in a final, non-appealable judgment of a court of competent jurisdiction to have resulted primarily from such parties’ gross negligence or willful misconduct. No exception or defense exists in contract, law, or equity as to any obligation

set forth, as the case may be, in this paragraph E(vi), or in the DIP Loan Documents, to the Debtor's obligation to indemnify and/or hold the DIP Lenders harmless.

(ii) Release. The Debtor, its Estate, on its own behalf and on behalf of each of its past, present and future predecessors, successors, heirs, subsidiaries, and assigns have agreed to provide releases to each of the Released Parties (as defined below) as provided in Section 4.16 of this Interim Order.

(F) Findings Regarding the Postpetition Financing.

(i) Request for Postpetition Financing. The Debtor has requested from the DIP Lenders, and the DIP Lenders are willing, subject to the terms of this Interim Order and satisfaction of the conditions set forth in the DIP Term Sheet and other DIP Loan Documents, to extend the DIP Loans on the terms and conditions set forth in this Interim Order and the DIP Loan Documents, respectively.

(ii) Need for Postpetition Financing. The Debtor does not have sufficient liquidity to operate and maintain its businesses in the ordinary course of business without the financing requested in the Motion. The Debtor's ability to maintain business relationships with vendors, suppliers, and customers, to pay employees, pay certain fees and expenses as set forth herein, and to otherwise fund its operations, prepare for and undertake a sale of assets, and other efforts and activities is essential to the Debtor's continued viability as the Debtor seeks to maximize the value of the assets of the Estate for the benefit of all creditors of the Debtor. The ability of the Debtor to obtain sufficient working capital and liquidity through the proposed postpetition financing arrangements with the DIP Lenders as set forth in this Interim Order, the DIP Term Sheet and the other DIP Loan Documents, as applicable, is vital to the preservation and maintenance of the going concern value of each Debtor. The obligations due under the Bridge

Loan are collateralized by a fully secured, first priority lien on all of the Debtor's assets. Accordingly, the Debtor has an immediate need to obtain the postpetition financing as set forth in this Interim Order to, among other things, permit the orderly continuation of the operation and maintenance of its business, minimize the disruption of its business operations and other efforts and activities, implement and pursue a comprehensive marketing and sale process, and preserve and maximize the value of the assets of the Debtor's Estate to maximize the recovery to all creditors of the Estate.

(iii) No Credit Available on More Favorable Terms. The Debtor is unable to procure financing (x) in the form of unsecured credit allowable as an administrative expense under sections 364(a), 364(b), or 503(b)(1) of the Bankruptcy Code, (y) solely in exchange for the grant of a superpriority administrative expense under section 364(c)(1) of the Bankruptcy Code, or (z) in exchange for the grant of liens on property of the Estate pursuant to sections 364(c)(2) or 364(c)(3) of the Bankruptcy Code. The Debtor asserts in the Motion and the First-Day Declaration, and demonstrated at the Interim Hearing, that it would be futile under the circumstances for the Debtor to undertake further efforts to seek, and it would not obtain, the necessary postpetition financing, let alone on terms more favorable, taken as a whole, than the financing offered by the DIP Lenders pursuant to the DIP Loan Documents. In light of the foregoing, and considering the futility of all other alternatives, the Debtor has reasonably and properly concluded, in the exercise of its sound business judgment, that the DIP Loan Facility represents the best financing available to the Debtor at this time, and is in the best interests of the Debtor, its Estate, and all of its stakeholders.

(iv) Budget. The Debtor has prepared and delivered to the DIP Lenders an initial budget (the "Initial Budget"), a copy of which is attached hereto as **Exhibit 2**. The Initial Budget reflects the Debtor's anticipated cash receipts and anticipated operating disbursements for

a 9 calendar week period (the Initial Budget and each subsequent budget approved by the DIP Lenders and then in effect, the “Approved Budget”). The Debtor believes that the Initial Budget is reasonable under the facts and circumstances. The DIP Lenders are relying upon the Debtor’s agreement to comply with the terms set forth in the DIP Term Sheet, the other DIP Loan Documents, and this Interim Order, and with the Approved Budget, in determining to enter into the postpetition financing arrangements provided for herein. The Debtor shall provide the DIP Lenders a revised, rolling proposed budget every 4 weeks after the Petition Date (each, a “Proposed Budget”). If a Proposed Budget is approved by the DIP Lenders, it shall become the Approved Budget. If the DIP Lenders do not approve a Proposed Budget, the last Approved Budget prior to the delivery of the applicable Proposed Budget shall remain the Approved Budget as provided herein.

(v) Sale Process. The DIP Lenders’ willingness to make the DIP Loans on the terms and subject to the conditions set forth in the DIP Term Sheet and this Interim Order is predicated upon (i) the Debtor seeking authority to sell all or substantially of its assets pursuant to Section 363 of the Bankruptcy Code (the “Sale”) by filing a motion (the “Sale Motion”) in accordance with the Milestones (as defined below) to approve bidding and sale procedures and the sale of the Debtor’s assets; and (ii) the Debtor’s agreement to the Milestones (as defined below). Absent such arrangements, the DIP Lenders would not have agreed to make the DIP Loans as provided in the DIP Term Sheet and this Interim Order.

(vi) Certain Conditions to DIP Facilities. The DIP Lenders’ willingness to make the DIP Loans is conditioned upon, among other things: (a) the Debtor’s obtaining Court approval to enter into the DIP Loan Documents and to incur all of the obligations thereunder, and to confer upon the DIP Lenders all applicable rights, powers, and remedies thereunder in each case as

modified by this Interim Order; (b) the Debtor's obtaining Court approval of and compliance with the "Milestones" set forth in the DIP Term Sheet, which are hereby approved in all respects; and (c) the DIP Lenders being granted, as security for the prompt payment of the DIP Facilities and all other obligations of the Debtor under the DIP Loan Documents, subject to the Carve-Out and Permitted Liens, superpriority, priming, and perfected security interests in and liens upon all property and assets of the Debtor, including, but not limited to, a valid and perfected security interest in and lien upon all of the following now existing or hereafter arising or acquired property and assets: all property and assets of the Debtor, wherever located and whether now existing or owned or hereafter acquired or arising, including, without limitation, all accounts, proceeds of leases, inventory, equipment, deposit and other accounts, deposits tendered by a third party under any asset purchase agreement, money, equity interests or capital stock in subsidiaries, investment property, instruments, chattel paper, contracts, patents, copyrights, trademarks and other general intangibles, commercial litigation claims, commercial tort claims, farm products, deposit accounts, documents, the proceeds of all claims or causes of action, and all rents, products, offspring, profits, supporting obligations, and proceeds of any and all of the foregoing (hereinafter referred to as the "DIP Collateral") which, for avoidance of doubt, shall (subject to the entry of the Final Order) include the proceeds (the "Avoidance Proceeds") of any claim or cause of action arising under or pursuant to chapter 5 of the Bankruptcy Code or under any other similar provisions of applicable state, federal, or foreign law (including any other avoidance actions under the Bankruptcy Code, collectively, the "Avoidance Actions").

(vii) Business Judgment and Good Faith Pursuant to Section 364(e). Any credit extended, loans made, and other financial accommodations extended to the Debtor by the DIP Lenders, including, without limitation, pursuant to this Interim Order, have been extended, issued,

or made, as the case may be, in “good faith” within the meaning of section 364(e) of the Bankruptcy Code and in express reliance upon the protections offered by section 364(e) of the Bankruptcy Code, and the DIP Loan Facility, the DIP Liens (as defined below), and the DIP Superpriority Claims (as defined below) shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that this Interim Order or any provision hereof is vacated, reversed, or modified on appeal or otherwise.

(viii) Sections 506(c) and 552(b). The Debtor has agreed as a condition to obtaining financing under the DIP Loan Facility as set forth in this Interim Order that as a material inducement to the DIP Lenders to agree to provide the DIP Facilities as set forth in this Interim Order, and in exchange for the DIP Lenders’ willingness to provide the DIP Loan Facility to the extent set forth herein, each of the DIP Lenders are entitled to receive, subject to the entry of the Final Order (1) a waiver of any equities of the case exceptions or claims under section 552(b) of the Bankruptcy Code, and (2) a waiver of the provisions of section 506(c) of the Bankruptcy Code.

(ix) Good Cause. Good cause has been shown for the entry of this Interim Order. The relief requested in the Motion is necessary, essential, and appropriate and is in the best interest of and will benefit the Debtor, its creditors, and its Estate, as its implementation will, among other things, provide the Debtor with the necessary liquidity to (1) minimize disruption to the Debtor’s business, on-going operations and other applicable activities and efforts, (2) preserve and maximize the value of the Debtor’s Estate for the benefit of all the Debtor’s creditors, and (3) avoid immediate and irreparable harm to the Debtor, its creditors, its businesses, its employees, and its assets. The terms of the DIP Loan Facility and this Interim Order are fair and reasonable, reflect each Debtor’s exercise of its business judgment, and are supported by reasonably equivalent

value and fair consideration. The DIP Loan Facility and this Interim Order are the product of reasonable, arm's length, good faith negotiations between the Debtor and the DIP Lenders.

(x) Immediate Entry. Sufficient cause exists for immediate entry of this Interim Order pursuant to Bankruptcy Rule 4001(c)(2). Any objections that were made (to the extent such objections have not been withdrawn, waived, resolved, or settled) are hereby overruled on the merits.

(xi) Interim Hearing. Notice of the Interim Hearing and the relief requested in the Motion has been provided by the Debtor, whether by facsimile, electronic mail, overnight courier or hand delivery, to the Notice Parties.⁴

Based upon the foregoing, and upon the record made before the Court at the Interim Hearing and after due consideration and good cause appearing therefor;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

Section 1. Authorization and Conditions to Financing.

1.1 Motion Granted. The Motion is granted solely to the extent provided in this Interim Order. Any objections to the entry of this Interim Order that have not been withdrawn, waived, resolved, or settled, and all reservations of rights included therein, are hereby denied and overruled on the merits.

1.2 Authorization of DIP Financing.

(a) The Debtor is hereby authorized to execute and deliver the DIP Loan Documents and to immediately borrow and incur, under the DIP Loan, pursuant to the terms and conditions of the DIP Term Sheet, DIP Loan Documents, this Interim Order and the Approved

⁴ "Notice Parties" means the (i) the Office of the United States Trustee for the District of Delaware; (ii) the Office of the United States Attorney for the District of Delaware; (iii) the Internal Revenue Service; (iv) the Debtor's twenty largest unsecured creditors; (v) counsel to the DIP Lenders; and (vi) all parties who have filed a notice of appearance and request for service of papers pursuant to Bankruptcy Rule 2002.

Budget, in an aggregate principal amount not to exceed \$2,000,000, with such Interim DIP Loan to be made following entry of this Interim Order and satisfaction of the other conditions set forth in the DIP Loan Documents and in accordance with the Approved Budget.

(b) The Debtor is hereby authorized to (i) borrow under the DIP Loan Facility during the period (the “Interim Financing Period”) commencing on the date of this Interim Order through and including the earlier to occur of (x) the date of entry of the Final Order or (y) the occurrence of a DIP Termination Event (as defined below) solely in accordance with, and for the purposes permitted by, the DIP Loan Documents, this Interim Order and the Approved Budget, and (ii) pay all interest, costs, fees, and other amounts and obligations accrued or accruing under the DIP Term Sheet and other DIP Loan Documents, all pursuant to the terms and conditions of this Interim Order, the Approved Budget, the DIP Term Sheet, and the other DIP Loan Documents. The Initial Budget is hereby approved in all respects.

1.3 Financing Documents.

(a) Authorization. The Debtor is hereby authorized to enter into, execute, deliver, and perform all obligations under the DIP Loan Documents. No obligation, payment, transfer, or grant of security hereunder or under the DIP Loan Documents shall be stayed, restrained, voidable, avoidable, or recoverable under the Bankruptcy Code or under any applicable state, federal, or foreign law (including, without limitation, under chapter 5 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act, or similar statute or foreign law), or be subject to any defense, reduction, setoff, counterclaim, recoupment, offset, recharacterization, subordination (whether equitable, contractual or otherwise), cross-claims, or any other challenge under the Bankruptcy Code or any applicable law, rule, or regulation by any person or entity.

(b) Approval; Evidence of Borrowing Arrangements. The DIP Loan Documents and DIP Obligations shall be valid, binding, and enforceable against the Debtor, its Estate, and any successors thereto, including, without limitation, any trustee appointed in any of this Chapter 11 Case or any case under chapter 7 of the Bankruptcy Code upon the conversion of this Chapter 11 Case (the “Successor Case”), and its creditors and other parties in interest, in each case, in accordance with the terms of this Interim Order and the DIP Loan Documents.

(c) Payment of DIP Interest, Fees, and Other Expenses. Any and all interest, fees, and expenses payable pursuant to the DIP Loan Documents or considered a DIP Obligation (including all reasonable and documented out-of-pocket costs, disbursements, and expenses of the DIP Lenders) (the “DIP Fees”), whether or not such fees arose before or after the Petition Date are hereby approved and the Debtor is hereby authorized and directed to pay, in the manner provided by the DIP Term Sheet, the other DIP Loan Documents and this Interim Order in accordance with Section 4.15 hereof. The DIP Fees shall not be subject to any offset, defense, claim, counterclaim, or diminution of any type, kind, or nature whatsoever. Beyond the payment of fees and expenses of the DIP Lenders Advisors, the DIP Loan Documents do not provide for inclusion of any other fees.

(d) Amendments to DIP Loan Documents. Subject to the terms and conditions of the applicable DIP Loan Documents, the Debtor and the DIP Lenders may make amendments, modifications, or supplements to any DIP Loan Document, and the DIP Lenders may waive any provisions in the DIP Loan Documents, without further approval of the Court; provided that any amendments, modifications, or supplements to any DIP Loan Document that operates to increase the aggregate commitments, the rate of interest payable thereunder, or existing fees or add new fees thereunder (excluding, for the avoidance of doubt, any amendment, consent or waiver fee)

other than as currently provided in the DIP Loan Documents (collectively, the “Material DIP Amendments”), shall be filed and subject to approval by the Court, and the Debtor shall provide prior written notice of the Material DIP Amendment to (i) counsel to the DIP Lenders, (ii) counsel to the Committee, or, in the event no such Committee is appointed at the time of such Material DIP Amendment, the 30 Largest Unsecured Creditors, and (iii) the U.S. Trustee; *provided, further*, that the consent of the foregoing parties will not be necessary to effectuate any such amendment, modification or supplement.

1.4 Indemnification. The Debtor shall indemnify and hold harmless each DIP Lender, and, solely in their capacities as such, each of their respective successors, assigns, affiliates, parents, subsidiaries, partners, controlling persons, representatives, agents, attorneys, advisors, financial advisors, consultants, professionals, officers, directors, members, managers, shareholders and employees, past, present and future, and their respective heirs, predecessors, successors and assigns (each, an “Indemnified Party”), in accordance with, and subject to, the DIP Loan Documents.

Section 2. Postpetition Lien; Superpriority Administrative Claim Status.

2.1 Postpetition Lien.

(a) Postpetition DIP Lien Granting. To secure performance and payment when due (whether at the stated maturity, by acceleration or otherwise) of any and all DIP Obligations of the Debtor to the DIP Lenders of whatever kind, nature, or description, whether absolute or contingent, now existing or hereafter arising, the DIP Lenders shall have and are hereby granted, effective as of the Petition Date, continuing, valid, binding, enforceable, non-avoidable, and automatically and properly perfected postpetition security interests in and liens on and upon all

DIP Collateral (the “DIP Liens”), subject to Carve-Out (as defined herein) and the Permitted Liens.⁵

(b) DIP Lien Priority in DIP Collateral.

(i) DIP Loans Lien Ranking and Priority. The DIP Liens on the DIP Collateral securing the DIP Obligations shall be first and senior in priority to all other interests and liens of every kind, nature, and description, whether created consensually, by an order of the Court or otherwise, including, without limitation, liens or security interests granted in favor of third parties in conjunction with sections 363, 364, or any other section of the Bankruptcy Code or other applicable law; *provided, however*, that (A) the DIP Liens shall be subject to the Carve-Out and Permitted Liens; (B) assets of the Debtor (the “Non-Lender Encumbered Assets”) that were subject to validly perfected liens or security interests as of the Petition Date (the “Non-Lender Existing Liens”) shall be subject to such Non-Lender Existing Liens and the Carve-Out; and (C) any other assets of the Debtor (“Unencumbered Assets”) that were not subject to any validly perfected liens or security interest as of the Petition Date (including, subject to the entry of a Final Order, Avoidance Proceeds) shall be subject to the Carve-Out.

(c) Postpetition Lien Perfection. This Interim Order shall be sufficient and conclusive evidence of the priority, perfection, and validity of the DIP Liens, and the other security interests granted herein, effective as of the Petition Date, automatically perfected, without any further act and without regard to any other federal, state, or local requirements or law requiring notice, filing, registration, recording, or possession of the DIP Collateral, or other act to validate or perfect such security interest or lien, including, without limitation, control agreements with any

⁵ For purposes of this Interim Order, “Permitted Liens” shall mean any liens that are senior by operation of law (including any such liens that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code) or that were, as of the Petition Date, valid, properly perfected, and non-avoidable.

financial institution(s), or requirement to register liens on any certificates of title (a “Perfection Act”). Notwithstanding the foregoing, if the DIP Lenders shall, in their sole discretion, elect for any reason to file, record, or otherwise effectuate any Perfection Act, then the DIP Lenders are authorized to perform such act, and the Debtor is authorized and directed to perform such act to the extent required by the DIP Lenders, which act or acts shall be deemed to have been accomplished as of the date and time of entry of this Interim Order notwithstanding the date and time actually accomplished, and, in such event, the subject filing or recording office is authorized to accept, file, or record any document in regard to such act in accordance with applicable law. The DIP Lenders may choose to file, record, or present a certified copy of this Interim Order in the same manner as a Perfection Act, which shall be tantamount to a Perfection Act, and, in such event, the subject filing or recording office is authorized to accept, file, or record such certified copy of this Interim Order in accordance with applicable law. Should the DIP Lenders so choose and attempt to file, record, or perform a Perfection Act, no defect or failure in connection with such attempt shall in any way limit, waive, or alter the validity, enforceability, attachment, priority, or perfection of the postpetition liens and security interests granted herein by virtue of the entry of this Interim Order.

(d) To the extent that any applicable non-bankruptcy law otherwise would restrict the granting, scope, enforceability, attachment, or perfection of any liens and security interests granted and created by this Interim Order (including the DIP Liens) or otherwise would impose filing or registration requirements with respect to such liens and security interests, such law is hereby preempted to the maximum extent permitted by the Bankruptcy Code, applicable federal or foreign law, and the judicial power and authority of this Court; *provided, however*, that nothing herein shall excuse the Debtor from payment of any local fees, if any, required in

connection with such liens. By virtue of the terms of this Interim Order, to the extent that the DIP Lenders file or have filed Uniform Commercial Code financing statements, mortgages, deeds of trust, or other security or perfection documents under the names of any of the Debtor, such filings shall be deemed to properly perfect its liens and security interests granted and confirmed by this Interim Order without further action by the DIP Lenders.

(e) Except as provided in this Interim Order, the DIP Liens and the DIP Superpriority Claims (as defined below) (i) shall not be made subject to or *pari passu* with (A) any lien, security interest, or claim heretofore or hereinafter granted in any of this Chapter 11 Case or any Successor Case and shall be valid and enforceable against the Debtor, its Estate, any trustee, or any other estate representative appointed or elected in this Chapter 11 Case or any Successor Case and/or upon the dismissal of any of this Chapter 11 Case or any Successor Case; (B) any lien that is avoided and preserved for the benefit of the Debtor and its Estate under section 551 of the Bankruptcy Code or otherwise; and (C) any intercompany or affiliate lien or claim; and (ii) shall not be subject to sections 510, 549, 550, or 551 of the Bankruptcy Code.

2.2 Superpriority Administrative Expenses.

(a) DIP Loans. Subject to the Permitted Liens and the Carve-Out, on account of all DIP Obligations now existing or hereafter arising pursuant to this Interim Order, the DIP Loan Documents, or otherwise, the DIP Lenders are granted allowed superpriority administrative expense claims pursuant to section 364(c)(1) of the Bankruptcy Code, having priority in right of payment over any and all other obligations, liabilities, and indebtedness of the Debtor, whether now in existence or hereafter incurred by the Debtor, and over any and all administrative expenses or priority claims of the kind specified in, or ordered pursuant to, *inter alia*, sections 105, 326, 328, 330, 331, 364(c)(1), 365, 503(b), 507(a), 507(b), 546(c), 1113, or 1114 of the Bankruptcy Code,

whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy, or attachment, which allowed superpriority administrative claim shall be payable from and have recourse to all prepetition and postpetition property of the Debtor and all proceeds thereof (including, subject to entry of the Final Order, Avoidance Proceeds) (the “DIP Superpriority Claims”).

2.3 Carve-Out Provisions.

(a) Definitions; No Independent Obligation. For the purposes of this Interim Order, the “Carve-Out” means the sum of (i) all fees required to be paid to the Clerk of the Court (“Court Fees”) and all statutory fees required to be paid to the Office of the United States Trustee (the “U. S. Trustee”) under section 1930(a) of title 28 of the United States Code plus interest at the statutory rate (“US Trustee Fees”) (without regard to the notice set forth in (iv) below), (ii) all reasonable fees and expenses up to \$25,000 incurred by a trustee under section 726(b) of the Bankruptcy Code (the “Chapter 7 Trustee Carve-Out”), (iii) up to the amounts allowed by the Court pursuant to a fee application on notice or other procedure permitted by any Court order allowing interim compensation or the payment of fees of ordinary course professionals, whether by interim order, final order, procedural order, or otherwise, all reasonable and documented unpaid fees and expenses, all unpaid fees and expenses (the “Allowed Professional Fees”) incurred by persons or firms retained by the Debtor pursuant to section 327, 328, or 363 of the Bankruptcy Code (the “Debtor Professionals”) at any time on or before one business day following delivery by the DIP Lenders of a Carve-Out Trigger Notice (as defined below), whether allowed by the Court prior to or after delivery of a Carve-Out Trigger Notice, and (iv) professional fees of the Debtor Professionals in an aggregate amount not to exceed \$50,000 incurred after delivery by the DIP Lenders of a Carve-Out Trigger Notice (the amount set forth in this clause (iv) being

collectively, the “Post Carve-Out Trigger Notice Cap”); *provided that*, nothing herein shall be construed to impair any party’s ability to object to court approval of the fees, expenses, reimbursement of expenses or compensation of any Professional. For purposes of the foregoing, “Carve-Out Trigger Notice” shall mean a written notice delivered by email by the DIP Lenders to the Debtor, its lead restructuring counsel, the U.S. Trustee, and counsel to the Committee, if any (collectively, the “Carve-Out Trigger Notice Parties”), which notice may be delivered following the occurrence and during the continuation of an Event of Default, and shall describe in reasonable detail the Event of Default that is alleged to have occurred and be continuing and stating that the Post-Carve-Out Trigger Notice Cap has been invoked. None of the DIP Lenders shall be responsible for the payment or reimbursement of any fees or disbursements of any Professional incurred in connection with the Chapter 11 Case or any Successor Case under any chapter of the Bankruptcy Code, other than payment or reimbursement of any fees or disbursements from proceeds of DIP Collateral to the extent of the Carve-Out. Nothing in this Interim Order or otherwise shall be construed to obligate the DIP Lenders to pay compensation to, or to reimburse expenses of, any Professional or to guarantee that the Debtor have sufficient funds to pay such compensation or reimbursement. The DIP Lenders reserve the right to review and object to any fee statement, interim application, or monthly application issued or filed by the Professionals.

(b) In no way shall the Approved Budget or the Carve-Out be construed as a cap or limitation on the amount of Court fees, U.S. Trustee fees, or allowed Professional Fees that may be payable by the Debtor, or to impair the right of any party in interest to object to the allowance of any Professional Fees.

Section 3. DIP Termination Events; Waivers; Rights and Remedies; Relief from Stay.

3.1 DIP Termination Events. Each of the following shall constitute a “DIP Termination Event” unless waived in writing by the DIP Lenders and in accordance with the applicable DIP Loan Documents: (i) the occurrence of any “Event of Default” as that term is defined in the DIP Term Sheet; (ii) any failure to meet or satisfy any Milestone in accordance with the DIP Term Sheet; (iii) the occurrence of the “Maturity Date” as defined in the DIP Term Sheet; (iv) any material violation, breach, or default by any Debtor with respect to any of its obligations under this Interim Order or the DIP Loan Documents, (v) the termination of the DIP Loan Documents, or the modification of the DIP Loan Documents or this Interim Order in a manner adverse to the DIP Lenders without the prior written consent of the DIP Lenders, (vi) entry of any order authorizing any party in interest to reclaim any of the DIP Collateral, granting any party in interest relief from the automatic stay with respect to the DIP Collateral, or requiring that the Debtor turnover any of the DIP Collateral having value alone or in the aggregate in excess of \$100,000, in each case prior to full, final and indefeasible repayment of all DIP Obligations; (vii) conversion of any Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code; (viii) a trustee is appointed or elected in any Chapter 11 Case, or an examiner with the power to operate the Debtor’s business is appointed in any Case; (xi) the date of the Final Hearing, if this Interim Order is modified at the Final Hearing in a manner unacceptable to the DIP Lenders; (xii) absent the consent of the DIP Lenders, the Debtor withdraw the Sale Motion and/or propose an alternative restructuring transaction, chapter 11 plan or course of this Chapter 11 Case other than a sale of substantially all assets pursuant to the Sale Motion (any such event, an “Alternative Transaction”) that, in any case, does not provide for the repayment in full, in cash, of the DIP Obligations substantially contemporaneously with such withdrawal of the Sale Motion or proposal of such

Alternative Transaction; and (xiii) any modification, amendment, vacatur or stay of this Interim Order in any manner not consented to in writing by the DIP Lenders.

3.2 Rights and Remedies upon a DIP Termination Event. Upon the expiration of five (5) business days following the delivery of a written notice to counsel for the Debtors, the U.S. Trustee, and the Committee, if any, by the DIP Lenders of the occurrence of a DIP Termination Event, and during the continuance of a DIP Termination Event (the “Default Notice Period”), the DIP Lenders shall be entitled to independently take any act or exercise any right or remedy as provided in this Interim Order or under any respective DIP Loan Documents, as applicable, including, without limitation, the following: (i) declare all DIP Obligations owing under the DIP Loan Documents to be immediately due and payable; (ii) terminate, reduce, or restrict any commitment to extend additional credit to the Debtor to the extent any such commitment remains; (iii) terminate the DIP Facilities and any DIP Loan Document as to any future liability or obligation of the DIP Lenders, but without affecting any of the DIP Obligations or the DIP Liens securing the DIP Obligations; (iv) invoke the right to charge interest at the default rate under the DIP Loan Documents; and/or (v) stop lending. The Debtor and, a Committee (if any) shall be entitled to an emergency hearing before this Court within the Default Notice Period (subject to the Court’s availability). If an emergency hearing is requested to be heard prior to the expiration of the Default Notice Period, then the Default Notice Period shall automatically be extended until the Court hears and rules with respect thereto. If the Debtor, the Committee (if any), or any other party in interest does not contest the occurrence of the Event of Default within the Default Notice Period or if there is a timely contest of the occurrence of an Event of Default and the Court after notice and a hearing declines to stay the enforcement thereof, a termination date (the “Termination Date”) shall be deemed to have occurred for all purposes and the automatic stay shall be modified to permit the

DIP Lenders to exercise all remedies under the DIP Orders, the other DIP Loan Documents (including the DIP Term Sheet), and applicable law, including, without limitation, to (i) set-off any and all amounts in accounts maintained by the Debtor with the DIP Lenders or subject to the control of the DIP Lenders against the DIP Obligations, (ii) to otherwise enforce any and all rights against the DIP Collateral in the possession of any of the applicable DIP Lenders, including, without limitation, disposition of the DIP Collateral solely for application towards the DIP Obligations; and (iii) take any other actions or exercise any other rights or remedies permitted under the DIP Orders, the other DIP Loan Documents (including the DIP Term Sheet), or applicable law to effect the repayment of the DIP Obligations. Nothing herein shall preclude the DIP Lenders from seeking an order from the Court upon written notice (which may be sent by e-mail) to the U.S. Trustee, counsel to the Debtor, and counsel to the Committee (if any) authorizing the DIP Lenders to exercise any enforcement rights or remedies with respect to the DIP Collateral on less than five (5) calendar days' notice or the Debtor's right to contest such relief.

3.3 Modification of Automatic Stay. The automatic stay provisions of section 362 of the Bankruptcy Code and any other restriction imposed by an order of the Court or applicable law are hereby modified without further notice, application, or order of the Court to the extent necessary to (i) permit the DIP Lenders to perform any act authorized or permitted under or by virtue of this Interim Order, the DIP Term Sheet, or the other DIP Loan Documents, as applicable, including, without limitation, (i) to implement the postpetition financing arrangements authorized by this Interim Order, (ii) to take any act to create, validate, evidence, attach or perfect any lien, security interest, right or claim in the DIP Collateral, and (iii) subject to the Default Notice Period, to take any action and exercise all rights and remedies provided to it by this Interim Order, the DIP Loan Documents, or applicable law.

Section 4. Other Rights and DIP Obligations.

4.1 No Modification or Stay of this Interim Order. The DIP Lenders have acted in good faith in connection with the DIP Loan Facility and with this Interim Order, and their reliance on this Interim Order is in good faith, and the DIP Lenders are entitled to the protections of section 364(e) of the Bankruptcy Code.

4.2 Rights of Access and Information. The Debtor shall comply with the rights of access and information afforded to the DIP Lenders under the DIP Loan Documents.

4.3 Power to Waive Rights; Duties to Third Parties.

(a) Subject to the terms of the DIP Loan Documents, the DIP Lenders shall have the right to waive any of the terms, rights, and remedies provided or acknowledged in this Interim Order that are in favor of the DIP Lenders (the “DIP Lender Rights”), and shall have no obligation or duty to any other party with respect to the exercise or enforcement, or failure to exercise or enforce, any DIP Lender Rights. Any waiver of any DIP Lender Rights shall not be nor shall it constitute a continuing waiver unless otherwise expressly provided therein. Any delay in or failure to exercise or enforce any DIP Lender Right shall neither constitute a waiver of such DIP Lender Right, subject any DIP Lender to any liability to any other party, nor cause or enable any party other than the Debtor to rely upon or in any way seek to assert as a defense to any obligation owed by the Debtor to any DIP Lender.

4.4 No Unauthorized Disposition of Collateral.

(a) The Debtor shall not sell, transfer, lease, encumber, use, or otherwise dispose of any portion of the DIP Collateral, other than pursuant to the terms of this Interim Order or as permitted by the DIP Loan Documents and the Approved Budget (including permitted variances and exclusions to the Approved Budget permitted thereunder).

(b) Notwithstanding anything herein to the contrary, no portion of the proceeds of the DIP Loan Facility or the DIP Collateral may be used for the payment of professional fees, disbursements, costs, or expenses incurred by any person in connection with (i) preventing, hindering, impeding, or delaying any of the DIP Lenders' enforcement or realization upon, or exercise of rights in respect of, any of the DIP Collateral other than to seek a determination that a DIP Termination Event has not occurred or is not continuing or in connection with a remedies hearing, (ii) seeking to amend or modify any of the rights or interests granted to the DIP Lenders under this Interim Order or the DIP Loan Documents, (iii) asserting, commencing, or prosecuting any claims or causes of action, including, without limitation, any actions under chapter 5 of the Bankruptcy Code (or any similar law) against any DIP Lenders or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors, or employees, or (iv) asserting, joining, commencing, supporting, investigating, or prosecuting any other action for any claim, counterclaim, action, cause of action, proceeding, application, motion, objection, defense, or other contested matter seeking any order, judgment, determination, or similar relief against, or adverse to the material interests of any DIP Lenders, arising out of, in connection with, or relating to the DIP Loan Documents, or the transactions contemplated thereunder, including, without limitation, (A) any action arising under the Bankruptcy Code, (B) any so-called "lender liability" claims and causes of action, (C) any action with respect to the validity and extent of the DIP Obligations or the validity, extent, perfection and priority of the DIP Liens, (D) any action seeking to invalidate, set aside, avoid, reduce, set off, offset, re-characterize, subordinate (whether equitable, contractual, or otherwise), recoup against, disallow, impair, raise any defenses, cross-claims, or counterclaims, or raise any other challenges under the Bankruptcy Code or any other applicable domestic or

foreign law or regulation against, or with respect to, the DIP Liens, in whole or in part, or (E) appeal or otherwise challenge this Interim Order or the Final Order.

4.5 No Waiver. The failure of the DIP Lenders, as applicable, to seek relief or otherwise exercise their rights and remedies under the DIP Loan Documents, the DIP Facilities or this Interim Order, as applicable, shall not constitute a waiver of any of the DIP Lenders' rights hereunder, thereunder, or otherwise. Notwithstanding anything herein, the entry of this Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, or otherwise impair the rights of the DIP Lenders under the Bankruptcy Code or under non-bankruptcy law, including, without limitation, the rights of the DIP Lenders to: (a) request conversion of the Chapter 11 Case to a case under chapter 7, dismissal of the Chapter 11 Case, or the appointment of a trustee in the Chapter 11 Case; (b) propose, subject to the provisions of section 1121 of the Bankruptcy Code, a plan; or (c) exercise any of the rights, claims, or privileges (whether legal, equitable, or otherwise) of the DIP Lenders.

4.6 Maintenance of Collateral. Unless the DIP Lenders otherwise consent in writing, until (i) the payment in full or otherwise acceptable satisfaction of all DIP Obligations and (ii) the termination of the DIP Lenders' obligations to extend credit under the DIP Loan Facility, the Debtor shall comply with the covenants contained in the DIP Loan Documents regarding the maintenance and insurance of the DIP Collateral. Upon entry of this Interim Order and to the fullest extent provided by applicable law, the DIP Lenders shall be, and shall be deemed to be, without any further action or notice, named as additional insureds and loss payees on each insurance policy maintained by the Debtor that in any way relates to the DIP Collateral.

4.7 Reporting; Access. The Debtor shall provide the DIP Lenders with (a) reasonable access to the Debtor's facilities, management, books, and records; (b) no less than once per week

(or more frequently as the DIP Lenders may reasonably require), the Debtor shall make its senior management and advisors available, at reasonable times and upon reasonable notice, to the DIP Lenders to discuss the financial position, cash flows, variances, operations, sale process and general case status of the Debtor and such other matters as the DIP Lenders may require; (c) no less than once a week deliver a statement certifying that no Event of Default has occurred, or if an Event of Default has occurred, specifying the nature and extent thereof; (d) deliver each of the reporting requirements and other items as set forth under “Approved Budget” in the DIP Term Sheet on such dates and in such forms as to be mutually agreed upon by the DIP Lenders and the Debtor, each in consultation with their respective professionals; and (e) provide any other information relating to the business, financial, legal, or corporate affairs of the Debtor upon reasonable request of the DIP Lenders. The Debtor is also directed to allow the DIP Lenders (and their representatives and advisors), reasonable access to all of the premises, information systems (including any data room maintained by the Debtor or its professionals), facilities, management, books, and records for the purpose of enabling DIP Lenders to inspect, appraise and audit the DIP Collateral.

4.8 Reservation of Rights. The terms, conditions, and provisions of this Interim Order are in addition to and without prejudice to the rights of each DIP Lender to pursue any and all rights and remedies under the Bankruptcy Code, the DIP Loan Documents, or any other applicable agreement or law, including, without limitation, to seek relief from the automatic stay, to seek an injunction, to oppose granting of any interest in the DIP Collateral or priority in favor of any other party, to object to any sale of assets, and to object to applications for allowance and/or payment of compensation of professionals or other parties seeking compensation or reimbursement from the Estate.

4.9 Binding Effect.

(a) All of the provisions of this Interim Order and the DIP Loan Documents, the DIP Obligations, all liens, and claims granted hereunder in favor of each of the DIP Lenders, and any and all rights, remedies, privileges, immunities and benefits in favor of the DIP Lenders set forth herein, including, without limitation, the parties' acknowledgements, stipulations, and agreements in Paragraph E of this Interim Order, (without each of which the DIP Lenders would not have entered into or provided funds under the DIP Loan Documents) provided or acknowledged in this Interim Order, and any actions taken pursuant thereto, shall be effective and enforceable as of the Petition Date immediately upon entry of this Interim Order and not subject to any stay of execution or effectiveness (all of which are hereby waived), notwithstanding Bankruptcy Rules 4001(a)(3), 6004(h), 6006(d), 7062, and 9024, or any other Bankruptcy Rule, or Rule 62(a) of the Federal Rules of Civil Procedure, shall continue in full force and effect, and shall survive entry of any other order or action, including, without limitation, any order which may be entered confirming any chapter 11 plan providing for the refinancing, repayment, or replacement of the DIP Obligations, converting one or more of the Chapter 11 Case to any other chapter under the Bankruptcy Code, dismissing one or more of the Chapter 11 Case, approving any sale of any or all of the DIP Collateral, or vacating, terminating, reconsidering, revoking, or otherwise modifying this Interim Order or any provision hereof; *provided that*, in the event a Final Order is entered, the terms and conditions of such Final Order shall control over this Interim Order; provided further that such Final Order must affirm each of the provisions, protections, grants, statements, stipulations, and agreements in this Interim Order in order for such provisions, protections, grants, statements, stipulations, and agreements to remain in effect after entry of the Final Order.

(b) Nothing in this Chapter 11 Case may impair the DIP Superpriority Claim, and the DIP Lenders' liens on and security interests in the DIP Collateral, and all other claims, liens, and other rights granted pursuant to the terms of this Interim Order, which shall continue in full force and effect notwithstanding such dismissal until the DIP Obligations are indefeasibly paid and satisfied in full in cash. Notwithstanding any such dismissal, this Court shall retain jurisdiction for the purposes of enforcing all such claims, liens, protections, and rights referenced in this paragraph and otherwise in this Interim Order.

(c) Except as set forth in this Interim Order, in the event this Court modifies, reverses, vacates, or stays any of the provisions of this Interim Order or any of the DIP Loan Documents, such modifications, reversals, vacatur, or stays shall not affect the (i) validity, priority, or enforceability of any DIP Obligations incurred prior to the actual receipt of written notice by the DIP Lenders, as applicable, of the effective date of such modification, reversal, vacatur, or stay, (ii) validity, priority, or enforceability of the DIP Liens or the DIP Superpriority Claims, or (iii) rights or priorities of any DIP Lender pursuant to this Interim Order with respect to the DIP Collateral or any portion of the DIP Obligations. All such liens, security interests, claims and other benefits shall be governed in all respects by the original provisions of this Interim Order, and the DIP Lenders shall be entitled to all the rights, remedies, privileges and benefits granted hereto, including the liens and priorities granted herein.

(d) This Interim Order shall be binding upon the Debtor, all parties in interest in the Chapter 11 Case, and their respective successors and assigns, including, without limitation, (i) any trustee or other fiduciary appointed in the Chapter 11 Case or any subsequently converted bankruptcy case(s) of any Debtor and (ii) any liquidator, receiver, administrator, or similar such person or entity appointed in any jurisdiction or under any applicable law. This Interim Order

shall also inure to the benefit of the Debtor, the DIP Lenders, and each of their respective successors and assigns.

4.10 No Discharge. The DIP Obligations and the obligations of the Debtor with respect to the protections hereunder shall not be discharged by the entry of an order confirming any plan of reorganization in any of this Chapter 11 Case, notwithstanding the provisions of section 1141(d) of the Bankruptcy Code, unless such obligations have been indefeasibly paid in full in cash, on or before the effective date of such confirmed plan of reorganization, or each of the DIP Lenders has otherwise agreed in writing.

4.11 Section 506(c) Waiver. Subject to entry of the Final Order, no costs or expenses of administration which have been or may be incurred in this Chapter 11 Case at any time (including, without limitation, any costs and expenses incurred in connection with the preservation, protection, or enhancement of value by the DIP Lenders upon the DIP Collateral) shall be charged against any of the DIP Lenders, or any of the DIP Obligations or the DIP Collateral pursuant to sections 105 or 506(c) of the Bankruptcy Code or otherwise without the prior express written consent of the affected DIP Lenders, in their sole discretion, and no such consent shall be implied, directly or indirectly, from any other action, inaction, or acquiescence by any such agents or creditors (including, without limitation, consent to the Carve-Out or the approval of any budget hereunder).

4.12 No Marshaling/Application of Proceeds.

(a) Subject to entry of the Final Order, in no event shall the DIP Lenders be subject to the equitable doctrine of “marshaling” or any similar doctrine with respect to the DIP Collateral, and all proceeds shall be received and applied in accordance with the DIP Loan Documents.

(b) Notwithstanding anything to the contrary in this Interim Order, but subject in all respects to the Carve-Out and the Permitted Liens, the respective DIP Obligations shall be satisfied from the proceeds of DIP Collateral.

4.13 Right to Credit Bid; Stalking Horse. The Debtor acknowledges and agrees that, pursuant to Section 363(k) of the Bankruptcy Code, the DIP Lenders shall have the right to credit bid up to the full amount of the DIP Obligations in connection with any sale of the Debtor's assets other than pursuant to the Sale Motion, or included as part of any chapter 11 plan, or by a chapter 7 Trustee under section 725 of the Bankruptcy Code (an "Asset Sale"), without need for further court order. The Debtor shall not object to any DIP Lender bidding up to the full amount of the applicable outstanding DIP Obligations, including any accrued interest, fees, and expenses, in any sale of DIP Collateral. If the DIP Lenders make a credit bid in connection with any auction or other sale process relating to the sale or other disposition of any DIP Collateral, then for the purposes of such auction or sale process, the DIP Lenders shall be deemed to be a "qualified bidder" and its bid shall be a "qualified bid" so long as such bid provides for the payment of all allowed closing costs, including any fee awarded by the Court to the Debtor's investment banker, related to the Asset Sale regardless of whether any other qualified bid requirements are satisfied; provided that nothing herein shall be deemed to be a waiver by DIP Lenders or any other party to object to any retention application or closing costs and fees sought by Debtor's investment banker. The DIP Lenders will be granted the right of first refusal to act as a stalking horse bidder for the purchase of substantially all of the Company's assets through the Section 363 sale (the "Stalking Horse").

4.14 Payment of DIP Lenders' Fees and Expenses.

(a) Subject to Section 4.14(c) of this Interim Order, the Debtor shall pay (i) the reasonable and documented fees and expenses reimbursable under the DIP Loan Facility, the DIP Term Sheet, or the other DIP Loan Documents, including the Bridge Loan, as applicable, whether incurred before or after the Petition Date and (ii) all reasonable and documented out-of-pocket costs and expenses of the DIP Lenders including, without limitation, reasonable and documented fees and disbursements of counsel in connection with the enforcement or preservation of any rights under the DIP Term Sheet, the DIP Loan Facility or the other DIP Loan Documents (collectively, the "DIP Lender Fees & Expenses").

(b) With respect to payment of fees and expenses of the DIP Lenders Advisors incurred from and after the Petition Date, the DIP Lenders shall not be required to file applications seeking compensation for services or reimbursement of expenses with the Court or comply with the U.S. Trustee fee guidelines; *however*, any time that such professionals seek payment of fees and expenses from the Debtor, each professional shall provide summary copies of its fee and expense statements or invoices (which shall include a general description of the nature of the matters for which services were performed, a list of professionals who worked on the matter, their hourly rate (if such professionals bill at an hourly rate) and the number of hours each professional billed and which may be redacted or modified to the extent necessary to delete any information subject to the attorney-client privilege, any information constituting attorney work product, or any other confidential information, and the provision of such invoices shall not constitute any waiver of the attorney-client privilege or of any benefits of the attorney work-product doctrine) to the U.S. Trustee and counsel to the Committee (if appointed), contemporaneously with the delivery of such fee and expense statements to the Debtor; provided, however, the U.S. Trustee reserves the right

to request more detailed invoices. After delivery of a fee and expense statement or invoice, the Debtor, the U.S. Trustee, and the Committee (if appointed) shall have ten (10) calendar days to raise an objection thereto. Any objection to the payment of such fees or expenses shall be made only on the basis of “reasonableness,” and shall specify in writing the amount of the contested fees and expenses and the detailed basis for such objection. To the extent an objection only contests a portion of an invoice, the undisputed portion thereof shall be earned. If any such objection to payment of an invoice (or any portion thereof) is not otherwise resolved between the objecting party and the issuer of the invoice, either party may submit such dispute to the Court for a determination as to the reasonableness of the relevant disputed fees and expenses set forth in the invoice. This Court shall resolve any dispute as to the reasonableness of any fees and expenses. For the avoidance of doubt and without limiting any of the foregoing or any other provision of this Interim Order, the DIP Lender Advisors’ fees are, upon entry of this Interim Order and irrespective of any subsequent order approving or denying the DIP Loan Facility or any other financing pursuant to section 364 of the Bankruptcy Code, entitled to all of the protections of section 364(e) of the Bankruptcy Code that may apply to such fees, and are deemed fully earned, indefeasibly paid, non-refundable, irrevocable and non-avoidable as of the date of this Interim Order.

(c) Notwithstanding the foregoing, DIP Lender Fees & Expenses, including any fees and expenses of the DIP Lenders Advisors, shall also be payable by the Debtor in the event that the Court enters an order approving an Alternative Transaction and shall be payable out of the cash proceeds upon the closing of such Alternative Transaction. For the avoidance of doubt and subject to the process set forth in Section 4.14(b), the DIP Lender Fees & Expenses, including any fees and expenses of the DIP Lenders Advisors, shall constitute DIP Obligations and may be included in any credit bid of the DIP Lenders under Section 4.13 of this Interim Order provided

the DIP Lenders provide the Debtor with a report of fees incurred through the deadline for submission of bids (the “Bid Deadline”) no less than two (2) days prior to the Bid Deadline.

4.15 Limits on Lender Liability.

(a) Solely as a result of making any loan under the DIP Term Sheet, the Bridge Loan, or in exercising any rights or remedies as and when permitted pursuant to this Interim Order, the DIP Term Sheet or other DIP Loan Documents, the DIP Lenders shall not be deemed to (i) be in control of the operations of the Debtor or to be acting as a “controlling person,” “responsible person,” or “owner or operator” with respect to the operation or management of the Debtor, so long as the such party’s actions do not constitute, within the meaning of 42 U.S.C. § 9601(20)(F), actual participation in the management or operational affairs of a facility owned or operated by a Debtor, or otherwise cause liability to arise to the federal or state government or the status of responsible person or managing agent to exist under applicable law (as such terms, or any similar terms, are used in the Internal Revenue Code, WARN Act, the United States Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq., as amended, or any similar federal or state statute) or (ii) owe any fiduciary duty to any of the Debtor. Furthermore, nothing in this Interim Order shall in any way be construed or interpreted to impose or allow the imposition upon any of the DIP Lenders of any liability for any claims arising from the prepetition or postpetition activities of any of the Debtor and its affiliates (as defined in section 101(2) of the Bankruptcy Code).

(b) As to the United States, its agencies, departments, or agents, nothing in this Interim Order or the DIP Loan Documents shall discharge, release or otherwise preclude any valid right of setoff or recoupment that any such entity may have.

4.16 Release. The Debtor and its Estate on its own behalf and on behalf of each of its past, present and future predecessors, successors, heirs, subsidiaries, and assigns, hereby forever, unconditionally, permanently, and irrevocably release, discharge, and acquit each of the DIP Lenders, and (in such capacity) each of their respective successors, assigns, affiliates, parents, subsidiaries, partners, controlling persons, representatives, agents, attorneys, advisors, financial advisors, consultants, professionals, officers, directors, members, managers, shareholders, and employees, past, present and future, and their respective heirs, predecessors, successors and assigns (collectively, the “Released Parties”) of and from any and all claims, controversies, disputes, liabilities, obligations, demands, damages, expenses (including, without limitation, attorneys’ fees), debts, liens, actions, and causes of action of any and every nature whatsoever, whether arising in law or otherwise, and whether known or unknown, matured or contingent, arising under, in connection with, or relating to (i) the DIP Loan Facility, or (ii) the DIP Term Sheet or DIP Loan Documents including, without limitation, (a) any so-called “lender liability” or equitable subordination claims or defenses, (b) any and all “claims” (as defined in the Bankruptcy Code) and causes of action arising under the Bankruptcy Code, and (c) any and all offsets, defenses, claims, counterclaims, set off rights, objections, challenges, causes of action, and/or choses in action of any kind or nature whatsoever, whether arising at law or in equity, including any recharacterization, recoupment, subordination, avoidance, or other claim or cause of action arising under or pursuant to section 105 or chapter 5 of the Bankruptcy Code or under any other similar provisions of applicable state, federal, or foreign law, including, without limitation, any right to assert any disgorgement or recovery, in each case, with respect to the extent, amount, validity, enforceability, priority, security, and perfection of any of the DIP Obligations, the DIP Loan Documents, or the DIP Liens, and further waive and release any defense, right of

counterclaim, right of setoff, or deduction to the payment of the DIP Obligations that the Debtor now have or may claim to have against the Released Parties, arising under, in connection with, based upon, or related to any and all acts, omissions, conduct undertaken, or events occurring prior to entry of this Interim Order.

4.17 Challenge Standing. Nothing herein shall limit the Committee's (or other party in interest's) ability to (x) file a motion in respect of any timely challenge for which it may not be able to obtain standing as a matter of law because the Debtor is a limited liability company (an "LLC Challenge Motion"), and (y) seek pursuant to such LLC Challenge Motion a mechanism by which to prosecute such challenge. In the event the Committee or other party in interest files an LLC Challenge Motion for which it may not be able to obtain standing, any expiration of a challenge period solely for the specific challenge set forth in the LLC Challenge Motion shall be tolled pending further order of the Court, and applicable parties shall meet and confer with respect to an appropriate process for the prosecution of any such challenge. If timely notified of a challenge for which the Committee or other party in interest may not be able to gain standing because the applicable Debtor is a limited liability company, the Debtor (or a designated representative) shall retain the authority to prosecute such challenge in the exercise of its business judgment and subject to any applicable further order of the Court.

4.18 Survival. The provisions of this Interim Order, the validity, priority, and enforceability of the DIP Liens, the DIP Superpriority Claims, and any actions taken pursuant hereto shall survive, and shall not be modified, impaired or discharged by, entry of any order that may be entered (a) confirming any plan of reorganization in any of this Chapter 11 Case, (b) converting any or all of this Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code, (c) dismissing any or all of this Chapter 11 Case, (d) terminating the joint administration of this

Chapter 11 Case or any other act or omission, (e) approving the sale of any DIP Collateral pursuant to section 363(b) of the Bankruptcy Code (except to the extent permitted by the DIP Loan Documents), or (f) pursuant to which the Court abstains from hearing any of this Chapter 11 Case. The terms and provisions of this Interim Order, including the claims, liens, security interests, and other protections (as applicable) granted to the DIP Lenders pursuant to this Interim Order, notwithstanding the entry of any such order, shall continue in any of this Chapter 11 Case, following dismissal of any of this Chapter 11 Case or any Successor Case, and shall maintain their priority as provided by this Interim Order until all of the DIP Obligations, pursuant to the DIP Loan Documents and this Interim Order, have been indefeasibly paid in full in cash (such payment being without prejudice to any terms of provisions contained in the DIP Loan Facility which survive such discharge by their terms) and all commitments to extend credit under the DIP Loan Facility are terminated.

4.19 No Third Party Rights. Except as specifically provided for herein, this Interim Order does not create any rights for the benefit of any third party, creditor, equity holders, or any direct, indirect, or incidental beneficiary.

4.20 No Avoidance. No obligations incurred or payments or other transfers made by or on behalf of the Debtor on account of the DIP Loan Facility shall be avoidable or recoverable from the DIP Lenders under any section of the Bankruptcy Code, or any other federal, state, or other applicable law.

4.21 Reliance on Order. All postpetition advances under the DIP Loan Documents are made in reliance on this Interim Order.

4.22 Payments Free and Clear. Any and all payments or proceeds remitted to the DIP Lenders pursuant to the provisions of this Interim Order, any subsequent order of this Court or the

DIP Loan Documents, shall, subject to the terms of this Section 4.21, be irrevocable, received free and clear of any claims, charge, assessment, or other liability, including, without limitation, any such claim or charge arising out of or based on, directly or indirectly, section 506(c) of the Bankruptcy Code or section 552(b) of the Bankruptcy Code, whether asserted or assessed by, through or on behalf of the Debtor, and in the case of payments made or proceeds remitted after the delivery of a Carve-Out Trigger Notice, subject to the Carve-Out in all respects.

4.23 Limited Effect. In the event of a conflict between the terms and provisions of any of the DIP Term Sheet and this Interim Order, the terms and provisions of this Interim Order shall govern.

4.24 Headings. Section headings used herein are for convenience only and are not to affect the construction of or to be taken into consideration in interpreting this Interim Order.

4.25 Bankruptcy Rules. The requirements of Bankruptcy Rules 4001, 6003, and 6004, in each case to the extent applicable, are satisfied by the contents of the Motion.

4.26 General Authorization. The Debtor and the DIP Lenders are authorized to take any and all actions necessary to effectuate the relief granted in this Interim Order.

4.27 Retention of Jurisdiction. This Court shall retain jurisdiction and power with respect to all matters arising from or related to the implementation or interpretation of this Interim Order, the DIP Term Sheet, and the other DIP Loan Documents.

4.28 Final Hearing and Response Dates. The Final Hearing on the Motion pursuant to Bankruptcy Rule 4001(c)(2) will be held on April 28, 2025, 2025, at 10:00 a.m., prevailing Eastern Time. The Debtor shall promptly mail copies of this Interim Order to the Notice Parties (as defined in the DIP Motion), and to any other party that has filed a request for notices with this Court and to any Committee after same has been appointed, or the Committee's counsel if same shall have

filed a request for notice. Where applicable, the Debtor may serve the Motion and this Interim Order without the exhibits attached thereto as such exhibits are voluminous and available, free of charge, at the Debtor's claims and noting agent's website, and such notice is deemed good and sufficient and no further notice need be given. Any party in interest objecting to the relief sought at the Final Hearing shall serve and file written objections, which objections shall be served upon the Notice Parties and shall be filed with the Clerk of the Court, in each case, to allow actual receipt of the foregoing no later than 4:00 p.m. (prevailing Eastern Time), on April 21, 2025.

Dated: April 4th, 2025
Wilmington, Delaware



BRENDAN L. SHANNON
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

DIP Term Sheet

DIP FACILITY COMMITMENT TERM SHEET

April __, 2025

This term sheet (the “DIP Term Sheet”) describes the principal terms and conditions of a debtor-in-possession loan (the “DIP Facility”) to be made available to Kognitiv US LLC (the “Company” or “Debtor”) as a secured first-priority debtor in possession financing. The DIP Facility would be used for (i) costs and fees related to a sale process and transaction under section 363 (“Section 363 Transaction”) of chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”) and (ii) the Company’s going-concern operating costs through consummation of the Section 363 Transaction. This DIP Term Sheet shall be binding upon (i) due execution by the parties hereto and (ii) as to the interim DIP Facility funding amount, entry of an order by the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) approving the terms of the DIP Facility on an interim basis, with the DIP Term Sheet to be annexed thereto as an exhibit (the “Interim DIP Order”), and (iii) as to the final DIP Facility funding amount, entry of an order by the Bankruptcy Court approving the DIP Facility on a final basis, with the DIP Term Sheet annexed thereto as an exhibit (the “Final DIP Order” and, together with the Interim DIP Order, the “DIP Orders”), each in form and substance reasonably acceptable to the DIP Lenders set forth below.

The DIP Lenders set forth below are prepared to provide a commitment to the Debtor for a DIP Facility subject to the terms and conditions described below.

DIP Lenders	- Guines, LLC (“Guines”); and - Aimia Inc. (“Aimia”).
Borrower	The Debtor in its capacity as a “debtor in possession” in chapter 11 proceedings shall be liable for the obligations under the DIP Facility.
Facility	A \$2,000,000 secured term loan facility (the “Total Commitment”) secured by a first-priority lien on all of the assets of the Debtor’s chapter 11 estate pursuant to section 364(c) or (d) (as applicable) Bankruptcy Code, consisting of (x) \$1,600,000 of Roll-Up DIP Loans and (y) up to \$400,000 of incremental term loans, which shall be provided by the DIP Lenders in up to the following amounts, subject to customary draw request conditions: - Guines: \$1,280,000 of Roll-Up DIP Loans and up to \$320,000 of incremental term loans - Aimia: \$320,000 of Roll-Up DIP Loans and up to \$80,000 of incremental term loans The obligations of the DIP Lenders to advance funds are several and not joint and several. Upon entry of the Interim DIP Order, \$1,600,000 of loans under the Bridge Loan and Security Agreement, dated March 31, 2025, by and among the Debtor, Aimia and Guines (the “Bridge Loan Agreement”) shall be converted to DIP Loans and shall become DIP Obligations (the “Roll-Up DTIP Loans”). The Roll-Up DIP Loans are subject to the terms and conditions of the DIP Facility.
Transaction Structure	The DIP Facility shall be a multiple draw term loan.
Inter-DIP Lender Agreement	- In an Event of Default (as defined herein), no DIP Lender may foreclose upon the Collateral unless 75% (based on amounts individually lent by the DIP Lenders and currently outstanding) of the DIP Lenders consent to such foreclosure. - An extension of the maturity of the DIP Facility shall require the unanimous consent of the DIP Lenders. - Other than in a foreclosure and extension of the maturity of the DIP Facility, actions requiring the approval of the DIP Lenders shall require consent from a majority of the DIP Lenders (based on amounts individually lent by the DIP Lenders and currently outstanding). Notwithstanding the foregoing, with respect to an action which affects a DIP Lender differently from the DIP Lenders generally, unanimous consent of the DIP Lenders is required
Funding	Upon the entry of the Final DIP Order in form and substance reasonably satisfactory to the DIP Lenders in their sole discretion, the DIP Lenders shall make available to the Debtor the remainder of the Total Commitment on the same terms and conditions as set forth in the Bridge Loan Agreement and subject to the terms of the Final DIP Order and the Approved Budget.
Use of Proceeds & Draws	Subject to the above, draws up to the amounts set forth in the Approved Budget.
Interest; Multiple-on-Invested-Capital	15.0% paid in kind. If an Event of Default occurs and is continuing the interest rate shall be 20%. Upon the repayment in full of the DIP Facility (whether upon maturity, acceleration or otherwise) and, in any case, not later than the Maturity Date, and after giving

	effect to (and without duplication of) all amounts payable under the DIP Facility, including without limitation, interest, the Company shall pay to the DIP Lenders an amount sufficient for each Lender to achieve a multiple-on-invested-capital of 1.15 on each such DIP Lender's Total Commitment.
Section 363 Transaction	The Company shall promptly as possible after the Petition Date make a motion for to approve and consummate the sale of the Company's assets to Capillary Technologies, LLC pursuant to the pre-petition Asset Purchase Agreement, dated March 31, 2025.
Chapter 11 Milestones	The Company shall meet the following milestones (collectively, the "Chapter 11 Milestones"), which dates may be extended with the consent of the DIP Lenders: Chapter 11 Petitions Filed: April 2, 2025 (the "Petition Date"). First Day Hearing: Petition Date plus 4 business days. Interim Approval of DIP Facility: Petition Date plus 5 business days. Final Approval of DIP Facility: Petition Date plus 28 days. Sale Motion Hearing: Petition Date plus 28 days. Final Sale Approval: Petition Date plus 29 days. Transaction Consummation: Petition Date plus 30 days.
Lenders Fees and Expenses	DIP Lenders' reasonable fees and expenses, including attorney fees (the "Lender Fees").
Approved Budget	The initial 9-week cashflow budget substantially in the form attached hereto as <u>Exhibit A</u>, which has been approved by the DIP Lenders (the "Approved Budget") and thereafter: • Company to provide a weekly "actual to budget" reconciliation ("Weekly Variance Report"), which shall reflect weekly expenditures that are not more than 10% over budget for any line item nor more than 15% over budget in the aggregate; • Every 4 weeks thereafter, provide an updated cashflow projection of the next 13-weeks, on a rolling basis, which shall be subject to approval of the DIP Lenders and which approval, after an opportunity for discussion with Company, shall not be unreasonably withheld; and • Upon approval by the DIP Lenders, the revised cashflow projections for the following 9-week period shall be replaced in its entirety and shall be the Approved Budget thereafter.
Conditions Precedent to Fundings	As set forth in the Bridge Loan Agreement.
Optional Prepayments and Commitment Reductions:	As set forth in the Bridge Loan Agreement.
Affirmative and Negative Covenants	As set forth in the Bridge Loan Agreement

Carve-Out:	The relative priority of all amounts owed under the DIP Facility will be subject only to a carve-out for the following (collectively, the “Carve Out”): (i) the costs and administrative expenses permitted to be incurred by any chapter 7 trustee under section 726(b) of the Bankruptcy Code pursuant to an order of the Bankruptcy Court following any conversion of the Chapter 11 Case pursuant to section 1112 of the Bankruptcy Code in an amount not to exceed US\$25,000; (ii) up to the amounts allowed by the Bankruptcy Court for all fees and expenses (the “Allowed Professional Fees”) incurred by persons or firms retained by the Debtor pursuant to section 327, 328, or 363 of the Bankruptcy Code (the “Debtor Professionals”) at any time on or before one business day following delivery by the DIP Lenders of a Carve-Out Trigger Notice (as defined below), whether allowed by the Bankruptcy Court prior to or after delivery of a Carve-Out Trigger Notice; (iii) professional fees of the Debtor Professionals in an aggregate amount not to exceed \$50,000 incurred after delivery by the DIP Lenders of a Carve-Out Trigger Notice, to the extent allowed by the Bankruptcy Court (the amounts set forth in this clause (iii) being, collectively, the “Post Carve-Out Trigger Notice Cap”); and (iv) the payment of fees pursuant to 28 U.S.C. § 1930. For purposes of this DIP Term Sheet, “Carve-Out Trigger Notice” shall mean a written notice delivered by email by the DIP Lenders to counsel to the Debtor, the U.S. Trustee, and counsel to any Committee, which notice may be delivered following the occurrence and during the continuation of an Event of Default (as defined herein), stating that the Post Carve-Out Trigger Notice Cap has been invoked. Nothing herein shall be construed as impairing the ability of any party to object to any fees and expenses of a professional in the Chapter 11 Case.

Events of Default	The “Events of Default” set forth in the Bridge Loan Agreement <u>plus</u> the following additional events of default: (a) Failure of Security Interest: If any lien created under the Interim DIP Order or the Final DIP Order, as applicable, or any other security document shall cease to be, or shall be asserted by the Debtor not to be, a valid and perfected lien, with the priority required by the applicable security document, Interim DIP Order, or Final DIP Order; or if any other lien or interest is provided “superpriority” status without consent of the DIP Lenders; (b) Dismissal of Case; Appointment of Trustee: The Chapter 11 Case shall be dismissed or converted to a case under chapter 7 of the Bankruptcy Code or if the Company files a motion or other pleading seeking the dismissal of the Chapter 11 Case or appointment of a trustee under chapter 7 or chapter 11 of the Bankruptcy Code that is not dismissed or overruled within 30 days, unless otherwise with consent of the DIP Lenders; (c) Final DIP Order: The Final DIP Order shall not have been entered by the Bankruptcy Court within 24 days after the entry of the Interim DIP Order, or such later date as the DIP Lenders may agree; (d) Sale Motion: Absent the consent of the DIP Lenders, the Debtor withdraws the Sale Motion and/or proposes an alternative restructuring transaction, chapter 11 plan, or other transaction other than a sale of substantially all assets pursuant to the Sale Motion; (e) Chapter 11 Milestones: The Company fails to meet the Chapter 11 Milestones, as defined above by the times specified below and the DIP Lenders do not consent to an extension thereof; (f) Compliance with Approved Budget: the Debtor’s noncompliance with the Approved Budget which is not curable or, solely if curable, not cured within 2 business days; (g) Relief from Stay: The granting of relief from any stay of proceeding (including, without limitation, the automatic stay) so as to allow a third party to proceed against any assets of the Debtor in excess of \$25,000, in the aggregate; (h) Additional Liens: The filing of a motion by the Debtor, without written consent of the DIP Lenders, to incur debt secured by a lien with priority equal to, or superior to, the DIP Liens, which is given superpriority administrative expense status under section 364(c) of the Bankruptcy Code, unless such motion provides for the proceeds of such debt to be used for the indefeasible payment in full in cash of the DIP Facility and any and all other amounts due to the DIP Lenders.

Remedies	Upon the occurrence and continuance of an Event of Default beyond the applicable grace period set forth below, DIP Lenders shall be entitled to take all or any of the following actions without further order of or application to the Bankruptcy Court, subject to the Inter-DIP Lender Agreement, as set forth in this DIP Term Sheet: (i) declare the principal of and accrued interest on the outstanding DIP Loans to be immediately due and payable; (ii) terminate the DIP Facility; (iii) implement the default rate of interest on all outstanding DIP Loans; and (iv) take any other action or exercise any other right or remedy (including, without limitation, with respect to the liens in favor of DIP Lenders) permitted under the Bridge Loan Agreement, or by applicable law. Any automatic stay otherwise applicable to DIP Lenders shall be modified so that upon the occurrence of an Event of Default and upon 3 business days' prior written notice of such occurrence (a "Termination Notice"), in each case given to counsel to the Debtor, counsel to the Committee appointed in these proceedings (if any), and the U.S. Trustee, DIP Lenders shall be entitled to exercise customary remedies including, without limitation, the right to realize on all Collateral and the right to exercise any remedy available under applicable law, in each case without obtaining any further relief or order of the Bankruptcy Court unless, within such 3 business day period, the Bankruptcy Court has entered an order to the contrary. Consistent with the foregoing sentence, relief from the stay under section 362 of the Bankruptcy Code in favor of DIP Lenders shall be embodied in any order approving the DIP Facility and the use of cash collateral. The Debtor, and any other party in interest shall be entitled to an emergency hearing before this Court within five (5) calendar days after the Termination Notice is sent by the DIP Lender to counsel for the Debtor, the U.S. Trustee, and counsel to the Committee (if any) (such 5-calendar-day period, the "Default Notice Period"). If an emergency hearing is requested to be heard prior to the expiration of the Default Notice Period, then the Default Notice Period shall automatically be extended until the Bankruptcy Court hears and rules with respect thereto."

Maturity Payment or Conversion	The DIP Facility will mature, terminate, and be fully payable in full upon the earliest to occur of (the “Maturity Date”) (i) the consummation of the Section 363 Transaction; (ii) the substantial consummation of a plan of reorganization filed in the Chapter 11 Case that is confirmed pursuant to an order of the Bankruptcy Court; (iii) 45 days following the Petition Date; or (iv) upon acceleration of the DIP Facility following an Event of Default.
Collateral / Security	The obligations will be secured by first-lien security interest in the DIP Collateral, subject only to (i) the Carve Out and (ii) reasonable and customary permitted liens and encumbrances approved by the DIP Lenders. “DIP Collateral” shall include all assets (whether tangible, intangible, personal or mixed) of the Debtor, whether now owned or hereafter acquired and wherever located, before or after the Petition Date, including, without limitation, all accounts, proceeds of leases, inventory, equipment, deposit, third party deposits, and other accounts, money, equity interests or capital stock in subsidiaries, investment property, instruments, chattel paper, contracts, patents, copyrights, trademarks and other general intangibles, commercial litigation claims, commercial tort claims, farm products, deposit accounts, documents, the proceeds of all claims or causes of action, and all rents, products, offspring, profits, supporting obligations, and proceeds of any and all of the foregoing, and subject to the entry of the Final DIP Order, all claims or causes of action of the Debtor arising under sections 502(d), 542, 544, 545, 547, 548, 549, 550 and 553 of the Bankruptcy Code and any other avoidance or similar action under the Bankruptcy Code or similar state law avoidance actions under chapter 5 of the Bankruptcy Code). In addition, the DIP Lenders shall be granted a lien on any earnest money deposit made by Capillary Technologies LLC in connection with the Section 363 Transaction.
Bridge Loan Agreement	To the extent not inconsistent with the terms hereof, the terms and conditions of the Bridge Loan Agreement are incorporated herein by reference and made a part hereof.

Events of Default	The “Events of Default” set forth in the Bridge Loan Agreement <u>plus</u> the following additional events of default: (a) Failure of Security Interest: If any lien created under the Interim DIP Order or the Final DIP Order, as applicable, or any other security document shall cease to be, or shall be asserted by the Debtor not to be, a valid and perfected lien, with the priority required by the applicable security document, Interim DIP Order, or Final DIP Order; or if any other lien or interest is provided “superpriority” status without consent of the DIP Lenders; (b) Dismissal of Case; Appointment of Trustee: The Chapter 11 Case shall be dismissed or converted to a case under chapter 7 of the Bankruptcy Code or if the Company files a motion or other pleading seeking the dismissal of the Chapter 11 Case or appointment of a trustee under chapter 7 or chapter 11 of the Bankruptcy Code that is not dismissed or overruled within 30 days, unless otherwise with consent of the DIP Lenders; (c) Final DIP Order: The Final DIP Order shall not have been entered by the Bankruptcy Court within 24 days after the entry of the Interim DIP Order, or such later date as the DIP Lenders may agree; (d) Sale Motion: Absent the consent of the DIP Lenders, the Debtor withdraws the Sale Motion and/or proposes an alternative restructuring transaction, chapter 11 plan, or other transaction other than a sale of substantially all assets pursuant to the Sale Motion; (e) Chapter 11 Milestones: The Company fails to meet the Chapter 11 Milestones, as defined above by the times specified below and the DIP Lenders do not consent to an extension thereof; (f) Compliance with Approved Budget: the Debtor’s noncompliance with the Approved Budget which is not curable or, solely if curable, not cured within 2 business days; (g) Relief from Stay: The granting of relief from any stay of proceeding (including, without limitation, the automatic stay) so as to allow a third party to proceed against any assets of the Debtor in excess of \$25,000, in the aggregate; (h) Additional Liens: The filing of a motion by the Debtor, without written consent of the DIP Lenders, to incur debt secured by a lien with priority equal to, or superior to, the DIP Liens, which is given superpriority administrative expense status under section 364(c) of the Bankruptcy Code, unless such motion provides for the proceeds of such debt to be used for the indefeasible payment in full in cash of the DIP Facility and any and all other amounts due to the DIP Lenders.

Remedies	Upon the occurrence and continuance of an Event of Default beyond the applicable grace period set forth below, DIP Lenders shall be entitled to take all or any of the following actions without further order of or application to the Bankruptcy Court, subject to the Inter-DIP Lender Agreement, as set forth in this DIP Term Sheet: (i) declare the principal of and accrued interest on the outstanding DIP Loans to be immediately due and payable; (ii) terminate the DIP Facility; (iii) implement the default rate of interest on all outstanding DIP Loans; and (iv) take any other action or exercise any other right or remedy (including, without limitation, with respect to the liens in favor of DIP Lenders) permitted under the Bridge Loan Agreement, or by applicable law. Any automatic stay otherwise applicable to DIP Lenders shall be modified so that upon the occurrence of an Event of Default and upon 3 business days' prior written notice of such occurrence (a "Termination Notice"), in each case given to counsel to the Debtor, counsel to the Committee appointed in these proceedings (if any), and the U.S. Trustee, DIP Lenders shall be entitled to exercise customary remedies including, without limitation, the right to realize on all Collateral and the right to exercise any remedy available under applicable law, in each case without obtaining any further relief or order of the Bankruptcy Court unless, within such 3 business day period, the Bankruptcy Court has entered an order to the contrary. Consistent with the foregoing sentence, relief from the stay under section 362 of the Bankruptcy Code in favor of DIP Lenders shall be embodied in any order approving the DIP Facility and the use of cash collateral. The Debtor, and any other party in interest shall be entitled to an emergency hearing before this Court within five (5) calendar days after the Termination Notice is sent by the DIP Lender to counsel for the Debtor, the U.S. Trustee, and counsel to the Committee (if any) (such 5-calendar-day period, the "Default Notice Period"). If an emergency hearing is requested to be heard prior to the expiration of the Default Notice Period, then the Default Notice Period shall automatically be extended until the Bankruptcy Court hears and rules with respect thereto."

Maturity Payment or Conversion	The DIP Facility will mature, terminate, and be fully payable in full upon the earliest to occur of (the “Maturity Date”) (i) the consummation of the Section 363 Transaction; (ii) the substantial consummation of a plan of reorganization filed in the Chapter 11 Case that is confirmed pursuant to an order of the Bankruptcy Court; (iii) 45 days following the Petition Date; or (iv) upon acceleration of the DIP Facility following an Event of Default.
Collateral / Security	The obligations will be secured by first-lien security interest in the DIP Collateral, subject only to (i) the Carve Out and (ii) reasonable and customary permitted liens and encumbrances approved by the DIP Lenders. “DIP Collateral” shall include all assets (whether tangible, intangible, personal or mixed) of the Debtor, whether now owned or hereafter acquired and wherever located, before or after the Petition Date, including, without limitation, all accounts, proceeds of leases, inventory, equipment, deposit, third party deposits, and other accounts, money, equity interests or capital stock in subsidiaries, investment property, instruments, chattel paper, contracts, patents, copyrights, trademarks and other general intangibles, commercial litigation claims, commercial tort claims, farm products, deposit accounts, documents, the proceeds of all claims or causes of action, and all rents, products, offspring, profits, supporting obligations, and proceeds of any and all of the foregoing, and subject to the entry of the Final DIP Order, all claims or causes of action of the Debtor arising under sections 502(d), 542, 544, 545, 547, 548, 549, 550 and 553 of the Bankruptcy Code and any other avoidance or similar action under the Bankruptcy Code or similar state law avoidance actions under chapter 5 of the Bankruptcy Code). In addition, the DIP Lenders shall be granted a lien on any earnest money deposit made by Capillary Technologies LLC in connection with the Section 363 Transaction.
Bridge Loan Agreement	To the extent not inconsistent with the terms hereof, the terms and conditions of the Bridge Loan Agreement are incorporated herein by reference and made a part hereof.

Events of Default	The “Events of Default” set forth in the Bridge Loan Agreement <u>plus</u> the following additional events of default: (a) Failure of Security Interest: If any lien created under the Interim DIP Order or the Final DIP Order, as applicable, or any other security document shall cease to be, or shall be asserted by the Debtor not to be, a valid and perfected lien, with the priority required by the applicable security document, Interim DIP Order, or Final DIP Order; or if any other lien or interest is provided “superpriority” status without consent of the DIP Lenders; (b) Dismissal of Case; Appointment of Trustee: The Chapter 11 Case shall be dismissed or converted to a case under chapter 7 of the Bankruptcy Code or if the Company files a motion or other pleading seeking the dismissal of the Chapter 11 Case or appointment of a trustee under chapter 7 or chapter 11 of the Bankruptcy Code that is not dismissed or overruled within 30 days, unless otherwise with consent of the DIP Lenders; (c) Final DIP Order: The Final DIP Order shall not have been entered by the Bankruptcy Court within 24 days after the entry of the Interim DIP Order, or such later date as the DIP Lenders may agree; (d) Sale Motion: Absent the consent of the DIP Lenders, the Debtor withdraws the Sale Motion and/or proposes an alternative restructuring transaction, chapter 11 plan, or other transaction other than a sale of substantially all assets pursuant to the Sale Motion; (e) Chapter 11 Milestones: The Company fails to meet the Chapter 11 Milestones, as defined above by the times specified below and the DIP Lenders do not consent to an extension thereof; (f) Compliance with Approved Budget: the Debtor’s noncompliance with the Approved Budget which is not curable or, solely if curable, not cured within 2 business days; (g) Relief from Stay: The granting of relief from any stay of proceeding (including, without limitation, the automatic stay) so as to allow a third party to proceed against any assets of the Debtor in excess of \$25,000, in the aggregate; (h) Additional Liens: The filing of a motion by the Debtor, without written consent of the DIP Lenders, to incur debt secured by a lien with priority equal to, or superior to, the DIP Liens, which is given superpriority administrative expense status under section 364(c) of the Bankruptcy Code, unless such motion provides for the proceeds of such debt to be used for the indefeasible payment in full in cash of the DIP Facility and any and all other amounts due to the DIP Lenders.

Remedies	Upon the occurrence and continuance of an Event of Default beyond the applicable grace period set forth below, DIP Lenders shall be entitled to take all or any of the following actions without further order of or application to the Bankruptcy Court, subject to the Inter-DIP Lender Agreement, as set forth in this DIP Term Sheet: (i) declare the principal of and accrued interest on the outstanding DIP Loans to be immediately due and payable; (ii) terminate the DIP Facility; (iii) implement the default rate of interest on all outstanding DIP Loans; and (iv) take any other action or exercise any other right or remedy (including, without limitation, with respect to the liens in favor of DIP Lenders) permitted under the Bridge Loan Agreement, or by applicable law. Any automatic stay otherwise applicable to DIP Lenders shall be modified so that upon the occurrence of an Event of Default and upon 3 business days' prior written notice of such occurrence (a "Termination Notice"), in each case given to counsel to the Debtor, counsel to the Committee appointed in these proceedings (if any), and the U.S. Trustee, DIP Lenders shall be entitled to exercise customary remedies including, without limitation, the right to realize on all Collateral and the right to exercise any remedy available under applicable law, in each case without obtaining any further relief or order of the Bankruptcy Court unless, within such 3 business day period, the Bankruptcy Court has entered an order to the contrary. Consistent with the foregoing sentence, relief from the stay under section 362 of the Bankruptcy Code in favor of DIP Lenders shall be embodied in any order approving the DIP Facility and the use of cash collateral. The Debtor, and any other party in interest shall be entitled to an emergency hearing before this Court within five (5) calendar days after the Termination Notice is sent by the DIP Lender to counsel for the Debtor, the U.S. Trustee, and counsel to the Committee (if any) (such 5-calendar-day period, the "Default Notice Period"). If an emergency hearing is requested to be heard prior to the expiration of the Default Notice Period, then the Default Notice Period shall automatically be extended until the Bankruptcy Court hears and rules with respect thereto."

Maturity	The DIP Facility will mature, terminate, and be fully payable in full upon the earliest to occur of (the “Maturity Date”) (i) the consummation of the Section 363 Transaction; (ii) the substantial consummation of a plan of reorganization filed in the Chapter 11 Case that is confirmed pursuant to an order of the Bankruptcy Court; (iii) 45 days following the Petition Date; or (iv) upon acceleration of the DIP Facility following an Event of Default.
Payment or Conversion	
Collateral / Security	The obligations will be secured by first-lien security interest in the DIP Collateral, subject only to (i) the Carve Out and (ii) reasonable and customary permitted liens and encumbrances approved by the DIP Lenders. “DIP Collateral” shall include all assets (whether tangible, intangible, personal or mixed) of the Debtor, whether now owned or hereafter acquired and wherever located, before or after the Petition Date, including, without limitation, all accounts, proceeds of leases, inventory, equipment, deposit, third party deposits, and other accounts, money, equity interests or capital stock in subsidiaries, investment property, instruments, chattel paper, contracts, patents, copyrights, trademarks and other general intangibles, commercial litigation claims, commercial tort claims, farm products, deposit accounts, documents, the proceeds of all claims or causes of action, and all rents, products, offspring, profits, supporting obligations, and proceeds of any and all of the foregoing, and subject to the entry of the Final DIP Order, all claims or causes of action of the Debtor arising under sections 502(d), 542, 544, 545, 547, 548, 549, 550 and 553 of the Bankruptcy Code and any other avoidance or similar action under the Bankruptcy Code or similar state law avoidance actions under chapter 5 of the Bankruptcy Code). In addition, the DIP Lenders shall be granted a lien on any earnest money deposit made by Capillary Technologies LLC in connection with the Section 363 Transaction.
Bridge Loan Agreement	To the extent not inconsistent with the terms hereof, the terms and conditions of the Bridge Loan Agreement are incorporated herein by reference and made a part hereof.

[Signature Page Follows]

IN WITNESS WHEREOF, intending to be legally bound, each of the parties have caused this DIP Term Sheet to be executed as of the date set forth above.

BORROWER:

KOGNITIV US LLC.

By: _____

Name: _____

Title: _____

DIP LENDERS:

GUINES LLC

By: _____

Name: _____

Title: _____

AIMIA

By: _____

Name: _____

Title: _____

Exhibit A

Approved Budget

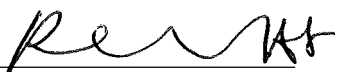
EXHIBIT 2

In re Kognitiv US LLC
Initial DIP Budget

		0	1	2	3	4	5	6	7
(in \$000's USD)	4/2/2025	3/31/2025	4/7/2025	4/14/2025	4/21/2025	4/28/2025	5/5/2025	5/12/2025	5/19/2025
As of		Week of							
Customer Receipts(1)		158	121	185	97	231	0	0	0
DIP loan draws			200			200			
Total Receipts		158	321	185	97	431	0	0	0
Employee Payroll & Benefits		(14)	(4)	(139)	(96)	(689)	(3)	(3)	(3)
Bank Fees		0	0	(4)	0	0	0	(4)	0
Utilities/Vendors/Service Providers		(26)	(1)	(9)	(22)	(5)	(1)	(9)	(1)
Total Operating Disbursements		(40)	(4)	(153)	(118)	(693)	(4)	(16)	(4)
BK Counsel						(250)			
U.S Trustee Fees						(93)			
Total Disbursements		(40)	(4)	(153)	(118)	(1,036)	(4)	(16)	(4)
Beginning Cash		303	421	737	770	749	143	140	123
Net Cash Flow		118	316	32	(21)	(606)	(4)	(16)	(4)
Ending Cash	303	421	737	770	749	143	140	123	119

(1) Assumes sale closing week 4, after which customer receipts transfer to Purchaser

This is Exhibit "U" of
the Affidavit of **GRANT MCLEOD**
Sworn before me this 9th day of February 2026


A Commissioner, etc.

Reem Atallah, a
Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 28, 2026.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

Kognitiv US, LLC,

Debtor.

Chapter 11

Case No. 25-10648 (BLS)

Ref. D.I. 4 & 24

**FINAL ORDER PURSUANT TO 11 U.S.C. §§ 105, 361, 362, 363, 364, 503 AND
507 (I) AUTHORIZING THE DEBTOR TO OBTAIN SENIOR SECURED
SUPERPRIORITY POSTPETITION FINANCING; (II) GRANTING LIENS
AND SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS;
(III) AUTHORIZING USE OF CASH COLLATERAL; (IV) MODIFYING
THE AUTOMATIC STAY; AND (V) GRANTING RELATED RELIEF**

Upon the *Debtor's Motion for Entry of Interim and Final Orders (I) Authorizing the Debtor to Obtain Senior Secured Superpriority Postpetition Financing; (II) Granting Liens and Superpriority Administrative Expense Status; (III) Authorizing Use of Cash Collateral; (IV) Modifying the Automatic Stay; (V) Scheduling a Final Hearing; and (V) Granting Related Relief* (the "Motion")¹ of Kognitiv US, LLC (the "Debtor") in the above-captioned chapter 11 case (the "Chapter 11 Case"), for entry of an interim order (the "Interim Order") and a final order (this "Final Order"), pursuant to sections 105, 361, 362, 363, 364(c)(1), 364(c)(2) 364(c)(3), 364(d), 364(e), 503 and 507 of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2002, 4001(b) and (c), 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rule 4001-2 of the Local Bankruptcy Rules (the "Local Rules") for the United States Bankruptcy Court for the District of Delaware (this "Court"), requesting, among other things:

¹ Each capitalized term used but not defined herein shall have the meaning ascribed to it in the applicable DIP Term Sheet or the Motion, as appropriate.

(1) authorization for the Debtor to obtain postpetition financing pursuant to the DIP Loan Facility (as defined below), consisting of a senior secured super-priority term loan facility (the “DIP Loan Facility”), on the terms and conditions set forth in the term sheet attached to the Interim Order as **Exhibit 1** (as the same may be amended, restated, amended and restated, supplemented, waived, extended, or otherwise modified from time to time, the “DIP Term Sheet,” and, together with any other related loan agreement, documents, security agreements, or pledge agreements, including the Interim Order, this Final Order, and any Approved Budget collectively, the “DIP Loan Documents”), by and among the Debtor and the lender parties thereto (including such lenders’ designees and assignees, the “DIP Lenders”), in an aggregate principal amount of up to \$2,000,000 in term loan commitments, which shall be available as term loans (the “DIP Loans”) to the Debtor upon entry of the Interim Order and satisfaction of the other conditions set forth in the DIP Term Sheet in the principal amount of new money not to exceed \$200,000 (the “Interim DIP Loan”) prior to entry of the Final Order, and the remainder of the DIP Loan Facility available upon entry of this Final Order to the extent set forth herein;

(2) authorization for the Debtor to execute, deliver, and enter into the DIP Loan Documents and to perform all of the Debtor’s respective obligations thereunder, and such other and further acts as may be required in connection with the DIP Loan Documents;

(3) authorization for the Debtor to pay the principal, interest, fees, expenses and other amounts payable to the DIP Lenders pursuant to the DIP Loan Documents, including, without limitation, any principal, interest, fees, costs, expenses, charges, and disbursements of the respective DIP Lenders, including the reasonable and documented fees and expenses of each of the DIP Lenders’ attorneys, advisors, accountants and other consultants (the “DIP Lenders Advisors”), any obligations in respect of indemnity claims, whether contingent or absolute, in

each case, to the extent constituting Debtor's obligations of any kind under the DIP Loan Documents (such obligations, the "DIP Obligations"), which shall include a "rollup" of the Debtor's pre-petition bridge loan in the principal amount of \$1,600,000 (the "Bridge Loan"), whereby any and all pre-petition Bridge Loan obligations, together with accrued and unpaid interest, fees and expenses, shall be fully "rolled" into the DIP Loan Facility;

(4) authorization for the Debtor, immediately upon entry of the Interim Order, to use proceeds of the DIP Loan Facility as expressly provided in the DIP Loan Documents and solely in accordance with the Interim Order and the applicable Approved Budget (as defined below), subject to permitted variances and other exclusions set forth in the DIP Loan Documents, to: (A) pay costs, premiums, fees, and expenses related to the Chapter 11 Case and in connection with the DIP Loan Facility; and (B) provide financing for working capital and for other general corporate purposes of the Debtor;

(5) the grant and approval of superpriority administrative expense claim status, pursuant to sections 364(c)(1), 503(b)(1) and 507(b) of the Bankruptcy Code, to the DIP Lenders, for the benefit of itself in respect of all DIP Obligations, subject only to the Carve-Out (as defined below);

(6) granting the DIP Lenders valid, enforceable, non-avoidable, automatically and fully perfected DIP Liens (as defined below) in all DIP Collateral (as defined below), to secure the DIP Obligations, which DIP Liens shall be subject to the Carve-Out and Permitted Liens (as defined below);

(7) the modification of the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of the Interim Order and the other DIP Loan Documents to the extent hereinafter set forth;

(8) subject to entry of the Final Order, a waiver of the Debtor's ability to surcharge pursuant to section 506(c) of the Bankruptcy Code against any DIP Collateral and any right of the Debtor under the "equities of the case" exception in section 552(b) of the Bankruptcy Code;

(9) this Court's waiver of any applicable stay (including under Bankruptcy Rule 6004) and providing for immediate effectiveness of the Interim Order;

(10) the scheduling of a final hearing on the Motion (the "Final Hearing") to consider entry of the Final Order granting the relief requested in the Motion on a final basis, and approving the form of notice with respect to the Final Hearing; and

(11) granting the Debtor such other and further relief as is just and proper.

The initial hearing on the Motion having been held by this Court on April 4, 2025 (the "Interim Hearing"); the Interim Order having been entered by this Court on April 4, 2025 [D.I. 24]; and notice of entry of the Interim Order, of the Final Hearing, and of the objection deadline for the final relief requested in the Motion having been filed [D.I. 28] and served by the Debtor on all parties entitled receipt thereof [D.I. 36]; and the Court having found that, under the circumstances, due and sufficient notice of the Motion and Final Hearing was provided by the Debtor as set forth in Paragraph D of this Final Order, and upon the record made by the Debtor at the Interim Hearing and/or Final Hearing, including the Motion, the *Declaration of Tim Sullivan in Support of Debtor's Chapter 11 Petition and First-Day Motions* (the "First-Day Declaration"),² any exhibits in connection with the foregoing, and the filings and pleadings in this Chapter 11 Case; the Court having found that the final relief requested in the Motion is fair and reasonable and is in the best interests of the Debtor, the Debtor's bankruptcy estate (as

² Capitalized terms used but not defined herein, in the DIP Term Sheet, or in the Motion shall have the meaning ascribed to them in the First-Day Declaration.

defined under section 541 of the Bankruptcy Code, the “Estate”), its stakeholders and other parties in interest, and represents a sound exercise of the Debtor’s business judgment and is essential for the continued operation and maintenance of the Debtor’s businesses; it appearing to the Court that granting the final relief requested in the Motion is necessary and appropriate under the circumstances; and all objections, if any, to the relief requested in the Motion having been withdrawn, resolved, or overruled by the Court; and after due deliberation sufficient cause appearing therefor;

THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:³

(A) Petition Date. On April 2, 2025 (the “Petition Date”), the Debtor filed a voluntary petition for relief (each, a “Petition”) under chapter 11 of the Bankruptcy Code. The Debtor continues to operate and maintain its business and manage its property as a debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No chapter 11 trustee or examiner has been appointed in the Chapter 11 Case.

(B) Jurisdiction and Venue. This Court has jurisdiction over this Case, the Debtor, property of the Debtor’s Estate and this matter under 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Pursuant to Rule 9013-1(f) of the Local Rules, the Debtor consents to the entry of a final judgment or order with respect to the Motion if it is determined that this Court, absent

³ The findings and conclusions set forth herein constitute the Court’s findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory and legal predicates for the relief sought herein are sections 105, 361, 362, 363, 364, 503 and 507 of the Bankruptcy Code and Bankruptcy Rules 2002, 4001, 6004, 9013 and 9014 and Local Rules 7007-1, 9013-1, 9013-4, and 9014-2.

(C) Committee Formation. As of the date hereof, no official committee of unsecured creditors under section 1102 of the Bankruptcy Code (the “Committee”) or any other statutory committee has been appointed in the Chapter 11 Case.

(D) Notice. Good and sufficient notice of the Motion, the Interim Order, and the Final Hearing under the circumstances has been provided in accordance with the Bankruptcy Code, the Bankruptcy Rules and the Local Rules.

(E) Parties’ Acknowledgments, Agreements, and Stipulations. In requesting the DIP Loan Facility, and in exchange for and as a material inducement to the DIP Lenders to agree to provide the DIP Loan Facility as provided herein, and as a condition to providing financing under the DIP Loan Facility as set forth herein, the Debtor permanently and irrevocably admits, stipulates, acknowledges, and agrees, as follows:

(i) Indemnity. The DIP Lenders have acted in good faith, and without negligence or violation of public policy or law, in respect of all actions taken by them in connection with or related in any way to negotiating, implementing, documenting, or obtaining the requisite approvals of the DIP Loan Facility including in respect of the granting of the DIP Liens, any challenges or objections to the DIP Loan Facility, and all documents related to any and all transactions contemplated by the foregoing. Accordingly, the DIP Lenders shall be and hereby are indemnified and held harmless by the Debtor in respect of any claim or liability

incurred in respect thereof or in any way related thereto, provided that no such parties will be indemnified for any cost, expense, or liability to the extent determined in a final, non-appealable judgment of a court of competent jurisdiction to have resulted primarily from such parties' gross negligence or willful misconduct. No exception or defense exists in contract, law, or equity as to any obligation set forth, as the case may be, in this paragraph E(vi), or in the DIP Loan Documents, to the Debtor's obligation to indemnify and/or hold the DIP Lenders harmless.

(ii) Release. The Debtor, its Estate, on its own behalf and on behalf of each of its past, present and future predecessors, successors, heirs, subsidiaries, and assigns have agreed to provide releases to each of the Released Parties (as defined below) as provided in Section 4.16 of this Final Order.

(F) Findings Regarding the Postpetition Financing.

(i) Request for Postpetition Financing. The Debtor has requested from the DIP Lenders, and the DIP Lenders are willing, subject to the terms of this Final Order and satisfaction of the conditions set forth in the DIP Term Sheet and other DIP Loan Documents, to extend the DIP Loans on the terms and conditions set forth in this Final Order and the DIP Loan Documents, respectively.

(ii) Need for Postpetition Financing. The Debtor does not have sufficient liquidity to operate and maintain its businesses in the ordinary course of business without the financing requested in the Motion. The Debtor's ability to maintain business relationships with vendors, suppliers, and customers, to pay employees, pay certain fees and expenses as set forth herein, and to otherwise fund its operations, prepare for and undertake a sale of assets, and other efforts and activities is essential to the Debtor's continued viability as the Debtor seeks to maximize the value of the assets of the Estate for the benefit of all creditors of the Debtor. The

ability of the Debtor to obtain sufficient working capital and liquidity through the proposed postpetition financing arrangements with the DIP Lenders as set forth in this Final Order, the DIP Term Sheet and the other DIP Loan Documents, as applicable, is vital to the preservation and maintenance of the going concern value of each Debtor. The obligations due under the Bridge Loan are collateralized by a fully secured, first priority lien on all of the Debtor's assets. Accordingly, the Debtor has an immediate need to obtain the postpetition financing as set forth in this Final Order to, among other things, permit the orderly continuation of the operation and maintenance of its business, minimize the disruption of its business operations and other efforts and activities, implement and pursue a comprehensive marketing and sale process, and preserve and maximize the value of the assets of the Debtor's Estate to maximize the recovery to all creditors of the Estate.

(iii) No Credit Available on More Favorable Terms. The Debtor is unable to procure financing (x) in the form of unsecured credit allowable as an administrative expense under sections 364(a), 364(b), or 503(b)(1) of the Bankruptcy Code, (y) solely in exchange for the grant of a superpriority administrative expense under section 364(c)(1) of the Bankruptcy Code, or (z) in exchange for the grant of liens on property of the Estate pursuant to sections 364(c)(2) or 364(c)(3) of the Bankruptcy Code. The Debtor asserts in the Motion and the First-Day Declaration, and demonstrated at the Interim Hearing and/or Final Hearing, that it would be futile under the circumstances for the Debtor to undertake further efforts to seek, and it would not obtain, the necessary postpetition financing, let alone on terms more favorable, taken as a whole, than the financing offered by the DIP Lenders pursuant to the DIP Loan Documents. In light of the foregoing, and considering the futility of all other alternatives, the Debtor has reasonably and properly concluded, in the exercise of its sound business judgment, that the DIP

Loan Facility represents the best financing available to the Debtor at this time, and is in the best interests of the Debtor, its Estate, and all of its stakeholders.

(iv) Budget. The Debtor has prepared and delivered to the DIP Lenders an initial budget (the “Initial Budget”), a copy of which was attached to the Interim Order as **Exhibit 2**. The Initial Budget reflects the Debtor’s anticipated cash receipts and anticipated operating disbursements for a 9 calendar week period (the Initial Budget and each subsequent budget approved by the DIP Lenders and then in effect, the “Approved Budget”). The Debtor believes that the Initial Budget is reasonable under the facts and circumstances. The DIP Lenders are relying upon the Debtor’s agreement to comply with the terms set forth in the DIP Term Sheet, the other DIP Loan Documents, and this Final Order, and with the Approved Budget, in determining to enter into the postpetition financing arrangements provided for herein. The Debtor shall provide the DIP Lenders a revised, rolling proposed budget every 4 weeks after the Petition Date (each, a “Proposed Budget”). If a Proposed Budget is approved by the DIP Lenders, it shall become the Approved Budget. If the DIP Lenders do not approve a Proposed Budget, the last Approved Budget prior to the delivery of the applicable Proposed Budget shall remain the Approved Budget as provided herein.

(v) Sale Process. The DIP Lenders’ willingness to make the DIP Loans on the terms and subject to the conditions set forth in the DIP Term Sheet and this Final Order is predicated upon (i) the Debtor seeking authority to sell all or substantially of its assets pursuant to Section 363 of the Bankruptcy Code (the “Sale”) by filing a motion (the “Sale Motion”) in accordance with the Milestones (as defined below) to approve bidding and sale procedures and the sale of the Debtor’s assets; and (ii) the Debtor’s agreement to the Milestones (as defined

below). Absent such arrangements, the DIP Lenders would not have agreed to make the DIP Loans as provided in the DIP Term Sheet and this Final Order.

(vi) Certain Conditions to DIP Facilities. The DIP Lenders' willingness to make the DIP Loans is conditioned upon, among other things: (a) the Debtor's obtaining Court approval to enter into the DIP Loan Documents and to incur all of the obligations thereunder, and to confer upon the DIP Lenders all applicable rights, powers, and remedies thereunder in each case as modified by this Final Order; (b) the Debtor's obtaining Court approval of and compliance with the "Milestones" set forth in the DIP Term Sheet, which are hereby approved in all respects; and (c) the DIP Lenders being granted, as security for the prompt payment of the DIP Facilities and all other obligations of the Debtor under the DIP Loan Documents, subject to the Carve-Out and Permitted Liens, superpriority, priming, and perfected security interests in and liens upon all property and assets of the Debtor, including, but not limited to, a valid and perfected security interest in and lien upon all of the following now existing or hereafter arising or acquired property and assets: all property and assets of the Debtor, wherever located and whether now existing or owned or hereafter acquired or arising, including, without limitation, all accounts, proceeds of leases, inventory, equipment, deposit and other accounts, deposits tendered by a third party under any asset purchase agreement, money, equity interests or capital stock in subsidiaries, investment property, instruments, chattel paper, contracts, patents, copyrights, trademarks and other general intangibles, commercial litigation claims, commercial tort claims, farm products, deposit accounts, documents, the proceeds of all claims or causes of action, and all rents, products, offspring, profits, supporting obligations, and proceeds of any and all of the foregoing (hereinafter referred to as the "DIP Collateral") which, for avoidance of doubt, shall include the proceeds (the "Avoidance Proceeds") of any claim or cause of action arising under or

pursuant to chapter 5 of the Bankruptcy Code or under any other similar provisions of applicable state, federal, or foreign law (including any other avoidance actions under the Bankruptcy Code, collectively, the “Avoidance Actions”).

(vii) Business Judgment and Good Faith Pursuant to Section 364(e). Any credit extended, loans made, and other financial accommodations extended to the Debtor by the DIP Lenders, including, without limitation, pursuant to this Final Order, have been extended, issued, or made, as the case may be, in “good faith” within the meaning of section 364(e) of the Bankruptcy Code and in express reliance upon the protections offered by section 364(e) of the Bankruptcy Code, and the DIP Loan Facility, the DIP Liens (as defined below), and the DIP Superpriority Claims (as defined below) shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that this Final Order or any provision hereof is vacated, reversed, or modified on appeal or otherwise.

(viii) Sections 506(c) and 552(b). The Debtor has agreed as a condition to obtaining financing under the DIP Loan Facility as set forth in this Final Order that as a material inducement to the DIP Lenders to agree to provide the DIP Facilities as set forth in this Final Order, and in exchange for the DIP Lenders’ willingness to provide the DIP Loan Facility to the extent set forth herein, each of the DIP Lenders are entitled to receive (1) a waiver of any equities of the case exceptions or claims under section 552(b) of the Bankruptcy Code, and (2) a waiver of the provisions of section 506(c) of the Bankruptcy Code.

(ix) Good Cause. Good cause has been shown for the entry of this Final Order. The relief requested in the Motion is necessary, essential, and appropriate and is in the best interest of and will benefit the Debtor, its creditors, and its Estate, as its implementation will, among other things, provide the Debtor with the necessary liquidity to (1) minimize

disruption to the Debtor's business, on-going operations and other applicable activities and efforts, (2) preserve and maximize the value of the Debtor's Estate for the benefit of all the Debtor's creditors, and (3) avoid immediate and irreparable harm to the Debtor, its creditors, its businesses, its employees, and its assets. The terms of the DIP Loan Facility and this Final Order are fair and reasonable, reflect each Debtor's exercise of its business judgment, and are supported by reasonably equivalent value and fair consideration. The DIP Loan Facility and this Final Order are the product of reasonable, arm's length, good faith negotiations between the Debtor and the DIP Lenders.

(x) Immediate Entry. Sufficient cause exists for immediate entry of this Final Order pursuant to Bankruptcy Rule 4001(c)(2). Any objections that were made (to the extent such objections have not been withdrawn, waived, resolved, or settled) are hereby overruled on the merits.

(xi) Interim and Final Hearings. Notice of the Interim Hearing and the relief requested in the Motion has been provided by the Debtor, whether by facsimile, electronic mail, overnight courier or hand delivery, to the Notice Parties.⁴ Notice of the Final Hearing, the relief requested in the Motion, and the objection deadline with respect to the same has been provided by the Debtor, whether by facsimile, electronic mail, overnight courier, hand delivery, or regular mail, to all parties entitled to receipt thereof.

Based upon the foregoing, and upon the record made before the Court at the Interim Hearing and/or Final Hearing and after due consideration and good cause appearing therefor;

⁴ "Notice Parties" means the (i) the Office of the United States Trustee for the District of Delaware; (ii) the Office of the United States Attorney for the District of Delaware; (iii) the Internal Revenue Service; (iv) the Debtor's twenty largest unsecured creditors; (v) counsel to the DIP Lenders; and (vi) all parties who have filed a notice of appearance and request for service of papers pursuant to Bankruptcy Rule 2002.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

Section 1. Authorization and Conditions to Financing.

1.1 Motion Granted. The Motion is granted solely to the extent provided in this Final Order. Any objections to the entry of this Final Order that have not been withdrawn, waived, resolved, or settled, and all reservations of rights included therein, are hereby denied and overruled on the merits.

1.2 Authorization of DIP Financing.

(a) The Debtor was previously authorized by the Interim Order to execute and deliver the DIP Loan Documents and to immediately borrow and incur, under the DIP Loan, pursuant to the terms and conditions of the DIP Term Sheet, DIP Loan Documents, the Interim Order and the Approved Budget, in an aggregate principal amount not to exceed \$2,000,000, with such Interim DIP Loan to be made following entry of the Interim Order and satisfaction of the other conditions set forth in the DIP Loan Documents and in accordance with the Approved Budget.

(b) The Debtor was previously authorized by the Interim Order to (i) borrow under the DIP Loan Facility during the period (the “Interim Financing Period”) commencing on the date of the Interim Order through and including the earlier to occur of (x) the date of entry of the Final Order or (y) the occurrence of a DIP Termination Event (as defined below) solely in accordance with, and for the purposes permitted by, the DIP Loan Documents, the Interim Order and the Approved Budget, and (ii) pay all interest, costs, fees, and other amounts and obligations accrued or accruing under the DIP Term Sheet and other DIP Loan Documents, all pursuant to the terms and conditions of the Interim Order, the Approved Budget, the DIP Term Sheet, and

the other DIP Loan Documents. The Initial Budget was approved in all respects by the Interim Order.

1.3 Financing Documents.

(a) Authorization. The Debtor was previously authorized by the Interim Order, and hereby is further authorized, to enter into, execute, deliver, and perform all obligations under the DIP Loan Documents. No obligation, payment, transfer, or grant of security hereunder or under the DIP Loan Documents shall be stayed, restrained, voidable, avoidable, or recoverable under the Bankruptcy Code or under any applicable state, federal, or foreign law (including, without limitation, under chapter 5 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act, or similar statute or foreign law), or be subject to any defense, reduction, setoff, counterclaim, recoupment, offset, recharacterization, subordination (whether equitable, contractual or otherwise), cross-claims, or any other challenge under the Bankruptcy Code or any applicable law, rule, or regulation by any person or entity.

(b) Approval; Evidence of Borrowing Arrangements. The DIP Loan Documents and DIP Obligations shall be valid, binding, and enforceable against the Debtor, its Estate, and any successors thereto, including, without limitation, any trustee appointed in any of this Chapter 11 Case or any case under chapter 7 of the Bankruptcy Code upon the conversion of this Chapter 11 Case (the “Successor Case”), and its creditors and other parties in interest, in each case, in accordance with the terms of this Final Order and the DIP Loan Documents.

(c) Payment of DIP Interest, Fees, and Other Expenses. Any and all interest, fees, and expenses payable pursuant to the DIP Loan Documents or considered a DIP Obligation (including all reasonable and documented out-of-pocket costs, disbursements, and expenses of

the DIP Lenders) (the “DIP Fees”), whether or not such fees arose before or after the Petition Date are hereby approved and the Debtor is hereby authorized and directed to pay, in the manner provided by the DIP Term Sheet, the other DIP Loan Documents and this Final Order in accordance with Section 4.15 hereof. The DIP Fees shall not be subject to any offset, defense, claim, counterclaim, or diminution of any type, kind, or nature whatsoever. Beyond the payment of fees and expenses of the DIP Lenders Advisors, the DIP Loan Documents do not provide for inclusion of any other fees.

(d) Amendments to DIP Loan Documents. Subject to the terms and conditions of the applicable DIP Loan Documents, the Debtor and the DIP Lenders may make amendments, modifications, or supplements to any DIP Loan Document, and the DIP Lenders may waive any provisions in the DIP Loan Documents, without further approval of the Court; provided that any amendments, modifications, or supplements to any DIP Loan Document that operates to increase the aggregate commitments, the rate of interest payable thereunder, or existing fees or add new fees thereunder (excluding, for the avoidance of doubt, any amendment, consent or waiver fee) other than as currently provided in the DIP Loan Documents (collectively, the “Material DIP Amendments”), shall be filed and subject to approval by the Court, and the Debtor shall provide prior written notice of the Material DIP Amendment to (i) counsel to the DIP Lenders, (ii) counsel to the Committee, or, in the event no such Committee is appointed at the time of such Material DIP Amendment, the 20 Largest Unsecured Creditors, and (iii) the U.S. Trustee; *provided, further*, that the consent of the foregoing parties will not be necessary to effectuate any such amendment, modification or supplement.

1.4 Indemnification. The Debtor shall indemnify and hold harmless each DIP Lender, and, solely in their capacities as such, each of their respective successors, assigns, affiliates,

parents, subsidiaries, partners, controlling persons, representatives, agents, attorneys, advisors, financial advisors, consultants, professionals, officers, directors, members, managers, shareholders and employees, past, present and future, and their respective heirs, predecessors, successors and assigns (each, an “Indemnified Party”), in accordance with, and subject to, the DIP Loan Documents.

Section 2. Postpetition Lien; Superpriority Administrative Claim Status.

2.1 Postpetition Lien.

(a) Postpetition DIP Lien Granting. To secure performance and payment when due (whether at the stated maturity, by acceleration or otherwise) of any and all DIP Obligations of the Debtor to the DIP Lenders of whatever kind, nature, or description, whether absolute or contingent, now existing or hereafter arising, the DIP Lenders shall have and are hereby granted, effective as of the Petition Date, continuing, valid, binding, enforceable, non-avoidable, and automatically and properly perfected postpetition security interests in and liens on and upon all DIP Collateral (the “DIP Liens”), subject to Carve-Out (as defined herein) and the Permitted Liens.⁵

(b) DIP Lien Priority in DIP Collateral.

(i) DIP Loans Lien Ranking and Priority. The DIP Liens on the DIP Collateral securing the DIP Obligations shall be first and senior in priority to all other interests and liens of every kind, nature, and description, whether created consensually, by an order of the Court or otherwise, including, without limitation, liens or security interests granted in favor of third parties in conjunction with sections 363, 364, or any other section of the Bankruptcy Code

⁵ For purposes of this Final Order, “Permitted Liens” shall mean any liens that are senior by operation of law (including any such liens that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code) or that were, as of the Petition Date, valid, properly perfected, and non-avoidable.

or other applicable law; *provided, however*, that (A) the DIP Liens shall be subject to the Carve-Out and Permitted Liens; (B) assets of the Debtor (the “Non-Lender Encumbered Assets”) that were subject to validly perfected liens or security interests as of the Petition Date (the “Non-Lender Existing Liens”) shall be subject to such Non-Lender Existing Liens and the Carve-Out; and (C) any other assets of the Debtor (“Unencumbered Assets”) that were not subject to any validly perfected liens or security interest as of the Petition Date (including Avoidance Proceeds) shall be subject to the Carve-Out.

(c) Postpetition Lien Perfection. This Final Order shall be sufficient and conclusive evidence of the priority, perfection, and validity of the DIP Liens, and the other security interests granted herein, effective as of the Petition Date, which liens and security interests are automatically perfected, without any further act and without regard to any other federal, state, or local requirements or law requiring notice, filing, registration, recording, or possession of the DIP Collateral, or other act to validate or perfect such security interest or lien, including, without limitation, control agreements with any financial institution(s), or requirement to register liens on any certificates of title (a “Perfection Act”). Notwithstanding the foregoing, if the DIP Lenders shall, in their sole discretion, elect for any reason to file, record, or otherwise effectuate any Perfection Act, then the DIP Lenders are authorized to perform such act, and the Debtor is authorized and directed to perform such act to the extent required by the DIP Lenders, which act or acts shall be deemed to have been accomplished as of the date and time of entry of this Final Order notwithstanding the date and time actually accomplished, and, in such event, the subject filing or recording office is authorized to accept, file, or record any document in regard to such act in accordance with applicable law. The DIP Lenders may choose to file, record, or present a certified copy of this Final Order in the same manner as a Perfection Act, which shall

be tantamount to a Perfection Act, and, in such event, the subject filing or recording office is authorized to accept, file, or record such certified copy of this Final Order in accordance with applicable law. Should the DIP Lenders so choose and attempt to file, record, or perform a Perfection Act, no defect or failure in connection with such attempt shall in any way limit, waive, or alter the validity, enforceability, attachment, priority, or perfection of the postpetition liens and security interests granted herein by virtue of the entry of this Final Order.

(d) To the extent that any applicable non-bankruptcy law otherwise would restrict the granting, scope, enforceability, attachment, or perfection of any liens and security interests granted and created by this Final Order (including the DIP Liens) or otherwise would impose filing or registration requirements with respect to such liens and security interests, such law is hereby preempted to the maximum extent permitted by the Bankruptcy Code, applicable federal or foreign law, and the judicial power and authority of this Court; *provided, however*, that nothing herein shall excuse the Debtor from payment of any local fees, if any, required in connection with such liens. By virtue of the terms of this Final Order, to the extent that the DIP Lenders file or have filed Uniform Commercial Code financing statements, mortgages, deeds of trust, or other security or perfection documents under the names of any of the Debtor, such filings shall be deemed to properly perfect its liens and security interests granted and confirmed by this Final Order without further action by the DIP Lenders.

(e) Except as provided in this Final Order, the DIP Liens and the DIP Superpriority Claims (as defined below) (i) shall not be made subject to or *pari passu* with (A) any lien, security interest, or claim heretofore or hereinafter granted in any of this Chapter 11 Case or any Successor Case and shall be valid and enforceable against the Debtor, its Estate, any trustee, or any other estate representative appointed or elected in this Chapter 11 Case or any

Successor Case and/or upon the dismissal of any of this Chapter 11 Case or any Successor Case; (B) any lien that is avoided and preserved for the benefit of the Debtor and its Estate under section 551 of the Bankruptcy Code or otherwise; and (C) any intercompany or affiliate lien or claim; and (ii) shall not be subject to sections 510, 549, 550, or 551 of the Bankruptcy Code.

2.2 Superpriority Administrative Expenses.

(a) DIP Loans. Subject to the Permitted Liens and the Carve-Out, on account of all DIP Obligations now existing or hereafter arising pursuant to this Final Order, the DIP Loan Documents, or otherwise, the DIP Lenders are granted allowed superpriority administrative expense claims pursuant to section 364(c)(1) of the Bankruptcy Code, having priority in right of payment over any and all other obligations, liabilities, and indebtedness of the Debtor, whether now in existence or hereafter incurred by the Debtor, and over any and all administrative expenses or priority claims of the kind specified in, or ordered pursuant to, *inter alia*, sections 105, 326, 328, 330, 331, 364(c)(1), 365, 503(b), 507(a), 507(b), 546(c), 1113, or 1114 of the Bankruptcy Code, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy, or attachment, which allowed superpriority administrative claim shall be payable from and have recourse to all prepetition and postpetition property of the Debtor and all proceeds thereof (including, subject to entry of the Final Order, Avoidance Proceeds) (the “DIP Superpriority Claims”).

2.3 Carve-Out Provisions.

(a) Definitions; No Independent Obligation. For the purposes of this Final Order, the “Carve-Out” means the sum of (i) all fees required to be paid to the Clerk of the Court (“Court Fees”) and all statutory fees required to be paid to the Office of the United States Trustee (the “U. S. Trustee”) under section 1930(a) of title 28 of the United States Code plus interest at

the statutory rate (“US Trustee Fees”) (without regard to the notice set forth in (iv) below), (ii) all reasonable fees and expenses up to \$25,000 incurred by a trustee under section 726(b) of the Bankruptcy Code (the “Chapter 7 Trustee Carve-Out”), (iii) up to the amounts allowed by the Court pursuant to a fee application on notice or other procedure permitted by any Court order allowing interim compensation or the payment of fees of ordinary course professionals, whether by interim order, final order, procedural order, or otherwise, all reasonable and documented unpaid fees and expenses, all unpaid fees and expenses (the “Allowed Professional Fees”) incurred by persons or firms retained by the Debtor pursuant to section 327, 328, or 363 of the Bankruptcy Code (the “Debtor Professionals”) at any time on or before one business day following delivery by the DIP Lenders of a Carve-Out Trigger Notice (as defined below), whether allowed by the Court prior to or after delivery of a Carve-Out Trigger Notice, and (iv) professional fees of the Debtor Professionals in an aggregate amount not to exceed \$50,000 incurred after delivery by the DIP Lenders of a Carve-Out Trigger Notice (the amount set forth in this clause (iv) being collectively, the “Post Carve-Out Trigger Notice Cap”); *provided that*, nothing herein shall be construed to impair any party’s ability to object to court approval of the fees, expenses, reimbursement of expenses or compensation of any Professional. For purposes of the foregoing, “Carve-Out Trigger Notice” shall mean a written notice delivered by email by the DIP Lenders to the Debtor, its lead restructuring counsel, the U.S. Trustee, and counsel to the Committee, if any (collectively, the “Carve-Out Trigger Notice Parties”), which notice may be delivered following the occurrence and during the continuation of an Event of Default, and shall describe in reasonable detail the Event of Default that is alleged to have occurred and be continuing and stating that the Post-Carve-Out Trigger Notice Cap has been invoked. None of the DIP Lenders shall be responsible for the payment or reimbursement of any fees or

disbursements of any Professional incurred in connection with the Chapter 11 Case or any Successor Case under any chapter of the Bankruptcy Code, other than payment or reimbursement of any fees or disbursements from proceeds of DIP Collateral to the extent of the Carve-Out. Nothing in this Final Order or otherwise shall be construed to obligate the DIP Lenders to pay compensation to, or to reimburse expenses of, any Professional or to guarantee that the Debtor have sufficient funds to pay such compensation or reimbursement. The DIP Lenders reserve the right to review and object to any fee statement, interim application, or monthly application issued or filed by the Professionals.

(b) In no way shall the Approved Budget or the Carve-Out be construed as a cap or limitation on the amount of Court fees, U.S. Trustee fees, or allowed Professional Fees that may be payable by the Debtor, or to impair the right of any party in interest to object to the allowance of any Professional Fees.

Section 3. DIP Termination Events; Waivers; Rights and Remedies; Relief from Stay.

3.1 DIP Termination Events. Each of the following shall constitute a “DIP Termination Event” unless waived in writing by the DIP Lenders and in accordance with the applicable DIP Loan Documents: (i) the occurrence of any “Event of Default” as that term is defined in the DIP Term Sheet; (ii) any failure to meet or satisfy any Milestone in accordance with the DIP Term Sheet; (iii) the occurrence of the “Maturity Date” as defined in the DIP Term Sheet; (iv) any material violation, breach, or default by any Debtor with respect to any of its obligations under this Final Order or the DIP Loan Documents, (v) the termination of the DIP Loan Documents, or the modification of the DIP Loan Documents or this Final Order in a manner adverse to the DIP Lenders without the prior written consent of the DIP Lenders, (vi) entry of any order authorizing any party in interest to reclaim any of the DIP Collateral, granting

any party in interest relief from the automatic stay with respect to the DIP Collateral, or requiring that the Debtor turn over any of the DIP Collateral having value alone or in the aggregate in excess of \$100,000, in each case prior to full, final and indefeasible repayment of all DIP Obligations; (vii) conversion of the Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code; (viii) a trustee is appointed or elected in the Chapter 11 Case, or an examiner with the power to operate the Debtor's business is appointed in the Chapter 11 Case; (xi) absent the consent of the DIP Lenders, the Debtor withdraw the Sale Motion and/or propose an alternative restructuring transaction, chapter 11 plan or course of this Chapter 11 Case other than a sale of substantially all assets pursuant to the Sale Motion (any such event, an "Alternative Transaction") that, in any case, does not provide for the repayment in full, in cash, of the DIP Obligations substantially contemporaneously with such withdrawal of the Sale Motion or proposal of such Alternative Transaction; and (xii) any modification, amendment, vacatur or stay of this Final Order in any manner not consented to in writing by the DIP Lenders.

3.2 Rights and Remedies upon a DIP Termination Event. Upon the expiration of five (5) business days following the delivery of a written notice to counsel for the Debtors, the U.S. Trustee, and the Committee, if any, by the DIP Lenders of the occurrence of a DIP Termination Event, and during the continuance of a DIP Termination Event (the "Default Notice Period"), the DIP Lenders shall be entitled to independently take any act or exercise any right or remedy as provided in this Final Order or under any respective DIP Loan Documents, as applicable, including, without limitation, the following: (i) declare all DIP Obligations owing under the DIP Loan Documents to be immediately due and payable; (ii) terminate, reduce, or restrict any commitment to extend additional credit to the Debtor to the extent any such commitment remains; (iii) terminate the DIP Facilities and any DIP Loan Document as to any future liability

or obligation of the DIP Lenders, but without affecting any of the DIP Obligations or the DIP Liens securing the DIP Obligations; (iv) invoke the right to charge interest at the default rate under the DIP Loan Documents; and/or (v) stop lending. The Debtor and, a Committee (if any) shall be entitled to an emergency hearing before this Court within the Default Notice Period (subject to the Court's availability). If an emergency hearing is requested to be heard prior to the expiration of the Default Notice Period, then the Default Notice Period shall automatically be extended until the Court hears and rules with respect thereto. If the Debtor, the Committee (if any), or any other party in interest does not contest the occurrence of the Event of Default within the Default Notice Period or if there is a timely contest of the occurrence of an Event of Default and the Court after notice and a hearing declines to stay the enforcement thereof, a termination date (the "Termination Date") shall be deemed to have occurred for all purposes and the automatic stay shall be modified to permit the DIP Lenders to exercise all remedies under the DIP Orders, the other DIP Loan Documents (including the DIP Term Sheet), and applicable law, including, without limitation, to (i) set-off any and all amounts in accounts maintained by the Debtor with the DIP Lenders or subject to the control of the DIP Lenders against the DIP Obligations, (ii) to otherwise enforce any and all rights against the DIP Collateral in the possession of any of the applicable DIP Lenders, including, without limitation, disposition of the DIP Collateral solely for application towards the DIP Obligations; and (iii) take any other actions or exercise any other rights or remedies permitted under the DIP Orders, the other DIP Loan Documents (including the DIP Term Sheet), or applicable law to effect the repayment of the DIP Obligations. Nothing herein shall preclude the DIP Lenders from seeking an order from the Court upon written notice (which may be sent by e-mail) to the U.S. Trustee, counsel to the Debtor, and counsel to the Committee (if any) authorizing the DIP Lenders to exercise any

enforcement rights or remedies with respect to the DIP Collateral on less than five (5) calendar days' notice or the Debtor's right to contest such relief.

3.3 Modification of Automatic Stay. The automatic stay provisions of section 362 of the Bankruptcy Code and any other restriction imposed by an order of the Court or applicable law are hereby modified without further notice, application, or order of the Court to the extent necessary to (i) permit the DIP Lenders to perform any act authorized or permitted under or by virtue of this Final Order, the DIP Term Sheet, or the other DIP Loan Documents, as applicable, including, without limitation, (i) to implement the postpetition financing arrangements authorized by this Final Order, (ii) to take any act to create, validate, evidence, attach or perfect any lien, security interest, right or claim in the DIP Collateral, and (iii) subject to the Default Notice Period, to take any action and exercise all rights and remedies provided to it by this Final Order, the DIP Loan Documents, or applicable law.

Section 4. Other Rights and DIP Obligations.

4.1 No Modification or Stay of this Final Order. The DIP Lenders have acted in good faith in connection with the DIP Loan Facility and with this Final Order, and their reliance on this Final Order is in good faith, and the DIP Lenders are entitled to the protections of section 364(e) of the Bankruptcy Code.

4.2 Rights of Access and Information. The Debtor shall comply with the rights of access and information afforded to the DIP Lenders under the DIP Loan Documents.

4.3 Power to Waive Rights; Duties to Third Parties.

(a) Subject to the terms of the DIP Loan Documents, the DIP Lenders shall have the right to waive any of the terms, rights, and remedies provided or acknowledged in this Final Order that are in favor of the DIP Lenders (the "DIP Lender Rights"), and shall have no

obligation or duty to any other party with respect to the exercise or enforcement, or failure to exercise or enforce, any DIP Lender Rights. Any waiver of any DIP Lender Rights shall not be nor shall it constitute a continuing waiver unless otherwise expressly provided therein. Any delay in or failure to exercise or enforce any DIP Lender Right shall neither constitute a waiver of such DIP Lender Right, subject any DIP Lender to any liability to any other party, nor cause or enable any party other than the Debtor to rely upon or in any way seek to assert as a defense to any obligation owed by the Debtor to any DIP Lender.

4.4 No Unauthorized Disposition of Collateral.

(a) The Debtor shall not sell, transfer, lease, encumber, use, or otherwise dispose of any portion of the DIP Collateral, other than pursuant to the terms of this Final Order or as permitted by the DIP Loan Documents and the Approved Budget (including permitted variances and exclusions to the Approved Budget permitted thereunder).

(b) Notwithstanding anything herein to the contrary, no portion of the proceeds of the DIP Loan Facility or the DIP Collateral may be used for the payment of professional fees, disbursements, costs, or expenses incurred by any person in connection with (i) preventing, hindering, impeding, or delaying any of the DIP Lenders' enforcement or realization upon, or exercise of rights in respect of, any of the DIP Collateral other than to seek a determination that a DIP Termination Event has not occurred or is not continuing or in connection with a remedies hearing, (ii) seeking to amend or modify any of the rights or interests granted to the DIP Lenders under this Final Order or the DIP Loan Documents, (iii) asserting, commencing, or prosecuting any claims or causes of action, including, without limitation, any actions under chapter 5 of the Bankruptcy Code (or any similar law) against any DIP Lenders or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors, or

employees, or (iv) asserting, joining, commencing, supporting, investigating, or prosecuting any other action for any claim, counterclaim, action, cause of action, proceeding, application, motion, objection, defense, or other contested matter seeking any order, judgment, determination, or similar relief against, or adverse to the material interests of any DIP Lenders, arising out of, in connection with, or relating to the DIP Loan Documents, or the transactions contemplated thereunder, including, without limitation, (A) any action arising under the Bankruptcy Code, (B) any so-called “lender liability” claims and causes of action, (C) any action with respect to the validity and extent of the DIP Obligations or the validity, extent, perfection and priority of the DIP Liens, (D) any action seeking to invalidate, set aside, avoid, reduce, set off, offset, re-characterize, subordinate (whether equitable, contractual, or otherwise), recoup against, disallow, impair, raise any defenses, cross-claims, or counterclaims, or raise any other challenges under the Bankruptcy Code or any other applicable domestic or foreign law or regulation against, or with respect to, the DIP Liens, in whole or in part, or (E) appeal or otherwise challenge this Final Order.

4.5 No Waiver. The failure of the DIP Lenders, as applicable, to seek relief or otherwise exercise their rights and remedies under the DIP Loan Documents, the DIP Facilities or this Final Order, as applicable, shall not constitute a waiver of any of the DIP Lenders’ rights hereunder, thereunder, or otherwise. Notwithstanding anything herein, the entry of this Final Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, or otherwise impair the rights of the DIP Lenders under the Bankruptcy Code or under non-bankruptcy law, including, without limitation, the rights of the DIP Lenders to: (a) request conversion of the Chapter 11 Case to a case under chapter 7, dismissal of the Chapter 11 Case, or the appointment of a trustee in the Chapter 11 Case; (b) propose, subject to the provisions of

section 1121 of the Bankruptcy Code, a plan; or (c) exercise any of the rights, claims, or privileges (whether legal, equitable, or otherwise) of the DIP Lenders.

4.6 Maintenance of Collateral. Unless the DIP Lenders otherwise consent in writing, until (i) the payment in full or otherwise acceptable satisfaction of all DIP Obligations and (ii) the termination of the DIP Lenders' obligations to extend credit under the DIP Loan Facility, the Debtor shall comply with the covenants contained in the DIP Loan Documents regarding the maintenance and insurance of the DIP Collateral. Upon entry of this Final Order and to the fullest extent provided by applicable law, the DIP Lenders shall be, and shall be deemed to be, without any further action or notice, named as additional insureds and loss payees on each insurance policy maintained by the Debtor that in any way relates to the DIP Collateral.

4.7 Reporting; Access. The Debtor shall provide the DIP Lenders with (a) reasonable access to the Debtor's facilities, management, books, and records; (b) no less than once per week (or more frequently as the DIP Lenders may reasonably require), the Debtor shall make its senior management and advisors available, at reasonable times and upon reasonable notice, to the DIP Lenders to discuss the financial position, cash flows, variances, operations, sale process and general case status of the Debtor and such other matters as the DIP Lenders may require; (c) no less than once a week deliver a statement certifying that no Event of Default has occurred, or if an Event of Default has occurred, specifying the nature and extent thereof; (d) deliver each of the reporting requirements and other items as set forth under "Approved Budget" in the DIP Term Sheet on such dates and in such forms as to be mutually agreed upon by the DIP Lenders and the Debtor, each in consultation with their respective professionals; and (e) provide any other information relating to the business, financial, legal, or corporate affairs of the Debtor upon reasonable request of the DIP Lenders. The Debtor is also directed to allow the DIP Lenders

(and their representatives and advisors), reasonable access to all of the premises, information systems (including any data room maintained by the Debtor or its professionals), facilities, management, books, and records for the purpose of enabling DIP Lenders to inspect, appraise and audit the DIP Collateral.

4.8 Reservation of Rights. The terms, conditions, and provisions of this Final Order are in addition to and without prejudice to the rights of each DIP Lender to pursue any and all rights and remedies under the Bankruptcy Code, the DIP Loan Documents, or any other applicable agreement or law, including, without limitation, to seek relief from the automatic stay, to seek an injunction, to oppose granting of any interest in the DIP Collateral or priority in favor of any other party, to object to any sale of assets, and to object to applications for allowance and/or payment of compensation of professionals or other parties seeking compensation or reimbursement from the Estate.

4.9 Binding Effect.

(a) All of the provisions of this Final Order and the DIP Loan Documents, the DIP Obligations, all liens, and claims granted hereunder in favor of each of the DIP Lenders, and any and all rights, remedies, privileges, immunities and benefits in favor of the DIP Lenders set forth herein, including, without limitation, the parties' acknowledgements, stipulations, and agreements in Paragraph E of this Final Order (without each of which the DIP Lenders would not have entered into or provided funds under the DIP Loan Documents) provided or acknowledged in this Final Order, and any actions taken pursuant thereto, shall be effective and enforceable as of the Petition Date immediately upon entry of this Final Order and not subject to any stay of execution or effectiveness (all of which are hereby waived), notwithstanding Bankruptcy Rules 4001(a)(3), 6004(h), 6006(d), 7062, and 9024, or any other Bankruptcy Rule, or Rule 62(a) of the

Federal Rules of Civil Procedure, shall continue in full force and effect, and shall survive entry of any other order or action, including, without limitation, any order which may be entered confirming any chapter 11 plan providing for the refinancing, repayment, or replacement of the DIP Obligations, converting one or more of the Chapter 11 Case to any other chapter under the Bankruptcy Code, dismissing one or more of the Chapter 11 Case, approving any sale of any or all of the DIP Collateral, or vacating, terminating, reconsidering, revoking, or otherwise modifying this Final Order or any provision hereof. For the avoidance of doubt, each of the provisions, protections, grants, statements, stipulations, and agreements in the Interim Order is hereby affirmed and shall remain in effect following entry of this Final Order.

(b) Nothing in this Chapter 11 Case may impair the DIP Superpriority Claim, and the DIP Lenders' liens on and security interests in the DIP Collateral, and all other claims, liens, and other rights granted pursuant to the terms of this Final Order, which shall continue in full force and effect notwithstanding such dismissal until the DIP Obligations are indefeasibly paid and satisfied in full in cash. Notwithstanding any such dismissal, this Court shall retain jurisdiction for the purposes of enforcing all such claims, liens, protections, and rights referenced in this paragraph and otherwise in this Final Order.

(c) Except as set forth in this Final Order, in the event this Court modifies, reverses, vacates, or stays any of the provisions of this Final Order or any of the DIP Loan Documents, such modifications, reversals, vacatur, or stays shall not affect the (i) validity, priority, or enforceability of any DIP Obligations incurred prior to the actual receipt of written notice by the DIP Lenders, as applicable, of the effective date of such modification, reversal, vacatur, or stay, (ii) validity, priority, or enforceability of the DIP Liens or the DIP Superpriority Claims, or (iii) rights or priorities of any DIP Lender pursuant to this Final Order with respect to

the DIP Collateral or any portion of the DIP Obligations. All such liens, security interests, claims and other benefits shall be governed in all respects by the original provisions of this Final Order, and the DIP Lenders shall be entitled to all the rights, remedies, privileges and benefits granted hereto, including the liens and priorities granted herein.

(d) This Final Order shall be binding upon the Debtor, all parties in interest in the Chapter 11 Case, and their respective successors and assigns, including, without limitation, (i) any trustee or other fiduciary appointed in the Chapter 11 Case or any subsequently converted bankruptcy case(s) of any Debtor and (ii) any liquidator, receiver, administrator, or similar such person or entity appointed in any jurisdiction or under any applicable law. This Final Order shall also inure to the benefit of the Debtor, the DIP Lenders, and each of their respective successors and assigns.

4.10 No Discharge. The DIP Obligations and the obligations of the Debtor with respect to the protections hereunder shall not be discharged by the entry of an order confirming any plan of reorganization in any of this Chapter 11 Case, notwithstanding the provisions of section 1141(d) of the Bankruptcy Code, unless such obligations have been indefeasibly paid in full in cash, on or before the effective date of such confirmed plan of reorganization, or each of the DIP Lenders has otherwise agreed in writing.

4.11 Section 506(c) Waiver. No costs or expenses of administration which have been or may be incurred in this Chapter 11 Case at any time (including, without limitation, any costs and expenses incurred in connection with the preservation, protection, or enhancement of value by the DIP Lenders upon the DIP Collateral) shall be charged against any of the DIP Lenders, or any of the DIP Obligations or the DIP Collateral pursuant to sections 105 or 506(c) of the Bankruptcy Code or otherwise without the prior express written consent of the affected DIP

Lenders, in their sole discretion, and no such consent shall be implied, directly or indirectly, from any other action, inaction, or acquiescence by any such agents or creditors (including, without limitation, consent to the Carve-Out or the approval of any budget hereunder).

4.12 No Marshaling/Application of Proceeds.

(a) In no event shall the DIP Lenders be subject to the equitable doctrine of “marshaling” or any similar doctrine with respect to the DIP Collateral, and all proceeds shall be received and applied in accordance with the DIP Loan Documents.

(b) Notwithstanding anything to the contrary in this Final Order, but subject in all respects to the Carve-Out and the Permitted Liens, the respective DIP Obligations shall be satisfied from the proceeds of DIP Collateral.

4.13 Right to Credit Bid; Stalking Horse. The Debtor acknowledges and agrees that, pursuant to Section 363(k) of the Bankruptcy Code, the DIP Lenders shall have the right to credit bid up to the full amount of the DIP Obligations in connection with any sale of the Debtor’s assets other than pursuant to the Sale Motion, or included as part of any chapter 11 plan, or by a chapter 7 Trustee under section 725 of the Bankruptcy Code (an “Asset Sale”), without need for further court order. The Debtor shall not object to any DIP Lender bidding up to the full amount of the applicable outstanding DIP Obligations, including any accrued interest, fees, and expenses, in any sale of DIP Collateral. If the DIP Lenders make a credit bid in connection with any auction or other sale process relating to the sale or other disposition of any DIP Collateral, then for the purposes of such auction or sale process, the DIP Lenders shall be deemed to be a “qualified bidder” and its bid shall be a “qualified bid” so long as such bid provides for the payment of all allowed closing costs, including any fee awarded by the Court to the Debtor’s investment banker, related to the Asset Sale regardless of whether any other qualified bid

requirements are satisfied; provided that nothing herein shall be deemed to be a waiver by DIP Lenders or any other party to object to any retention application or closing costs and fees sought by Debtor's investment banker. The DIP Lenders will be granted the right of first refusal to act as a stalking horse bidder for the purchase of substantially all of the Company's assets through the Section 363 sale (the "Stalking Horse").

4.14 Payment of DIP Lenders' Fees and Expenses.

(a) Subject to Section 4.14(c) of this Final Order, the Debtor shall pay (i) the reasonable and documented fees and expenses reimbursable under the DIP Loan Facility, the DIP Term Sheet, or the other DIP Loan Documents, including the Bridge Loan, as applicable, whether incurred before or after the Petition Date and (ii) all reasonable and documented out-of-pocket costs and expenses of the DIP Lenders including, without limitation, reasonable and documented fees and disbursements of counsel in connection with the enforcement or preservation of any rights under the DIP Term Sheet, the DIP Loan Facility or the other DIP Loan Documents (collectively, the "DIP Lender Fees & Expenses").

(b) With respect to payment of fees and expenses of the DIP Lenders Advisors incurred from and after the Petition Date, the DIP Lenders shall not be required to file applications seeking compensation for services or reimbursement of expenses with the Court or comply with the U.S. Trustee fee guidelines; *however*, any time that such professionals seek payment of fees and expenses from the Debtor, each professional shall provide summary copies of its fee and expense statements or invoices (which shall include a general description of the nature of the matters for which services were performed, a list of professionals who worked on the matter, their hourly rate (if such professionals bill at an hourly rate) and the number of hours each professional billed and which may be redacted or modified to the extent necessary to delete

any information subject to the attorney-client privilege, any information constituting attorney work product, or any other confidential information, and the provision of such invoices shall not constitute any waiver of the attorney-client privilege or of any benefits of the attorney work-product doctrine) to the U.S. Trustee and counsel to the Committee (if appointed), contemporaneously with the delivery of such fee and expense statements to the Debtor; provided, however, the U.S. Trustee reserves the right to request more detailed invoices. After delivery of a fee and expense statement or invoice, the Debtor, the U.S. Trustee, and the Committee (if appointed) shall have ten (10) calendar days to raise an objection thereto. Any objection to the payment of such fees or expenses shall be made only on the basis of “reasonableness,” and shall specify in writing the amount of the contested fees and expenses and the detailed basis for such objection. To the extent an objection only contests a portion of an invoice, the undisputed portion thereof shall be earned. If any such objection to payment of an invoice (or any portion thereof) is not otherwise resolved between the objecting party and the issuer of the invoice, either party may submit such dispute to the Court for a determination as to the reasonableness of the relevant disputed fees and expenses set forth in the invoice. This Court shall resolve any dispute as to the reasonableness of any fees and expenses. For the avoidance of doubt and without limiting any of the foregoing or any other provision of this Final Order, the DIP Lender Advisors’ fees are, upon entry of this Final Order and irrespective of any subsequent order approving or denying any other financing pursuant to section 364 of the Bankruptcy Code, entitled to all of the protections of section 364(e) of the Bankruptcy Code that may apply to such fees, and are deemed fully earned, indefeasibly paid, non-refundable, irrevocable and non-avoidable as of the date of this Final Order.

(c) Notwithstanding the foregoing, DIP Lender Fees & Expenses, including any fees and expenses of the DIP Lenders Advisors, shall also be payable by the Debtor in the event that the Court enters an order approving an Alternative Transaction and shall be payable out of the cash proceeds upon the closing of such Alternative Transaction. For the avoidance of doubt and subject to the process set forth in Section 4.14(b), the DIP Lender Fees & Expenses, including any fees and expenses of the DIP Lenders Advisors, shall constitute DIP Obligations and may be included in any credit bid of the DIP Lenders under Section 4.13 of this Final Order provided the DIP Lenders provide the Debtor with a report of fees incurred through the deadline for submission of bids (the “Bid Deadline”) no less than two (2) days prior to the Bid Deadline.

4.15 Limits on Lender Liability.

(a) Solely as a result of making any loan under the DIP Term Sheet, the Bridge Loan, or in exercising any rights or remedies as and when permitted pursuant to this Final Order, the DIP Term Sheet or other DIP Loan Documents, the DIP Lenders shall not be deemed to (i) be in control of the operations of the Debtor or to be acting as a “controlling person,” “responsible person,” or “owner or operator” with respect to the operation or management of the Debtor, so long as the such party’s actions do not constitute, within the meaning of 42 U.S.C. § 9601(20)(F), actual participation in the management or operational affairs of a facility owned or operated by a Debtor, or otherwise cause liability to arise to the federal or state government or the status of responsible person or managing agent to exist under applicable law (as such terms, or any similar terms, are used in the Internal Revenue Code, WARN Act, the United States Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq., as amended, or any similar federal or state statute) or (ii) owe any fiduciary duty to any of the Debtor. Furthermore, nothing in this Final Order shall in any way be construed or interpreted

to impose or allow the imposition upon any of the DIP Lenders of any liability for any claims arising from the prepetition or postpetition activities of any of the Debtor and its affiliates (as defined in section 101(2) of the Bankruptcy Code).

(b) As to the United States, its agencies, departments, or agents, nothing in this Final Order or the DIP Loan Documents shall discharge, release or otherwise preclude any valid right of setoff or recoupment that any such entity may have.

4.16 Release. The Debtor and its Estate on its own behalf and on behalf of each of its past, present and future predecessors, successors, heirs, subsidiaries, and assigns, hereby forever, unconditionally, permanently, and irrevocably release, discharge, and acquit each of the DIP Lenders, and (in such capacity) each of their respective successors, assigns, affiliates, parents, subsidiaries, partners, controlling persons, representatives, agents, attorneys, advisors, financial advisors, consultants, professionals, officers, directors, members, managers, shareholders, and employees, past, present and future, and their respective heirs, predecessors, successors and assigns (collectively, the “Released Parties”) of and from any and all claims, controversies, disputes, liabilities, obligations, demands, damages, expenses (including, without limitation, attorneys’ fees), debts, liens, actions, and causes of action of any and every nature whatsoever, whether arising in law or otherwise, and whether known or unknown, matured or contingent, arising under, in connection with, or relating to (i) the DIP Loan Facility, or (ii) the DIP Term Sheet or DIP Loan Documents including, without limitation, (a) any so-called “lender liability” or equitable subordination claims or defenses, (b) any and all “claims” (as defined in the Bankruptcy Code) and causes of action arising under the Bankruptcy Code, and (c) any and all offsets, defenses, claims, counterclaims, set off rights, objections, challenges, causes of action, and/or choses in action of any kind or nature whatsoever, whether arising at law or in equity,

including any recharacterization, recoupment, subordination, avoidance, or other claim or cause of action arising under or pursuant to section 105 or chapter 5 of the Bankruptcy Code or under any other similar provisions of applicable state, federal, or foreign law, including, without limitation, any right to assert any disgorgement or recovery, in each case, with respect to the extent, amount, validity, enforceability, priority, security, and perfection of any of the DIP Obligations, the DIP Loan Documents, or the DIP Liens, and further waive and release any defense, right of counterclaim, right of setoff, or deduction to the payment of the DIP Obligations that the Debtor now have or may claim to have against the Released Parties, arising under, in connection with, based upon, or related to any and all acts, omissions, conduct undertaken, or events occurring prior to entry of this Final Order.

4.17 Challenge Standing. Nothing herein shall limit the Committee's (or other party in interest's) ability to (x) file a motion in respect of any timely challenge for which it may not be able to obtain standing as a matter of law because the Debtor is a limited liability company (an "LLC Challenge Motion"), and (y) seek pursuant to such LLC Challenge Motion a mechanism by which to prosecute such challenge. In the event the Committee or other party in interest files an LLC Challenge Motion for which it may not be able to obtain standing, any expiration of a challenge period solely for the specific challenge set forth in the LLC Challenge Motion shall be tolled pending further order of the Court, and applicable parties shall meet and confer with respect to an appropriate process for the prosecution of any such challenge. If timely notified of a challenge for which the Committee or other party in interest may not be able to gain standing because the applicable Debtor is a limited liability company, the Debtor (or a designated representative) shall retain the authority to prosecute such challenge in the exercise of its business judgment and subject to any applicable further order of the Court.

4.18 Survival. The provisions of this Final Order, the validity, priority, and enforceability of the DIP Liens, the DIP Superpriority Claims, and any actions taken pursuant hereto shall survive, and shall not be modified, impaired or discharged by, entry of any order that may be entered (a) confirming any plan of reorganization in any of this Chapter 11 Case, (b) converting any or all of this Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code, (c) dismissing any or all of this Chapter 11 Case, (d) terminating the joint administration of this Chapter 11 Case or any other act or omission, (e) approving the sale of any DIP Collateral pursuant to section 363(b) of the Bankruptcy Code (except to the extent permitted by the DIP Loan Documents), or (f) pursuant to which the Court abstains from hearing any of this Chapter 11 Case. The terms and provisions of this Final Order, including the claims, liens, security interests, and other protections (as applicable) granted to the DIP Lenders pursuant to this Final Order, notwithstanding the entry of any such order, shall continue in any of this Chapter 11 Case, following dismissal of any of this Chapter 11 Case or any Successor Case, and shall maintain their priority as provided by this Final Order until all of the DIP Obligations, pursuant to the DIP Loan Documents and this Final Order, have been indefeasibly paid in full in cash (such payment being without prejudice to any terms of provisions contained in the DIP Loan Facility which survive such discharge by their terms) and all commitments to extend credit under the DIP Loan Facility are terminated.

4.19 No Third Party Rights. Except as specifically provided for herein, this Final Order does not create any rights for the benefit of any third party, creditor, equity holders, or any direct, indirect, or incidental beneficiary.

4.20 No Avoidance. No obligations incurred or payments or other transfers made by or on behalf of the Debtor on account of the DIP Loan Facility shall be avoidable or recoverable

from the DIP Lenders under any section of the Bankruptcy Code, or any other federal, state, or other applicable law.

4.21 Reliance on Order. All postpetition advances under the DIP Loan Documents are made in reliance on this Final Order.

4.22 Payments Free and Clear. Any and all payments or proceeds remitted to the DIP Lenders pursuant to the provisions of this Final Order, any subsequent order of this Court or the DIP Loan Documents, shall, subject to the terms of this Section 4.21, be irrevocable, received free and clear of any claims, charge, assessment, or other liability, including, without limitation, any such claim or charge arising out of or based on, directly or indirectly, section 506(c) of the Bankruptcy Code or section 552(b) of the Bankruptcy Code, whether asserted or assessed by, through or on behalf of the Debtor, and in the case of payments made or proceeds remitted after the delivery of a Carve-Out Trigger Notice, subject to the Carve-Out in all respects.

4.23 Limited Effect. In the event of a conflict between the terms and provisions of any of the DIP Term Sheet, the Interim Order, and this Final Order, the terms and provisions of this Final Order shall govern.

4.24 Headings. Section headings used herein are for convenience only and are not to affect the construction of or to be taken into consideration in interpreting this Final Order.

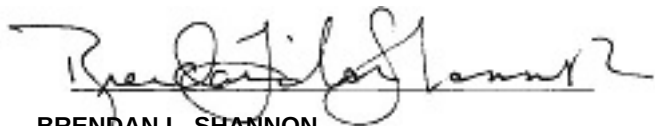
4.25 Bankruptcy Rules. The requirements of Bankruptcy Rules 4001, 6003, and 6004, in each case to the extent applicable, are satisfied by the contents of the Motion.

4.26 General Authorization. The Debtor and the DIP Lenders are authorized to take any and all actions necessary to effectuate the relief granted in this Final Order.

4.27 Retention of Jurisdiction. This Court shall retain jurisdiction and power with respect to all matters arising from or related to the implementation or interpretation of this Final Order, the DIP Term Sheet, and the other DIP Loan Documents.

4.28 Distribution of Sale Proceeds. Notwithstanding anything to the contrary in any other order of this Court, including any order authorizing the sale, use, or lease of property of the estate under section 363 of the Bankruptcy Code, the Debtor is authorized and directed to apply 100% of the proceeds from any sale, transfer, or other disposition of any property of the estate to (i) fund the unfunded amounts (if any) of the Carve-Out, in an amount not to exceed \$368,000, and (ii) satisfy the outstanding obligations under the DIP Loan Facility. Such proceeds shall be paid immediately upon closing of such sale or other disposition, without further order of the Court or the need for any further notice or hearing, (i) first, to counsel for the Debtor to the extent of the unfunded amounts (if any) of the Carve-Out, in an amount not to exceed \$368,000, which amounts shall be held in counsel's client trust account for the benefit of the Debtor's estate pending further order of the Court, and (ii) second, to the DIP Lenders and their professionals until the DIP Obligations are paid in full in cash. For the avoidance of doubt, no proceeds from any sale of property of the estate shall be distributed to any party other than the DIP Lenders and their professionals (or with respect to any unfunded Carve-Out amounts, to counsel for the Debtor) unless and until the DIP Obligations have been indefeasibly paid in full in cash, unless otherwise agreed to in writing by the DIP Lenders in their sole discretion.

Dated: April 29th, 2025
Wilmington, Delaware

A handwritten signature in black ink, appearing to read "Brendan L. Shannon", written over a horizontal line.

BRENDAN L. SHANNON
UNITED STATES BANKRUPTCY JUDGE

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF KOGNITIV CORPORATION
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

Court File No. BK-25-3165297-0031
Estate File No. 31-3165297

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY**

Proceedings commenced at Toronto

**MOTION RECORD (VOLUME 1 OF 2)
OF KOGNITIV CORPORATION
(Returnable February 17, 2026)**

AIRD & BERLIS LLP

Brookfield Place
181 Bay Street, Suite 1800
Toronto, ON M5J 2T9

Kyle B. Plunkett (LSO #61044N)

Tel: (416) 865-3406

Email: kplunkett@airdberlis.com

Miranda Spence (LSO #60621M)

Tel: (416) 865-3414

Email: mspence@airdberlis.com

Alex Bernicchia-Freeman (LSO #93556P)

Tel: (416) 865-7735

Email: afreeman@airdberlis.com

Lawyers for Kognitiv Corporation