

SHARE PURCHASE AGREEMENT

AMONG

AIMIA INC.

AND

AIR CANADA

AND

AIMIA CANADA INC.

DATED AS OF NOVEMBER 26, 2018

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THIS SHARE PURCHASE AGREEMENT is made as of November 26, 2018.

AMONG: **AIMIA INC.**, a corporation duly constituted under the laws of Canada, having a place of business at 525 Viger Avenue West, Tour Aimia, Suite 1000, Montreal (Quebec) H2Z 0B2;

(the “**Vendor**”)

AND: **AIR CANADA**, a corporation duly constituted under the laws of Canada, having a place of business at 7373 Côte Vertu Boulevard West, Saint-Laurent (Québec) H4S 1Z3;

(the “**Purchaser**”)

AND: **AIMIA CANADA INC.**, a corporation duly constituted under the laws of Canada, having a place of business at 525 Viger Avenue West, Tour Aimia, Suite 1000, Montreal (Quebec) H2Z 0B2;

(the “**Corporation**”)

WHEREAS the Corporation carries on the Aeroplan Loyalty Program business, which includes the operation of the Aeroplan Loyalty Program whereby members receive specified travel and other rewards or other benefits upon redeeming Aeroplan Miles including through travel on specified air carriers, the use or purchase of certain goods or services (including, for greater certainty, the use of certain credit and charge cards), as well as in connection with the foregoing, the marketing, distribution, management, commercialization, issuance and redemption of Aeroplan Miles, as well as loyalty coalition activities, digital channel development and maintenance, marketing, communications, promotions and data analytics services, service and lifecycle management, and, related ancillary services and activities (the “**Business**”);

WHEREAS the Vendor is the registered and beneficial owner of all the Purchased Shares;

WHEREAS the Purchaser desires to purchase, and the Vendor desires to sell, all of the Purchased Shares, the whole subject to the terms and conditions hereinafter set forth;

WHEREAS the board of directors of the Vendor, after receiving financial and legal advice and following the receipt of the Fairness Opinion, has unanimously determined that it is in the best interests of the Vendor to enter into this Agreement;

WHEREAS the Supporting Shareholders have, prior to or concurrently with the execution of this Agreement, delivered to the Purchaser the Support Agreements;

WHEREAS concurrently herewith, the Vendor, the Purchaser, the Corporation and Aimia Proprietary Loyalty Canada Inc. are executing and entering into a non-competition agreement (the “**Non-Competition Agreement**”); and

WHEREAS the Purchaser has represented to the Vendor that, prior to the execution of this Agreement, the former has entered into or settled agreed-upon forms of co-branded credit card program agreements and related agreements with one or more other members of the Consortium in form and substance satisfactory to such parties;

NOW THEREFORE, in consideration of the premises and mutual agreements herein contained, and for other good and valuable consideration (the receipt and sufficiency of which are acknowledged by each Party), the Parties agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

The capitalized words and expressions used in this Agreement or in its Schedules shall have the meaning ascribed to them in Exhibit A, unless otherwise expressly stated herein.

1.2 Articles, Sections and Headings

The division of this Agreement into Articles, Sections, Exhibits, Appendices and Schedules and the insertion of headings are for convenience of reference only and will not affect the construction or interpretation of this Agreement. The terms “hereof”, “hereunder”, “herein” and similar expressions refer to this Agreement as a whole and not to any particular Article, Section, Exhibit, Appendix, Schedule or other portion hereof. References herein to Articles, Sections, Exhibits, Appendices or Schedules are to Articles, Sections, Exhibits, Appendices and Schedules of this Agreement or of the Exhibits, Appendices and Schedules hereto unless otherwise expressly stated herein.

1.3 Extended Meanings

In this Agreement, unless specified otherwise or the context otherwise requires:

- 1.3.1 “including” or “includes” means “including (or includes) but is not limited to” and is not to be construed to limit any general statement preceding it to the specific or similar items or matters immediately following it;
- 1.3.2 “the aggregate of”, “the total of”, “the sum of”, or a phrase of similar meaning means “the aggregate (or total or sum), without duplication, of”;
- 1.3.3 references to Contracts are deemed to include all present amendments, supplements, restatements and replacements to such Contracts;
- 1.3.4 references to any Law or a section thereof are references to the Law as amended, re-enacted, consolidated or replaced from time to time;

1.3.5 references in this Agreement to consent and the taking or refraining from taking action except with the consent of a Party or its Representatives shall be qualified by “such consent not to be unreasonably withheld, conditioned or delayed” unless otherwise stated to be in the sole discretion of such Party or its Representatives; and

1.3.6 words in the singular include the plural and vice-versa and words in one gender include all genders.

1.4 Knowledge

In this Agreement or any Closing Document, any reference to the knowledge of any Person means the actual knowledge of such Person, and in the case of Vendor or the Corporation, of Jeremy Rabe, Mark Grafton, Edouard Vo-Quang, Harry Pickett, Steve Leonard, and Michel Lalonde after due and diligent inquiry with respect to the relevant matter, or the knowledge that either of them would have had if he had conducted such due and diligent inquiry with respect to the relevant matter. The due and diligent inquiry of the Vendor or the Corporation with respect to a matter includes (i) making inquiries of and consulting with Persons who, in the normal scope of their duties, are reasonably expected to have knowledge of the matter with respect to which knowledge is asserted, and (ii) taking such other action, as reasonably necessary, to discover the facts with respect to which knowledge is asserted.

1.5 Accounting Principles

Except where expressly otherwise provided herein, wherever in this Agreement reference is made to a calculation to be made or an action to be taken in accordance with generally accepted accounting principles, such reference will be deemed to be made to IFRS, applicable as at the date on which such calculation or action is made or taken or required to be made or taken in accordance with IFRS.

1.6 Currency

Except as expressly provided herein, all references to currency contained herein are to Canadian dollars.

1.7 Calculation of Time

1.7.1 *Time.* Time is of the essence in this Agreement.

1.7.2 *Calculation of Time.* Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends.

1.7.3 *Business Days.* Whenever any action to be taken or payment to be made pursuant to this Agreement would otherwise be required to be made on a day

that is not a Business Day, such action shall be taken, or such payment shall be made on the first Business Day following such day.

1.7.4 *Time of Day.* All references to times of the day are to the times of the day in Montreal, Quebec.

1.8 Exhibits, Appendices and Schedules

The following Exhibits, Appendices and Schedules attached hereto are incorporated by reference and deemed to be part hereof:

Exhibits

Exhibit A	Definitions
Exhibit B	Form of D&O Resignation and Release
Exhibit C	Form of Vendor Release
Exhibit D	Form of Escrow Agreement
Exhibit E	Form of Restructuring Memorandum
Exhibit F	Form of Transition Services Agreement

Schedules

Schedule 3.1	Representations and Warranties in respect of the Vendor
Schedule 3.2	Representations and Warranties in respect of the Corporation and the Subsidiary
Schedule 3.3	Representations and Warranties of Purchaser
Schedule 4.9	Regulatory Approvals
Schedule 11.10	Addresses for Notices

Appendices

Appendix A	Illustrative Presentation of the Special Purpose Closing Statement
Appendix B	Specified Audit Procedures
Appendix C	Illustrative Calculation of Redemption Liability
Appendix 2.6.1	Illustrative Example of Positive Adjustment

Appendix 2.6.2 Illustrative Example of Negative Adjustment

**ARTICLE 2
PURCHASE AND SALE**

2.1 Purchase and Sale of Purchased Shares

Upon and subject to the terms and conditions hereof, the Vendor shall sell to the Purchaser, and the Purchaser shall purchase from the Vendor, at the Closing Time, all of the issued and outstanding shares in the capital of the Corporation, namely 140,000 class A common shares in the share capital of the Corporation (collectively, the “**Purchased Shares**”).

2.2 Purchase Price

Subject to the adjustments provided in Sections 2.4 and 2.5, the purchase price for the Purchased Shares shall be \$450,000,000 (such amount, as adjusted pursuant to Sections 2.4 and 2.5, the “**Purchase Price**”).

2.3 Payment of Purchase Price

The Purchase Price shall be paid and satisfied as follows:

2.3.1 *Initial Consideration.* The Purchaser shall pay to the Vendor at the Closing, by wire transfer of immediately available funds to the accounts specified by the Vendor to the Purchaser, an amount equal to \$450,000,000 as adjusted upwards or downwards in accordance with the Net Pre-Closing Adjustments contemplated by and in accordance with Section 2.4 (the “**Initial Consideration**”), minus the Indemnity Escrow Amount and the Restricted Cash Amount.

2.3.2 *Indemnity Escrow Amount.* The Purchaser shall pay to the Escrow Agent at the Closing, by wire transfer of immediately available funds to the account specified by the Escrow Agent to the Purchaser, an amount equal to \$2,250,000 (such amount, the “**Indemnity Escrow Amount**”). The Indemnity Escrow Amount shall be held, invested and disbursed as specified in the Escrow Agreement.

2.3.3 *Restricted Cash Amount.* The Purchaser shall pay to the Vendor at the Closing, by wire transfer of immediately available funds to the Restricted Cash Account, the Restricted Cash Amount. The Restricted Cash Amount shall be held, invested and disbursed as specified in Section 9.10. All of the fruits and revenues of the invested Restricted Cash Amount shall belong to and accrue for the benefit of the Vendor.

2.4 Pre-Closing Purchase Price Adjustments

- 2.4.1 *Certain Estimated Pre-Closing Calculations.* The Vendor shall prepare and, between the fifth (5th) and the third (3rd) Business Days prior to the Closing Date, shall deliver to the Purchaser, a written good faith estimate of the Closing Indebtedness (the “**Estimated Closing Indebtedness**”), the Closing Redemption Liability (the “**Estimated Closing Redemption Liability**”), the Closing Working Capital (the “**Estimated Closing Working Capital**”) and the Closing Cash, Cash Equivalents and Investments (the “**Estimated Closing Cash, Cash Equivalents and Investments**”), together with the detailed calculations and backup information supporting such estimates.
- 2.4.2 *Pre-Closing Adjustments.* The Initial Consideration shall be adjusted as follows prior to and shall be paid and delivered by the Purchaser to the Vendor at the Closing:
- (a) If the Estimated Closing Indebtedness exceeds the Target Indebtedness, then the Initial Consideration shall be decreased by an amount equal to the amount by which the Estimated Closing Indebtedness exceeds the Target Indebtedness. The negative pre-Closing adjustment resulting from and calculated in accordance with this Section 2.4.2(a) is herein referred to as the “**Pre-Closing Indebtedness Adjustment**”.
 - (b) If the Estimated Closing Redemption Liability is less than the Target Redemption Liability, then the Initial Consideration shall be increased by the amount by which the Estimated Closing Redemption Liability is less than the Target Redemption Liability. If the Estimated Closing Redemption Liability exceeds the Target Redemption Liability, then the Initial Consideration shall be decreased by an amount equal to the amount by which the Target Redemption Liability is less than the Estimated Closing Redemption Liability. The positive or negative pre-Closing adjustment resulting from and calculated in accordance with this Section 2.4.2(b) is herein referred to as the “**Pre-Closing Redemption Liability Adjustment**”.
 - (c) If the Estimated Closing Working Capital exceeds the Target Working Capital (which, for greater certainty is acknowledged by all Parties to be a negative number), then the Initial Consideration shall be increased by an amount equal to the amount by which the Estimated Closing Working Capital exceeds the Target Working Capital. If the Estimated Closing Working Capital is less than the Target Working Capital, then the Initial Consideration shall be decreased by an amount equal to the amount by which the Target Working Capital exceeds the Estimated Closing Working Capital. The positive or negative pre-Closing adjustment resulting from and calculated in accordance with this

Section 2.4.2(c) is herein referred to as the “**Pre-Closing Working Capital Adjustment**”.

- (d) If the Estimated Closing Cash, Cash Equivalents and Investments exceeds the Target Cash, Cash Equivalents and Investments, then the Initial Consideration shall be increased by an amount equal to the amount by which the Estimated Closing Cash, Cash Equivalents and Investments exceeds the Target Cash, Cash Equivalents and Investments. The positive pre-Closing adjustment resulting from and calculated in accordance with this Section 2.4.2(d) is herein referred to as the “**Pre-Closing Cash, Cash Equivalents and Investments Adjustment**”.

The net number, whether positive or negative, resulting from the addition of the Pre-Closing Indebtedness Adjustment, the Pre-Closing Redemption Liability Adjustment, the Pre-Closing Working Capital Adjustment and the Pre-Closing Cash, Cash Equivalents and Investments Adjustment are herein referred to as the “**Net Pre-Closing Adjustments**”.

- 2.4.3 *Consideration Shortfall.* If the application of the Net Pre-Closing Adjustments results in the Initial Consideration being less than \$0.00, then the Vendor shall pay to the Purchaser, on the Closing Date, an amount equal to such shortfall (the “**Consideration Shortfall**”).

2.5 Post-Closing Purchase Price Adjustments

- 2.5.1 *Post-Closing Adjustments.* The Purchase Price shall be adjusted as follows after Closing (and, for the avoidance of doubt, such adjustments shall be without duplication of and after having applied and given effect to any and all of the Net Pre-Closing Adjustments), which adjustments shall be paid in accordance with Section 2.6:

- (a) If the Closing Indebtedness is less than the Estimated Closing Indebtedness, then the Purchase Price shall be increased by an amount equal to the amount by which the Estimated Closing Indebtedness exceeds the Closing Indebtedness. If the Closing Indebtedness exceeds the Estimated Closing Indebtedness, then the Purchase Price shall be decreased by an amount equal to the amount by which the Closing Indebtedness exceeds the Estimated Closing Indebtedness.
- (b) If the Closing Redemption Liability is less than the Estimated Closing Redemption Liability, then the Purchase Price shall be increased by the amount by which the Closing Redemption Liability is less than the Estimated Closing Redemption Liability. If the Closing Redemption Liability exceeds the Estimated Closing Redemption Liability, then the Purchase Price shall be decreased by an amount equal to the amount

by which the Estimated Closing Redemption Liability is less than the Closing Redemption Liability.

- (c) If the Closing Working Capital exceeds the Estimated Closing Working Capital, then the Purchase Price shall be increased by the amount by which the Closing Working Capital exceeds the Estimated Closing Working Capital. If the Closing Working Capital is less than the Estimated Closing Working Capital, then the Purchase Price shall be decreased by an amount equal to the amount by which the Estimated Closing Working Capital exceeds the Closing Working Capital.
- (d) If the Closing Cash, Cash Equivalents and Investments exceeds the Estimated Closing Cash, Cash Equivalents and Investments, then the Purchase Price shall be increased by an amount equal to the amount by which the Estimated Closing Cash, Cash Equivalents and Investments is less than the Closing Cash, Cash Equivalents and Investments. If the Closing Cash, Cash Equivalents and Investments are less than the Estimated Closing Cash, Cash Equivalents and Investments, then the Purchase Price shall be decreased by an amount equal to the amount by which the Estimated Closing Cash, Cash Equivalents and Investments exceeds the Closing Cash, Cash Equivalents and Investments.
- (e) The Parties agree that each element or item that is included in any financial metric subject to adjustment in this Section 2.5 shall only be included in a single element or item and shall not be counted more than once.

For illustrative purposes only, Appendices A and C contain a calculation of the adjustments contemplated by this Section 2.5.1, in each case as at the reference date(s) referred to therein. Any calculations in this Agreement, including in such Appendix, which are stated to be made for illustrative purposes indicate how the calculations will be made and not how any particular item will be valued, calculated or determined pursuant to this Agreement.

2.5.2 *Closing Date Financial Statements, Special Purpose Closing Statement and Post-Closing Adjustments.*

- (a) As soon as practicable and, in any event, no later than sixty (60) days following the Closing Date, the Vendor, with the assistance of any Employees who were involved with these activities prior to the Closing, shall prepare and deliver to the Purchaser: (i) the Closing Date Financial Statements prepared in accordance with the recognition and measurement principles of IFRS (except for such derogations from IFRS consistent with the disclosures in respect of the Financial

Statements set out in Section 3.2.14 of the Disclosure Letter), applied using the same accounting methods, practices, principles, policies and procedures, with consistent classifications, judgment and valuation and estimation methodologies that were used in preparation of the Vendor's audited consolidated financial statements for the financial year ended December 31, 2017 as if such Closing Date Financial Statements were being prepared and audited as of a financial year end, but at all times taking into account all current relevant facts and circumstances at the time of the preparation of the Closing Date Financial Statements; and (ii) the Special Purpose Closing Statement used for the calculation of the Closing Indebtedness, the Closing Working Capital and the Closing Cash, Cash Equivalents and Investments based on or derived from such Closing Date Financial Statements (collectively, the "**Post-Closing Adjustment Calculations**"). The Special Purpose Closing Statement shall be (i) presented in a manner consistent with the presentation set out in Appendix A, (ii) prepared in accordance with the recognition and measurement principles of IFRS (except for the Redemption Liability which is calculated as per its definition and with respect to the Miles Shortfall, the Miles Shortfall shall be included without deduction for any reserve, allowance or provision whatsoever irrespective of whether The Toronto-Dominion Bank acknowledges owing it or remits payment), and (iii) audited by the Auditors in accordance with the auditing standards for special purpose financial statements. The Redemption Liability shall be calculated in accordance with its definition, be consistent with the presentation set out in Appendix C, and be subject to the Specified Audit Procedures.

- (b) Following the Closing, the Vendor and the Purchaser shall cooperate fully with each other in the preparation of the Post-Closing Adjustment Calculations and the Closing Date Financial Statements, which cooperation shall include:
 - (i) in the case of the Purchaser, giving the Vendor full access to the applicable Employees and any accounting Books and Records that are in the possession of the Purchaser (subject to customary confidentiality and access protocols);
 - (ii) in the case of the Vendor with respect to the Post-Closing Adjustment Calculations, giving the Purchaser full access to the applicable employees of the Vendor, the Vendor's working papers and files prepared in connection with the Post-Closing Adjustment Calculations and submitted to the Auditors and, to the extent permitted by the Auditors, their working papers and report, in each case subject to and in accordance with customary protocols regarding such access (including customary confidentiality and hold harmless agreements); and

- (iii) all information necessary or useful in connection with the preparation of the Post-Closing Adjustment Calculations being provided to the Purchaser, the Vendor, the Corporation and the Subsidiary in a timely manner.

- (c) The Purchaser shall have thirty (30) days from receipt of the Post-Closing Adjustment Calculations within which to review the Post-Closing Adjustment Calculations. For the purposes of this review, the Vendor shall permit and shall cause the Auditors to permit the Purchaser and the Purchaser's authorized Representatives to examine all working papers, schedules, accounting Books and Records that are in the possession of the Vendor or the Auditors and other documents and information, in each case used or prepared by the Vendor or the Auditors in connection with the preparation of the Post-Closing Adjustment Calculations. The Purchaser may object to the Post-Closing Adjustment Calculations by written notice from the Purchaser to the Vendor within the thirty (30) day period following receipt thereof, which notice shall specify in reasonable and sufficient detail those items and amounts as to which the Purchaser objects and the basis for the Purchaser's objection (the "**Objection Notice**") and the Parties shall be deemed to have agreed upon all other items and amounts contained in such Post-Closing Adjustment Calculations which are not impacted by items or amounts objected to in the Objection Notice. If no Objection Notice is delivered to the Vendor within the period specified in the preceding sentence, or if the Purchaser and the Vendor confirm in writing that they accept the Post-Closing Adjustment Calculations prior to the end of such thirty (30) day period, then the Post-Closing Adjustment Calculations shall be conclusive, final and binding on all the Parties without possibility of amendment or appeal and shall constitute the final Post-Closing Adjustment Calculations.

- (d) If an Objection Notice is delivered within the thirty (30) day period specified in the preceding paragraph, the Purchaser and the Vendor shall work expeditiously and in good faith in an attempt to resolve any and all matters in dispute with respect to the Post-Closing Adjustment Calculations as promptly as practicable. If the Purchaser and the Vendor are unable to resolve all such items in dispute within fifteen (15) days after the receipt of the Objection Notice giving rise to such dispute, then those items or calculations that are not resolved and remain in dispute shall (unless the Purchaser and the Vendor otherwise agree in writing) be submitted for resolution to KPMG LLP by either the Vendor or the Purchaser within five (5) Business Days following such fifteen (15) day period or, if KPMG LLP is unwilling or unable to accept the mandate to resolve the dispute, to such other independent firm of chartered accountants as the Purchaser and the Vendor may agree in writing or, failing agreement, as appointed by the court (the

“Independent Firm”). The Independent Firm, acting as an expert and not as arbitrator, will limit its review only to the specific items or calculations in dispute (except to the extent that IFRS requires adjustments to other items as a result thereof). The Parties shall use Commercially Reasonable Efforts to cause the Independent Firm to submit its determination or opinion in a written statement delivered to the Purchaser and the Vendor as promptly as practicable, but in no event later than twenty (20) Business Days following the appointment of such Independent Firm, and such determination or opinion, together with those items accepted by the Purchaser and the Vendor in respect of the Post-Closing Adjustment Calculations or otherwise resolved between the Purchaser and the Vendor shall be conclusive, final and binding on all the Parties without possibility of amendment or appeal and the Post-Closing Adjustment Calculations shall be deemed to be amended as may be necessary to reflect the agreement or decision, as applicable, of all items in dispute. In this event, references in this Agreement to the Post-Closing Adjustment Calculations will be references to the Post-Closing Adjustment Calculations, as so amended.

- (e) While the Independent Firm is making its determination hereunder, the Parties shall not communicate with the Independent Firm on the subject matter of its review, except by joint conference call, joint meeting or letter with copy simultaneously delivered to the other Parties.
- (f) The Parties will bear their respective fees and expenses (including those of their respective advisors) in preparing, auditing, reviewing, agreeing to, objecting to, or resolving, as the case may be, the Post-Closing Adjustment Calculations, except as otherwise provided in the remainder of this paragraph. The costs of any fees and expenses of the Independent Firm and of any enforcement of the determination thereof, shall be borne by the Purchaser, on the one hand, and the Vendor, on the other hand, in inverse proportion as they may prevail on the matters resolved by the Independent Firm, which proportionate allocation shall be calculated on an aggregate basis based on the relative dollar values of the amounts in dispute and shall be determined by the Independent Firm at the time the determination of such firm is rendered on the merits of the matters submitted.
- (g) The accounting and audit procedures provided for by this Section 2.5.2 and the Specified Audit Procedures shall be the exclusive and conclusive methodology for determination of the matters covered thereby and shall be binding upon the Parties and shall not be contested by any of them other than as provided for in this Section 2.5.2.

2.6 Payment of the Post-Closing Adjustment

Within five (5) Business Days of the Post-Closing Adjustment Calculations becoming final in accordance with the provisions of Section 2.5.2(c) or Section 2.5.2(d), as the case may be:

- 2.6.1 if the aggregate sum of the adjustments set forth in Section 2.5.1 results in a net increase in the Purchase Price (the “**Positive Adjustment Amount**”), then the Purchaser shall pay to the Vendor by wire transfer an amount equal to the Positive Adjustment Amount. Appendix 2.6.1 sets forth, for illustrative purposes only, calculation examples of the foregoing clause; or
- 2.6.2 if the aggregate sum of the adjustments set forth in Section 2.5.1 results in a net reduction of the Purchase Price (the “**Negative Adjustment Amount**”), then the Vendor shall pay to the Purchaser by wire transfer an amount equal to the Negative Adjustment Amount. Appendix 2.6.2 sets forth, for illustrative purposes only, calculation examples of the foregoing clause.

2.7 Acknowledgement regarding Breakage Rate

The Parties acknowledge and agree that, for all purposes of this Agreement and the Transactions, including the determination of the Purchase Price, the calculation and payment of the Post-Closing Adjustment Calculations and related matters, and without the Vendor making any representation or warranty with respect thereto, the Breakage rate is eleven percent (11%). The Parties further acknowledge that the preceding sentence does not affect or negate the representation and warranty of the Vendor set forth in Section 3.2.16 of Schedule 3.2.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties in respect of the Vendor

The Vendor represents and warrants to and in favour of the Purchaser as set forth in Schedule 3.1 hereof and acknowledges and agrees that the Purchaser is relying upon such representations and warranties in entering into this Agreement and purchasing the Purchased Shares.

3.2 Representations and Warranties in respect of the Corporation and the Subsidiary

The Vendor represents and warrants to and in favour of the Purchaser as set forth in Schedule 3.2 hereof and acknowledges and agrees that the Purchaser is relying upon such representations and warranties in entering into this Agreement and purchasing the Purchased Shares.

3.3 Representations and Warranties in respect of the Purchaser

The Purchaser represents and warrants to and in favour of the Vendor as set forth in Schedule 3.3 hereof and acknowledges and agrees that the Vendor is relying upon such representations and warranties in entering into this Agreement and selling the Purchased Shares.

3.4 Disclosure

Disclosure of any fact or item in any Section of the Disclosure Letter referenced by or to a particular Article or Section in this Agreement shall be deemed to have been disclosed only with respect to such Article or Section in this Agreement; provided however that the Vendor may make such cross-references from any Section of the Disclosure Letter to any other Section of the Disclosure Letter in order to satisfy its disclosure obligations in connection with a fact or item required to be disclosed in any Section of the Disclosure Letter. The Disclosure Letter shall not vary, change or alter the language of the representations or warranties in this Agreement and, to the extent that language in any Section of the Disclosure Letter either does not conform to the language of such representations and warranties or purports to vary the same, such language shall be disregarded and of no force and effect.

3.5 Survival of Representations, Warranties and Covenants

3.5.1 All representations and warranties made by the Vendor in this Agreement shall survive the Closing as follows:

- (a) the representations and warranties set forth in Sections 3.1.1, 3.1.2, 3.1.3, 3.1.5 and 3.1.7 of Schedule 3.1 and Sections 3.2.1, 3.2.2, 3.2.3, 3.2.4, 3.2.6, 3.2.12 (as it relates to the Loyalty Partnership Agreements), 3.2.17 and 3.2.23(a) of Schedule 3.2 (collectively, the “**Vendor’s Fundamental Representations**”) shall survive the Closing without time limit;
- (b) the representations and warranties set forth in Section 3.1.6 of Schedule 3.1 and Section 3.2.27 of Schedule 3.2, and the obligations of the Vendor to indemnify the Purchaser, the Corporation or the Subsidiary in connection with Sections 6.4 and 9.1.1(c) shall survive the Closing and continue for:
 - (i) where applicable Laws provide for a statutory limitation or prescription period for the assessment of Tax by a Tax Authority, a period ending ninety (90) days following the expiration of such statutory limitation or prescription periods pursuant to applicable Laws; and
 - (ii) in all other cases, a period of seventy-two (72) months from the Closing Date;

and without limiting the generality of the foregoing, such periods shall be extended to include all periods allowed for objecting to and appealing from the determination of any proceedings relating to any assessment or reassessment of the Corporation or the Subsidiary in respect of any taxation period to which such representations and warranties or indemnity extend, taking into account any waiver or similar document extending such limitation or prescription periods granted; and

- (c) all of the other representations and warranties of the Vendor in this Agreement and in any Closing Document shall survive the Closing and continue for a period of eighteen (18) months from the Closing Date.

After such periods, the Vendor shall have no further liability hereunder with respect to such representations and warranties except with respect to any Claim made within such periods in accordance with the terms of this Agreement, in which case, the right of the party making such Claim shall not expire until the dispute is resolved in accordance with the terms of this Agreement.

3.5.2 All representations and warranties made by the Purchaser in this Agreement shall survive the Closing as follows:

- (a) the representations and warranties set forth in Sections 3.3.1 and 3.3.2 of Schedule 3.3 (the “**Purchaser Fundamental Representations**”) shall survive the Closing without time limit; and
- (b) all of the other representations and warranties of the Purchaser in this Agreement and in any Closing Document shall survive the Closing and continue for a period of eighteen (18) months from the Closing Date.

After such periods, the Purchaser shall have no further liability hereunder with respect to such representations and warranties except with respect to any Claim made within such periods in accordance with the terms of this Agreement, in which case, the right of the party making such Claim shall not expire until the dispute is resolved in accordance with the terms of this Agreement.

3.5.3 Subject to the various survival periods of the representations and warranties set forth in this Section 3.5, the covenants, obligations and agreements of each Party contained in this Agreement and in any Closing Document shall survive the Closing and continue without time limit until performed or until such performance is waived in writing by the Party benefitting from such covenant, obligation or agreement.

3.5.4 Notwithstanding anything herein contained to the contrary, in the case of any breach by a Party of any representation, warranty, covenant, obligation or agreement involving fraud, gross negligence or willful misconduct, there shall

be no time limitation on the right of the other Parties to bring any Claim in respect of such breach and to be indemnified in respect thereof.

ARTICLE 4 COVENANTS

4.1 Operation of Business

4.1.1 *General Terms.* The Vendor and the Corporation hereby covenant and agree during the Interim Period that they shall, and shall cause the Subsidiary to, except as specifically set forth herein, carry on the Business only:

- (a) in the Ordinary Course; and
- (b) in compliance with applicable Laws in all material respects, except for Anti-Spam Laws, Consumer Protection Laws, Privacy Laws or other Laws pertaining to the security and protection of Personal Information or Confidential Information, for which the Vendor and the Corporation shall, and shall cause the Subsidiary to carry on the Business only in compliance in all respects with such Laws.

4.1.2 *Negative Covenants with respect to the Vendor, the Corporation and the Subsidiary.* Without limiting the foregoing, except as set forth in the Restructuring Memorandum, subject to Section 4.7, and except as otherwise expressly permitted by this Agreement, the Vendor hereby covenants and agrees that during the Interim Period, it shall not, and it shall cause the Corporation and the Subsidiary not to, as applicable, do or attempt to do, directly or indirectly, any of the following without the prior written consent of the Purchaser in its sole discretion:

- (a) subject to and except as permitted by Article 6, proceed with any liquidation, consolidation, recapitalization or other restructuring; or
- (b) enter into any agreement or other commitment whatsoever to do any of the foregoing.

4.1.3 *Negative Covenants with respect to the Corporation and the Subsidiary Only.* Without limiting the foregoing, except as set forth in the Restructuring Memorandum, subject to Section 4.7, and except as otherwise expressly permitted by this Agreement, the Vendor hereby covenants and agrees that during the Interim Period, it shall cause the Corporation and the Subsidiary not to do, or attempt to do, directly or indirectly, any of the following without the prior written consent of the Purchaser (which consent for the purpose of paragraphs (a), (b), (c), (d), (e), (f), (m), (o) and (r) of this Sections 4.1.3 may be provided in the sole discretion of the Purchaser):

- (a) effect or permit any material change in the operation of the Business (including any related or connected changes which are in the aggregate material);
- (b) effect or permit any material change to the Aeroplan Loyalty Program, or any material change to the accumulation or redemption scheme of the Aeroplan Loyalty Program which is not unilaterally imposed by applicable Law (including any related or connected changes in respect of any of the foregoing which are in the aggregate material);
- (c) proceed with any merger, amalgamation, plan of arrangement, reorganization or other business combination or similar transaction or the acquisition by a Person of: (i) all or a material portion of the assets or business of the Corporation or the Subsidiary, or (ii) any of the shares of the Corporation or the Subsidiary;
- (d) reduce the stated capital of the Corporation or the Subsidiary;
- (e) other than in the Ordinary Course, purchase, sell, lease, transfer, or otherwise dispose of any assets of the Corporation or the Subsidiary;
- (f) enter into any exclusivity, non-competition or analogous restrictive covenant or transaction involving or affecting the Corporation or the Subsidiary;
- (g) enter into any joint venture, strategic alliance, or analogous transaction involving or affecting the Corporation or the Subsidiary;
- (h) enter into any loyalty partnership or similar arrangements involving the Corporation or the Subsidiary, on the one hand, and any other Person, including any airline, on the other hand, except as specifically contemplated and permitted by Section 4.6;
- (i) permit or have any acceleration or discounting in the collection of the Accounts Receivable, or any delay in the payment of Accounts Payable, it being understood that the collection and payment of such accounts respectively shall at all times be made in the Ordinary Course;
- (j) change any accounting methods, principles, practices or policies or any business practices or policies relating to the Corporation or the Subsidiary;
- (k) incur or guarantee any Indebtedness (other than trade payables in the Ordinary Course), make any loans, advances or capital contributions to, or make any other investment in, any other Person, or issue or sell any debt securities, except as specifically contemplated and permitted by Section 4.7;

- (l) create or allow any new Encumbrance to affect any of the assets of the Corporation or the Subsidiary;
- (m) declare or pay any dividend or declare, authorize or make any distribution of, on or in respect of any of its securities;
- (n) amend any of the Constating Records of the Corporation or the Subsidiary;
- (o) amend any Tax Return filed by the Corporation or the Subsidiary outside the scope of the Authorized Tax Filing Parameters;
- (p) split, combine or reclassify any shares of the Corporation's or the Subsidiary's share capital or allot, reserve, set aside, issue, authorize, purchase, redeem, deliver, create an Encumbrance or dispose of any shares in the share capital of the Corporation or the Subsidiary;
- (q) establish, terminate, or amend any Employee Plan, except for Employee Plans that are Security-Based Compensation Plans adopted, controlled and managed by the Vendor and under which none of the participants affected by such establishment, termination or amendment are Employees and no liability is incurred by the Corporation or the Subsidiary as a result thereof;
- (r) enter into any transaction, agreement, understanding or arrangement, or amend the terms of any existing transaction, agreement, understanding or arrangement, with any Person with whom either of the Corporation or the Subsidiary is not dealing at arm's length (as this term is defined for the purpose of the Tax Act);
- (s) enter into any transaction, agreement, understanding or arrangement which has a change of control provision or other consent requirement that would be triggered by the Transactions;
- (t) effect any new capital expenditures or commitments to make any new capital expenditures, individually or in the aggregate, in excess of \$2,000,000 (excluding, for greater certainty, any previously scheduled capital expenditure described in Section 3.2.18 of the Disclosure Letter);
- (u) enter into, amend, revise, renew or terminate any Material Contract or enter into: (i) any multi-year Contracts which contain liquidated damage or penalty provisions, or (ii) obligations under commodity purchase or option agreements or other commodity price hedging arrangements (whether contingent or matured) or Derivative Contracts, in each of the foregoing cases, solely with respect to the Corporation and the Subsidiary;

- (v) other than in the Ordinary Course, pay or agree to pay to any Person:
 - (i) any increase in compensation, benefits or bonus, (ii) any severance amounts for termination or termination packages, in each case, other than in accordance with existing employment agreements, applicable Laws and/or past practice, or (iii) any bonuses or other amounts not in place or in effect prior to the date hereof, including as they may relate to the Transactions;
- (w) other than in the Ordinary Course, hire, terminate or enter into any employment agreement with any Employees;
- (x) amend, modify or extend any new, existing or ratified Collective Agreement;
- (y) make any change to the Breakage rate and methodology used by the Vendor and the Corporation in connection with the Redemption Liabilities, from the Breakage rate and methodology used in the calculations of the disclosures included in the Vendor's Management's Discussion & Analysis of Financial Condition and Results of Operations for the years ended December 31, 2017 and 2016 and filed on SEDAR;
- (z) commence, settle or compromise any Claim (subject to the obligations of the Vendor, the Corporation or the Subsidiary pursuant to Section 4.13.2(d));
- (aa) amend, terminate or breach, in a manner that would give rise to a right of termination, any Contract between the Corporation and/or the Subsidiary, on the one hand, and one or more members of the Consortium (other than the Purchaser) and/or airline members of the Star Alliance, on the other hand; and
- (bb) enter into any agreement or other commitment whatsoever to do any of the foregoing.

4.1.4 *Positive Covenants.* The Vendor and the Corporation hereby further covenant and agree that during the Interim Period, they shall, with respect to the Corporation and the Subsidiary:

- (a) timely file any Tax Return required to be filed, which Tax Return shall be correct and complete in all material respects, and not outside the scope of the Authorized Tax Filing Parameters, provided however that in respect of the Tax Returns pertaining to the 2018 Pre-Closing Tax Period and the last Pre-Closing Tax Period ending as a result of the Closing, such income Tax Returns shall be consistent with past practice, subject to applicable Law;

- (b) pay, withhold, collect and remit to the appropriate Governmental Authority in a timely fashion all amounts required to be so paid, withheld, collected or remitted;
- (c) keep the Purchaser informed of any material events, discussions, notices or changes with respect to any Tax or regulatory investigation or any other investigation by a Governmental Authority or action involving the Business, the Corporation or the Subsidiary (other than Ordinary Course communications which are not expected to be material to the Corporation);
- (d) consider in good faith any requests by the Purchaser that the Vendor, the Corporation or the Subsidiary take any action regarding Tax filing matters, including the filing of notices of objection, notices of appeal and other actions in respect of notices of assessment or notices of re-assessment from a Governmental Authority;
- (e) maintain the coverage under all policies listed on Section 3.2.38 of the Disclosure Letter in full force and effect until the Closing Date;
- (f) use Commercially Reasonable Efforts to (i) preserve intact the respective business organizations and goodwill of the Corporation and the Subsidiary; (ii) keep available in all material respects the services of the Corporation's and the Subsidiary's officers and key Employees; and (iii) maintain in all material respects satisfactory relationships with suppliers, distributors, customers and others with whom the Corporation or the Subsidiary has business relationships;
- (g) maintain and preserve all assets of the Corporation and the Subsidiary and keep such assets in good repair, working order and condition (subject to normal wear and tear and having regard to their use and age);
- (h) provide the Purchaser and its Representatives with a reasonable opportunity to review and comment on the Restructuring Documents and give due consideration to all comments made by the Purchaser; and
- (i) promptly notify the Purchaser of:
 - (i) any notice or other written communication from any Person (A) alleging that the consent (or waiver, permit, exemption, Order, approval, agreement, amendment or confirmation) of such Person (or another Person) is or may be required in connection with this Agreement or the Transactions, or (B) to the effect that such Person is terminating or otherwise materially adversely modifying its relationship with the Corporation or the Subsidiary; or

- (ii) any material filings, actions, suits, Claims, investigations or proceedings commenced or, to their knowledge, threatened against, relating to or involving the Vendor, the Corporation or the Subsidiary.

4.2 Cooperation of the Vendor and the Corporation

- 4.2.1 During the Interim Period, upon reasonable prior notice, the Vendor and the Corporation shall, and shall cause the Subsidiary and their respective Representatives to, permit the Purchaser and its authorized Representatives to make such investigations, inspections, surveys or tests of the Corporation, the Subsidiary, the Business and their assets, and of their respective financial, tax, legal and physical condition as the Purchaser deems reasonably necessary to familiarize itself with the Business and the assets. Without limiting the generality of the foregoing, the Vendor and the Corporation shall, and shall cause the Subsidiary and their respective Representatives to, provide the Purchaser with reasonable access during normal business hours to (i) the assets of the Corporation and the Subsidiary, and (ii) such Employees who are reasonably necessary to complete the diligence work being conducted, and the Vendor and the Corporation shall, and shall cause the Subsidiary and their respective Representatives to provide copies to the Purchaser of all such written information and documents related to the Corporation, the Subsidiary and/or the Business and assets as reasonably requested by the Purchaser provided, however, that such access or request shall not unreasonably interfere with the business or operations of the Vendor or any of its Affiliates and provided further, that all information that is designated as “Clean Team Only” in accordance with Section 4.2.5. In no event shall the Auditors or the independent accountants of the Purchaser or its Affiliates be obligated to make any working papers available to any Person unless and until such Person has signed a customary confidentiality and hold harmless agreement relating to such access to working papers in form and substance reasonably acceptable to such Auditors or independent accountants.
- 4.2.2 At the Purchaser’s reasonable request, the Vendor and the Corporation shall execute or cause to be executed such consents, authorizations and directions as may be necessary to permit any inspection of the Books and Records or other assets of the Corporation, the Subsidiary and/or the Business and to enable the Purchaser or its authorized Representatives to obtain reasonable access to all files and records relating to the Corporation, the Subsidiary or any of the assets maintained by Governmental Authorities.
- 4.2.3 Any such access or requests shall (i) be supervised by such Persons as may be designated by the Vendor and (ii) be conducted in such a manner so as not to interfere with the businesses or operations of the Corporation, the Subsidiary, the Vendor or their respective Affiliates. All requests for access to information made pursuant to this Section 4.2 shall be directed to such Person or Persons as may be designated by the Vendor, and the Purchaser shall not directly or

indirectly contact any Representative of the Vendor, the Corporation, the Subsidiary, or any of their respective Affiliates without the prior approval of such designated Person or Persons.

4.2.4 Except as otherwise provided in Section 4.12, the Vendor shall co-operate with and assist the Purchaser in arranging any meetings as the Purchaser should reasonably request with:

- (a) external accountants, solicitors or any other Persons engaged or previously engaged to provide services to the Corporation who have knowledge of matters relating to the Corporation, the Subsidiary or the Business;
- (b) the Employees (such meetings, other than meetings with the Key Executives, to take place only following the receipt of all Regulatory Approvals and the Transaction Resolution Approval); and
- (c) customers, suppliers, alliance or loyalty partners, or others who have a business relationship with the Corporation or the Subsidiary (such meetings to take place only following the receipt of all Regulatory Approvals and the Transaction Resolution Approval).

4.2.5 Within five (5) Business Days following the execution of this Agreement, the Vendor shall provide the Purchaser with access to all underlying documentation and information relating to the “**Diligence Information**” (as defined in the Agreement in Principle) set forth in Annex E to the Agreement in Principle, other than the Loyalty Partnership Agreements and research and development projects relating to the period after June 30, 2020, the latter of which shall be provided to the Purchaser as contemplated by and in accordance with Section 8.2.1(k).

4.2.6 The Parties acknowledge that Personal Information is required for the operation of the Business and that the collection, use, disclosure, storage and destruction of Personal Information by the Corporation or the Subsidiary for the purposes of the Business are subject to the Privacy Laws. If this Agreement is terminated, the Purchaser shall return and/or destroy the Personal Information in its possession in accordance with the terms of the non-disclosure agreement between the Vendor and the Purchaser dated August 20, 2018 (the “**Non-Disclosure Agreement**”). This Section 4.2.6 survives the termination of this Agreement for any reason.

4.3 Transfer of Books and Records

4.3.1 On the Closing Date, the Vendor shall deliver and shall cause to be delivered to the Purchaser or make available to it the Books and Records and all documents (except, in the case of those required by applicable Law to be retained by the Vendor, copies thereof, which for greater certainty shall exclude Member Data which the Vendor may not retain any portion or any

derivatives of, other than derivatives which constitute aggregated and anonymized data which do not identify any individual and have been, or will be, provided to Governmental Authorities in connection with illustrative calculations of deferred revenue) and other data, technical or otherwise, which are in the possession or control of the Vendor at the Closing Date, relating to the Corporation, the Subsidiary, the Business or the assets of the Corporation or the Subsidiary and are required for the operation of the Business or contemplated in the Transition Services Agreement. To the extent not delivered at Closing, the Vendor shall deliver such Books and Records, or copies thereof, to the Purchaser within a reasonable period of time following Closing, which in any event shall not exceed a period of ten (10) Business Days following Closing. Subject to compliance with Section 4.3.3, the Purchaser shall preserve all those documents delivered to it in accordance with the Purchaser's document retention procedures or for such longer period as is required by applicable Law. The Purchaser shall permit the Vendor or its authorized Representatives reasonable access to those documents while they are in the Purchaser's possession or control to the extent that access is reasonably requested by the Vendor in connection with the enforcement or exercise of its legal and other rights hereunder, defence against Claims (including, for greater certainty, any Claims the Vendor is defending on behalf of the Corporation or the Subsidiary for any Pre-Closing Tax Period), preparation of Tax Returns or as otherwise reasonably required by the Vendor for the enforcement of its legal rights and/or the performance of its obligations hereunder, but the Purchaser shall not be responsible or liable to the Vendor for, or as a result of, any loss or destruction of or damage to any such documents and other data. The Vendor shall be responsible for all reasonable out-of-pocket costs and expenses directly incurred by the Purchaser in connection with any access contemplated by this Section 4.3.1.

4.3.2 Notwithstanding Section 4.3.1 and Article 6, the Vendor and its Affiliates shall have the right to retain copies:

- (a) of all Books and Records (other than the Member Data) and all Tax Returns and other information and documents relating to Taxes of the Corporation or the Subsidiary, in each case, relating to periods ending on or prior to the Closing Date, and in each case (i) relating to information regarding the Employees unless otherwise prohibited by applicable Law, (ii) as required by any legal or regulatory authority, including any applicable Law or regulatory request, (iii) as may be necessary for the Vendor and its Affiliates to perform their respective obligations pursuant to this Agreement and the Closing Documents or, (iv) as may be reasonably necessary for the Vendor and its Affiliates to carry out their respective businesses, including, for greater certainty, for purposes of their financial reporting and Tax reporting and filings; and

(b) of the Data Room and all materials therein and all Books and Records prepared in connection with the Transactions, including (i) any Books and Records that may be relevant in connection with the defence of disputes arising under this Agreement or other documents related to the Transactions, or (ii) financial information and all other accounting Books and Records (other than the Member Data) prepared or used in connection with the preparation of financial statements of any of the Vendor, its Affiliates, the Corporation or the Subsidiary.

4.3.3 From and after the Closing Date, the Purchaser shall preserve and keep for a period of at least seven (7) years all Books and Records relating to the operation of the Corporation or the Subsidiary prior to the Closing Date, including all Tax Returns and other information and documents relating to Taxes, and shall comply in all material respects with all applicable Laws, including the Tax Act, relating to the preservation and retention of such Books and Records.

4.3.4 The Vendor shall retain any documents or data which relate to the Business and which are retained by the Vendor pursuant to this Section 4.3 in confidence and shall not use or otherwise disclose the data or information contained therein except as expressly permitted by Section 4.4.1.

4.4 Confidentiality

4.4.1 For a period of two (2) years following the Closing Date and subject to the Vendor's rights under the License and Co-Ownership Agreement, the Vendor shall not, and the Vendor shall cause its Affiliates and Representatives not to, use for its or their own benefit, or divulge or convey to any third party, any Confidential Information; provided, however, that the Vendor or any Affiliate may furnish such portion (and only such portion) of the Confidential Information as the Vendor or such Affiliate is legally obligated to disclose if: (i) it receives a request to disclose all or any part of the Confidential Information under the terms of a subpoena, civil investigative demand or Order issued by a Governmental Authority; (ii) to the extent not prohibited by such request, it promptly notifies the Purchaser of the existence, terms and circumstances surrounding such request and consults with the Purchaser on the advisability of taking steps available under applicable Law to resist or narrow such request; and (iii) it exercises its Commercially Reasonable Efforts to obtain an Order or other reliable assurance that confidential treatment will be accorded to the disclosed Confidential Information.

4.4.2 Notwithstanding any provision of this Agreement or the Non-Disclosure Agreement, each of the Vendor and the Corporation acknowledges and agrees that the Purchaser shall be permitted to disclose to the members of the Consortium: (i) this Agreement, the Schedules to this Agreement and the Disclosure Letter, (ii) the Closing Date Financial Statements, including drafts thereof and audit report of the Auditors in respect thereof (in accordance with

customary protocols regarding such access, including customary confidentiality and hold harmless agreements) and such other information as the members of the Consortium shall reasonably require to confirm the Purchase Price payable hereunder and any adjustments thereto, (iii) drafts of the Circular and any other relevant documentation for the Meeting and the tally of the proxies received by the Vendor in respect of the Transaction Resolution, and (iv) any proposed substantive written communications of any nature with the Commissioner in respect of Competition Approval, and final copies thereof, except to the extent of competitively sensitive information, which competitively sensitive information shall be provided only to the external legal counsel or external expert of the members of the Consortium and shall not be shared by such counsel or expert with any other Person; provided that the Purchaser shall redact from copies provided to the members of the Consortium of any such written materials submitted or intended for submission by the Purchaser to the Commissioner any information relating to the business or operations of the Purchaser, the Vendor, the Corporation, the Subsidiary or the Business to the extent that access to such information is not required for the members of the Consortium to reasonably assess the status of matters relating to consummation of the Transactions.

4.5 Third Party Consents and Assignment of Shared Contracts

- 4.5.1 The Vendor shall use its best efforts to obtain the Transaction Resolution Approval and all Required Third Party Consents on or prior to the Closing and its Commercially Reasonable Efforts to obtain all other Third Party Consents on or prior to the Closing.
- 4.5.2 The Purchaser acknowledges that there may be Contracts with third parties to which one or more of the Vendor or its Affiliates (other than the Corporation and the Subsidiary) are parties and which directly benefit the Corporation or the Subsidiary (the “**Shared Contracts**”). Section 4.5.2 of the Disclosure Letter sets out the Shared Contracts which the Parties intend to have assigned to the Corporation, the Subsidiary or the Purchaser effective on the Closing Date (the “**Transferred Shared Contracts**”) and the Shared Contracts which will be retained by the Vendor or the applicable Affiliate of the Vendor (“**Retained Shared Contracts**”).
- 4.5.3 With respect to the Retained Shared Contracts, the Vendor shall, prior to the Closing Date, use Commercially Reasonable Efforts to assist the Corporation or the Subsidiary to replace each Retained Shared Contract that the Purchaser has indicated it requires following the Closing Date with a separate contract that provides the Corporation or the Subsidiary, as applicable, with rights and obligations substantially similar to the rights and obligations of the Vendor or the applicable Affiliate of the Vendor as provided for in such Retained Shared Contract and the Purchaser shall cooperate with the Vendor with respect thereto.

4.5.4 If, prior to the Closing Date, the Parties are not able to effect the replacement of a Retained Shared Contract including as a result of an inability to obtain any necessary Third Party Consent, then to the extent (i) agreed by the Parties in the Transition Services Agreement and (ii) permissible under the terms of such Retained Shared Contract, the Vendor or the applicable Affiliate of the Vendor shall continue to provide the benefit of the Retained Shared Contract to the Corporation and Subsidiary, as applicable, under the terms of the Transition Services Agreement, failing which the Parties will reasonably cooperate and use Commercially Reasonable Efforts to enter into alternative arrangements intended to provide the Corporation, the Subsidiary, the Vendor and the applicable Affiliate of the Vendor with the substantive benefits of such Retained Shared Contract.

4.6 Other Loyalty Programs

During the Interim Period, the Vendor may, subject to Section 4.1.3, with the prior written consent of the Purchaser, participate in discussions or negotiations and enter into Contracts relating to any alliance program, affinity program or any other similar arrangement. Prior to participating in such discussions or negotiations, or entering into any such Contracts, the Vendor will promptly (and in any event, not less than five (5) Business Days prior to the anticipated date of execution of such Contracts) notify the Purchaser and such notification will include reasonable details in respect thereof. Without limiting any other condition which may be required by the Purchaser in order for the Purchaser's consent to be so granted, any such Contracts shall: (i) be terminable on or prior to the Closing, the whole without any cost, penalty or obligation to the Corporation, the Subsidiary or the Purchaser; and (ii) not contain any continuing obligations on the part of the Corporation or the Subsidiary which survive the Closing, or any obligations on the part of the Purchaser (it being understood that any costs relating to the termination of such Contracts will be for the account of the Vendor).

4.7 Other Financing Arrangements

Notwithstanding the provisions of Section 4.1.2, the Corporation may enter into financing agreements or guarantees during the Interim Period, provided that such Contracts: (i) terminate and are terminated and repaid in full on or prior to the Closing as a condition to Closing, the whole without any cost, penalty or obligation (including any Taxes relating thereto) to the Corporation, the Subsidiary or the Purchaser; and (ii) not contain any continuing obligations on the part of the Corporation or the Subsidiary which survive the Closing, or any obligations on the part of the Purchaser (it being understood that any cost, penalty or obligation (including any Taxes relating thereto) relating to the repayment and termination of such Contracts will be for the account of the Vendor).

4.8 Debt Repayment and Discharge

The Vendor shall, immediately prior to, and conditional upon, Closing, (i) effectuate the irrevocable repayment in full of all Indebtedness under the Credit Agreement, the termination of all commitments to advance funds thereunder, and the release

(contemporaneously with Closing) of all Encumbrances and other security interests in connection therewith, and (ii) exercise its Defeasance Option in accordance with the Trust Indenture, and the Vendor shall take all actions (including the deposit of any monies, which may be paid from a portion of the Initial Consideration proceeds) and deliver all documents, opinions, certificates and instruments required to effectuate the defeasance in full of the Notes and exercise of the Defeasance Option in respect of the Trust Indenture, the whole in compliance with the Trust Indenture on the Closing Date, subject to and conditional upon the occurrence of the Closing.

4.9 Regulatory Approvals

- 4.9.1 Subject to Section 4.9.2, the Parties shall promptly prepare and file all necessary documents, registrations, statements, petitions, filings and applications for the Regulatory Approvals, in each case promptly after the date of this Agreement, and use their Commercially Reasonable Efforts to obtain and maintain all Regulatory Approvals; provided that “Commercially Reasonable Efforts” shall not require the Purchaser to propose, negotiate, agree to and/or effect, by undertaking, consent agreement, hold separate order or otherwise, (x) the sale, divestiture or disposition of any businesses, product lines or assets of the Corporation or the Subsidiary or the Purchaser’s existing material businesses, product lines, assets, or subsidiaries; or (y) the taking of any action that, after consummation of the Transactions, would impose any other requirement on the Purchaser, any of the Purchaser’s subsidiaries, the Corporation or the Subsidiary, with respect to the operation of one or more of the material businesses, product lines or assets of the Corporation, the Subsidiary or the Purchaser’s existing businesses, product lines or assets.
- 4.9.2 The Parties acknowledge and agree that on or about November 15, 2018: (i) the Purchaser submitted a request to the Commissioner for an Advance Ruling Certificate and/or a No Action Letter and the Parties submitted their respective notification filings with the Commissioner in accordance with Part IX of the Competition Act in respect of the Transactions; and (ii) the Parties filed a notice pursuant to subsection 53.1(1) of the Canada Transportation Act (which consisted of a copy of the request to the Commissioner for an Advance Ruling Certificate and/or a No Action Letter, the information required under subsection 114(1) of the Competition Act and a submission that the Transactions do not raise issues with respect to the public interest as it relates to national transportation) with each of the Minister of Transport and the Canadian Transportation Agency, in each case contemporaneously with the submission to the Commissioner of the premerger notification filings and request for an Advance Ruling Certificate and/or a No Action Letter.
- 4.9.3 Subject to applicable Law, the Parties shall cooperate with one another in connection with obtaining the Regulatory Approvals including:

- (a) providing each other with an opportunity to participate in any meetings or other substantive communications with representatives of any Governmental Authority;
- (b) providing or submitting to the Commissioner on a timely basis, and as promptly as practicable, all documentation and information that is required, requested, or reasonably advisable, in connection with obtaining Competition Approval;
- (c) providing or submitting to the Minister of Transport and to the Canadian Transportation Agency on a timely basis, and as promptly as practicable, all documentation and information that is required, requested, or reasonably advisable, in connection with obtaining CTA Approval; and
- (d) providing one another with copies of all notices and information or other correspondence supplied to, filed with or received from any Governmental Authority;

provided however, in the case of meetings and other communications contemplated by this Section 4.9.3 which a Party reasonably considers to be confidential or sensitive, such Party shall provide summaries of the matters discussed on an “external counsel only” basis, and in the case of notices and information contemplated by this Section 4.9.3 which a Party reasonably considers to be confidential or sensitive, such Party shall provide copies of such notices and information on an “external counsel only” basis, redacted if necessary of sensitive information where such redactions do not impair the recipients ability to assess the notices and information.

4.9.4 Without limiting the generality of the foregoing, each Party shall provide the other (or its external counsel in respect of competitively-sensitive, privileged or confidential matters) with reasonable opportunity to review and comment on all filings, applications and submissions (i) to the Commissioner to be made by it in connection with the Competition Approval and each other Party shall use its Commercially Reasonable Efforts to cooperate with and assist such Party in the preparation and making of all such filings, applications and submissions; and (ii) to the Minister of Transport and the Canadian Transportation Agency, to be made by the Party in connection with the CTA Approval, and each other Party shall use its Commercially Reasonable Efforts to cooperate with and assist such Party in the preparation and making of all such filings, applications and submissions. The Parties shall not participate in any substantive meetings or any substantive conversations with the Commissioner, the Minister of Transport or the Canadian Transportation Agency in respect of the Transactions unless it consults with each other Party in advance and, to the extent not precluded by the Commissioner, the Minister of Transport or the Canadian Transportation Agency, gives each other Party

(or its external counsel) the opportunity to attend and participate in any substantive meetings or substantive communications.

- 4.9.5 Subject to the foregoing, the Purchaser shall have primary responsibility for determining the strategy, timing and manner of engaging and communicating with Governmental Authorities for the purpose of pursuing the Regulatory Approvals.

4.10 Change and Use of Name

- 4.10.1 The Purchaser shall, as soon as commercially reasonably practicable but in any event within thirty (30) days from the Closing Date, change the name of the Corporation to a name that does not include “Aimia” or any part thereof or any similar words. All rights, title and interest in and to the internet, e-mail or other electronic addresses or domain names currently used by the Corporation and/or the Subsidiary and the Employees which refer in any way to “Aimia” or use any form of the name “Aimia” shall be assigned and conveyed by the Corporation to the Vendor prior to, or as of, the Closing Date.
- 4.10.2 The Purchaser shall, as soon as commercially reasonably practicable and subject to consents of any applicable landlords, remove the word “Aimia” or any part thereof or any similar words from any and all signage on assets or facilities that will be owned or leased by the Purchaser, the Corporation or the Subsidiary following the Closing. Subject to the foregoing, from and after the Closing Date, neither the Purchaser nor any of its Affiliates (including the Corporation and the Subsidiary) shall use the word “Aimia” or any part thereof or any similar words in connection with their respective businesses; provided however that the foregoing restriction shall not apply to any references to the word “Aimia” or any part thereof or any similar words: (i) to the extent provided for in the Transition Services Agreement; or (ii) which form part of the information technology systems of the Corporation, as they exist on the Closing Date which are not visible to the general public.
- 4.10.3 The Vendor shall, as soon as commercially reasonably practicable but in any event (i) within thirty (30) days from the Closing Date, change the name of any facilities, programs, products, services or other offerings or assets of the Vendor that include the words “Aeroplan” or “Air Canada” to a name that does not include those words or any part thereof or any similar words and (ii) within ninety (90) days from the Closing Date, remove the words “Aeroplan” or “Air Canada” or any part thereof or any similar words from any and all signage on assets or facilities that will remain owned or leased by the Vendor following the Closing. Subject to the foregoing, from and after the Closing Date, neither the Vendor nor any of its Affiliates shall use the words “Aeroplan” or “Air Canada” or any part thereof or any similar words in connection with their respective businesses.

4.11 R&W Policy

Before the Closing, the Purchaser shall use its Commercially Reasonable Efforts to obtain and cause the R&W Policy to have been bound. The Vendor and the Corporation shall cooperate with the Purchaser's efforts and provide assistance as reasonably requested by the Purchaser to obtain and cause the R&W Policy to be bound. The Purchaser shall pay, or cause to be paid, the entirety of the premium, underwriting fees, insurance broker due diligence costs and all insurance broker other costs and expenses related thereto. In no event shall the Vendor or the Corporation be required to make any representations or warranties with respect to such information so provided other than the representations and warranties set forth in this Agreement. The Purchaser shall promptly, and in any event at or prior to Closing, provide evidence to the Vendor that the R&W Policy is in full force and effect. In no event shall the R&W Policy give any Person any right to seek subrogation, indemnity or contribution from the Vendor in connection with any claim made thereunder (other than in the case of fraud or intentional or gross fault on the part of the Vendor). From and after the issuance of the R&W Policy, the Purchaser shall not (and shall cause its Affiliates not to) terminate the R&W Policy nor consent to any amendment to the R&W Policy that would reasonably be expected to be adverse to the Vendor or the Vendor's rights hereunder without the prior written consent of the Vendor.

4.12 Migration Planning

- 4.12.1 Commencing on the execution of this Agreement, each of the Purchaser and the Vendor shall appoint a project manager to act as the primary contact between them and to manage the provision of the Transition Services (as defined in the Transition Services Agreement) under the Transition Services Agreement (each a "**TSA Project Manager**").
- 4.12.2 During the Interim Period, the TSA Project Managers shall meet to coordinate and commence to develop a mutually agreed plan to achieve a timely and efficient separation of the operational processes, technology and communications systems and services of the Business and the business of the Vendor, and any remaining Shared Contracts ("**Migration Plan**").
- 4.12.3 The Parties intend, and shall use their Commercially Reasonable Efforts to ensure, that any measures required to be implemented prior to the commencement of Transition Services ("**Day 1 Readiness**") shall be completed by each of the Purchaser and the Vendor on or prior to the Closing Date, and the Migration Plan shall be completed and approved by each of the Purchaser and the Vendor as soon as reasonably practicable following the Closing Date. In furtherance thereof, during the Interim Period, the Vendor and the Corporation shall make available office space at the Corporation's premises for representatives of the Purchaser.
- 4.12.4 The Migration Plan shall be developed and implemented with the intent of enabling the Business and the business of the Vendor to be conducted as stand-alone enterprises entirely independent of the other upon the completion

of the Transition Services. Upon completion, the Migration Plan shall be deemed attached as Schedule E to the Transition Services Agreement.

4.12.5 The Migration Plan will include:

- (a) a timeline for the implementation of the activities included in the Migration Plan;
- (b) separation of the financial systems' software, applications, tools and hosted environment between the Corporation and the Vendor;
- (c) the respective responsibilities of the Corporation and the Vendor in carrying out the Migration Plan.

4.12.6 Each of the Purchaser and the Vendor shall:

- (a) provide all information to the other Party about any items or issues which are reasonably necessary and relevant to develop and perform the Migration Plan;
- (b) on being given reasonable notice, make available relevant representatives for meetings with the other Party;
- (c) ensure that their respective TSA Project Managers and other personnel who are necessary for the implementation of the Migration Plan are available at all reasonable times for consultation on any matter relating to them; and
- (d) ensure that their respective TSA Project Managers shall provide regular status updates and performance reports relating to each Party's progress in fulfilling milestones and performing its obligations under this Section 4.12, including progress on the Migration Plan.

4.13 Additional Covenants of the Parties

4.13.1 *Additional Covenants of the Parties.* Each Party hereby covenants and agrees in favour of each other Party that it shall:

- (a) perform all obligations required to be performed by such Party under this Agreement and the Closing Documents, and shall do all such other acts and things not expressly referenced herein as may be commercially reasonable in order to consummate and make effective, as soon as reasonably practicable, the Transactions contemplated hereby and thereby and shall not take any action that would be reasonably expected to have the effect of delaying, impairing or impeding the Closing or the receipt of any authorizations, consents, Orders or approvals to be sought pursuant to this Agreement or pursuant to any Closing Document; and

- (b) not enter into any transaction or perform any act or omit to perform any act which would be reasonably expected to (i) interfere or be inconsistent with the successful completion of the Transactions or any Closing Document in accordance with the terms hereof or thereof, (ii) render untrue or incorrect any of the representations and warranties of such Party set forth in this Agreement or in any Closing Document if such representations and warranties were made at a date subsequent to the execution hereof and all references to the date hereof were to such later date, or (iii) adversely affect the ability of such Party to perform and comply with its covenants and agreements under this Agreement or any Closing Document.

4.13.2 *Additional Covenants of the Vendor.* Without limiting the foregoing, the Vendor and the Corporation shall, and shall cause the Subsidiary to:

- (a) use their best efforts to cause the conditions set forth in Sections 7.1.1(a) to 7.1.1(l), inclusively, to be satisfied on or prior to the Closing Date;
- (b) take all necessary measures to: (i) enforce (including by pursuing injunctive relief and specific performance or similar remedies), including at the request of the Purchaser, all standstill, confidentiality and other restrictive undertakings, covenants or agreements made in favour of the Vendor or the Corporation, including for avoidance of doubt the letter agreement between the Vendor and Mittleman Brothers, LLC dated March 23, 2018 (the “**Mittleman Standstill Agreement**”); (ii) not terminate, amend or waive any of the provisions of such undertakings, covenants or agreements; and (iii) not consent to any action by any party to any such undertakings, covenants or agreements that would, without such consent, be prohibited thereunder, provided, in each case, that the Vendor may grant a waiver or consent in respect of the Mittleman Standstill Agreement where the subject matter of such waiver or consent does not relate to the Transactions and could not reasonably be expected to impact the Transaction Resolution Approval in any manner (and such waiver or consent granted by the Vendor shall include a provision whereby Mittleman Brothers, LLC and/or one or more of its related or affiliated entities, as applicable, acknowledges, represents, warrants, covenants and agrees that such waiver or consent granted shall not apply under any circumstance to impact the Transaction Resolution Approval);
- (c) subject to Section 4.9.1, effect all necessary registrations, filings and submissions of information required by Governmental Authorities from the Vendor, the Corporation or the Subsidiary to effect the Transactions;

- (d) defend all Claims and use their Commercially Reasonable Efforts to lift or rescind any injunction or restraining Order or other Order relating to the Vendor, the Corporation or the Subsidiary, challenging or affecting this Agreement or the Closing Documents or the consummation of the Transactions contemplated hereby and thereby; and
- (e) take, when required, on or prior to the Closing Date, all necessary steps and proceedings to permit the Purchased Shares to be duly and regularly transferred to and registered in the name of the Purchaser.

4.13.3 *Additional Covenants of the Purchaser.* Without limiting the foregoing, the Purchaser shall, except for Section 4.9, with respect to which it shall use Commercially Reasonable Efforts, use its best efforts to cause the conditions in Sections 7.2.1(a), 7.2.1(b) and 7.2.1(d) to be satisfied on or prior to the Closing Date.

4.14 Notice and Cure Provisions

- 4.14.1 The Vendor (on behalf of itself and the Corporation) and the Purchaser shall promptly notify one another of the occurrence, or failure to occur, of any event or state of facts which occurrence or failure would, or would be reasonably likely to:
- (a) cause any of the representations or warranties of such Party contained in this Agreement to be untrue or inaccurate in any material respect at any time from the date of this Agreement to the Closing Date;
 - (b) result in the failure to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by such Party under this Agreement; or
 - (c) result in a Material Adverse Change.
- 4.14.2 During the Interim Period, without limiting the foregoing, the Vendor shall deliver to the Purchaser a copy of any notices relating to any amendment, termination or breach that would give rise to a right of termination sent by the Vendor, the Corporation or the Subsidiary to any member of the Consortium (other than the Purchaser), or any notices relating to any amendment, termination or breach that would give rise to a right of termination received by the Vendor, the Corporation or the Subsidiary from any member of the Consortium (other than the Purchaser).
- 4.14.3 Notification provided under this Section 4.14 will not affect the representations, warranties, covenants, agreements or obligations of the Parties (or remedies with respect thereto) or the conditions to the obligations of the Parties under this Agreement.

4.14.4 The Purchaser may not elect to exercise its right to terminate this Agreement pursuant to Section 10.1.3(a) and the Vendor may not elect to exercise its right to terminate this Agreement pursuant to Section 10.1.4(a), unless the Party seeking to terminate this Agreement (the “**Terminating Party**”) has delivered a written notice (“**Termination Notice**”) to each other Party (the “**Breaching Party**”) specifying in reasonable detail all breaches of covenants, representations and warranties or other matters which the Terminating Party asserts as the basis for termination. After delivering a Termination Notice, provided the Breaching Party is proceeding diligently to cure such matter and such matter is capable of being cured prior to the Outside Date, the Terminating Party may not exercise such termination right until the earlier of (a) the Outside Date, and (b) the date that is ten (10) Business Days following receipt of such Termination Notice by the Breaching Party, if such matter has not been cured by such date.

ARTICLE 5 SHAREHOLDER APPROVAL MATTERS

5.1 Supporting Shareholders

The Parties acknowledge that the Support Agreements have been delivered to the Purchaser.

5.2 Circular

5.2.1 As promptly as practicable following the execution of this Agreement, the Vendor shall publicize the record date for the Meeting and cause the Circular to be mailed to the Shareholders and filed with applicable Securities Regulators in such manner as to ensure that the Meeting can be held in accordance with Section 5.3. Each of the Vendor and the Purchaser shall promptly furnish all information as may be reasonably requested by a Governmental Authority in connection with the preparation and filing of the Circular.

5.2.2 The Vendor shall cause the Circular to be prepared in compliance with applicable Laws, including, for greater certainty, the Charter of the French Language (Québec), and to provide the Shareholders with information in sufficient detail to permit them to form a reasoned judgment concerning the matters to be considered at the Meeting.

5.2.3 Without limiting the generality of the foregoing, the Circular shall include (notwithstanding any Competing Proposal which may have been received by the Vendor, the Corporation or the Subsidiary or made public by them or by a third party):

- (a) a copy of the Fairness Opinion;

- (b) a statement that the board of directors of the Vendor has, based upon, among other things, the Fairness Opinion, unanimously: (i) determined that the Transactions are fair and in the best interests of the Vendor; (ii) approved this Agreement and the consummation of the Transactions contemplated hereby (subject only to the Transaction Resolution Approval); and (iii) resolved to recommend that Shareholders vote in favour of the Transaction Resolution;
- (c) a statement that each executive officer and each director of the Corporation who is a Shareholder intends to vote all of such Person's Common Shares and Preferred Shares in favour of the Transaction Resolution, subject to the other terms of this Agreement and the voting agreements entered into between the Purchaser and such executive officers and directors;
- (d) a statement that the Vendor has engaged Kingsdale Advisors as its proxy solicitation agent to solicit proxies in favour of the Transaction Resolution; and
- (e) a statement as to the number and percentage of Common Shares and Preferred Shares held by Shareholders who have (subject to the terms of the Support Agreements) committed to vote in favour of the Transaction Resolution pursuant to the terms of the Support Agreements.

5.2.4 The Vendor shall provide the Purchaser and its Representatives with a reasonable opportunity to review and comment on the Circular and any other relevant documentation and shall give due consideration to all comments made by the Purchaser. The Purchaser shall, and it shall cause (to the extent it is contractually able to do so) each member of the Consortium to, provide the Vendor with all necessary information regarding the Purchaser and each Consortium member as well as such arrangements among themselves as is reasonably necessary to include in the Circular in order to enable the Vendor to comply with its obligations under Sections 5.2.1 and 5.2.5 as well as its obligations under applicable securities Laws.

5.2.5 The Vendor shall ensure that the Circular does not, at the time of the mailing of the Circular, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or that is necessary to make the statements contained therein not misleading in light of the circumstances under which they are made. If at any time prior to the receipt of the Transaction Resolution Approval, any information relating to the Vendor or any of its Affiliates, directors or officers should be discovered by the Vendor which is required to be set forth in an amendment or supplement to the Circular, so that such document would not include any misstatement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under

which they were made, not misleading, the Vendor shall promptly notify the Purchaser and the Vendor shall promptly file an appropriate amendment or supplement describing such information with the applicable Securities Regulators and, to the extent required by applicable Law, disseminated to the Shareholders.

5.3 The Meeting

- 5.3.1 As promptly as practicable following the execution of this Agreement and in compliance with applicable Laws, and notwithstanding any breach of any provision of this Agreement by the Vendor or the Corporation or any Competing Proposal which may have been received by the Vendor, the Corporation or the Subsidiary or made public by them or by a third party, the Vendor shall call, give notice of and convene the Meeting for the purpose of considering the Transaction Resolution on or before January 8, 2019 (and not adjourn, postpone or cancel, or propose the adjournment, postponement or cancellation of the Meeting without the prior written consent of the Purchaser, except as required for quorum purposes, in which case the Meeting shall be adjourned and not cancelled) at which Meeting the Transaction Resolution shall be submitted to the Shareholders entitled to vote upon such resolution for approval. If in the reasonable opinion of the Purchaser, the Transaction Resolution Approval is not likely to be obtained at the Meeting as scheduled, the Purchaser shall be entitled to require that the Vendor adjourn the Meeting for a maximum of thirty (30) days.
- 5.3.2 The Vendor shall solicit proxies to be voted at the Meeting in favour of the Transaction Resolution and against any resolution submitted by any Person that is inconsistent with the Transaction Resolution. The Vendor has engaged Kingsdale Advisors, and will continue the engagement of Kingsdale Advisors during the Interim Period, as its proxy solicitation agent to solicit proxies in favour of the Transaction Resolution and cooperate with any Persons engaged to solicit proxies in favour of the approval of the Transaction Resolution.
- 5.3.3 The Vendor shall provide the Purchaser with copies of or access to information regarding the Meeting generated by Kingsdale Advisors as proxy solicitation agent as reasonably requested from time to time by the Purchaser and shall advise the Purchaser on a daily basis on each of the last ten (10) calendar days prior to the proxy cut-off date for the Meeting, as to the aggregate tally and voting results of the proxies received by the Vendor in respect of the Transaction Resolution.
- 5.3.4 The Vendor shall conduct the Meeting in accordance with the by-laws of the Vendor and any instrument governing the Meeting, as applicable, and otherwise in accordance with applicable Laws; provided that the Transaction Resolution shall be voted on before any other matter at the Meeting, unless the Purchaser agrees otherwise.

5.3.5 The Vendor shall consult with the Purchaser in fixing the date for the Meeting and give notice to the Purchaser of the Meeting and allow the Purchaser and its legal counsel to attend the Meeting.

5.3.6 The Vendor shall:

- (a) promptly advise the Purchaser of the number of Shareholders (and the number of Common Shares and Preferred Shares they hold, if known to the Vendor or if included in such written objections) for which the Vendor receives written objections to the Transactions in exercise of dissent rights (including any Claims brought against the Vendor by any Person in opposition to the Transactions and/or purported exercise or withdrawal of dissent rights by Shareholders) and provide the Purchaser with copies of such written objections on an as received basis; and
- (b) not settle or compromise or agree to settle or compromise any matters referred to in Section 5.3.6(a) without the prior written consent of the Purchaser to the extent such settlement or compromise has an adverse impact on the ability of any of the Parties to consummate the Transactions.

5.4 Standstill

5.4.1 Subject to the provisions of Section 5.4.5, until the earlier of (i) the Closing, or (ii) such time as this Agreement is lawfully terminated pursuant to Article 10, the Vendor and the Corporation shall not, and shall cause the Subsidiary and each Representative of the Vendor, the Corporation and the Subsidiary not to, directly or indirectly, solicit, initiate, encourage or entertain any inquiries or proposals from, discuss or negotiate with, provide any information to or consider any inquiries or proposals from any Person other than the Purchaser with respect to:

- (a) a sale or disposition (or any lease, license or other arrangement having the same economic effect as a sale or disposition) of the Vendor, the Corporation, the Subsidiary, any assets of the Corporation, the Subsidiary, or the Business;
- (b) a sale of the Purchased Shares or any other equity or ownership interest in the Corporation or the Subsidiary (or any right to acquire the same); or
- (c) a take-over, privatization, plan of arrangement, amalgamation, merger, business combination of any kind with, or acquisition of the Vendor, the Corporation or the Subsidiary, or other restructuring, recapitalization or reorganization involving the Vendor, the Corporation, the Subsidiary or any of the Purchased Shares (for greater certainty, other than the Restructuring Transactions);

(each of the above, or the economic or functional equivalent thereof, a “**Competing Transaction**”).

- 5.4.2 The Vendor and the Corporation hereby confirm that they and their Affiliates have terminated any and all negotiations relating to any Competing Transaction with all Persons other than the Purchaser, and shall as soon as possible following the date hereof, request, to the extent that they are entitled to do so (and exercise all rights they have to require), the return or destruction of all confidential information regarding the Corporation or the Subsidiary previously provided to any such Person or any other Person (other than the Purchaser) and shall request (and exercise all rights they have to require) the destruction of all material including or incorporating or otherwise reflecting any material confidential information regarding the Corporation or the Subsidiary. The Vendor and the Corporation agree that they shall not, and shall cause the Subsidiary to not, terminate, waive, amend or modify, and the Vendor and the Corporation agree to, and shall cause the Subsidiary to, actively prosecute and enforce, any provision of any existing confidentiality agreement relating to any potential Competing Transaction or any standstill agreement to which it or the Vendor, the Corporation or the Subsidiary is a party, including the Support Agreements.
- 5.4.3 During the Interim Period, the Vendor and the Corporation shall notify the Purchaser of any offer or proposal constituting or forming a Competing Transaction (a “**Competing Proposal**”), together with a copy of such Competing Proposal and the identity of the Person making such Competing Proposal, within twenty-four (24) hours of receipt of the same by the Vendor or the Corporation.
- 5.4.4 For avoidance of doubt, under no circumstances shall the board of directors of the Vendor be entitled to change its recommendation to Shareholders made in the Circular, as further set forth in Section 5.2.3(b), it being understood that failing to publicly reaffirm the recommendation to Shareholders in the Circular at the request of the Purchaser within twenty-four (24) hours from such request, will be considered to be a violation of this Agreement.
- 5.4.5 Notwithstanding the other provisions of this Section 5.4, the Vendor shall, during the Interim Period, on a private and confidential basis, be permitted and entitled to solicit, initiate, encourage or entertain any inquiries or proposals from, discuss or negotiate with, provide any information to or consider any inquiries or proposals from, or enter into any binding or non-binding agreements, proposals, term sheets or letters of intent with any Person(s) where the subject matter relates to a Non-Competing Proposal. For the purposes of the foregoing, a “**Non-Competing Proposal**” means any acquisition, sale, going private, merger, amalgamation, combination, consolidation or arrangement or similar type of transaction or any investment transaction providing for the investment in securities of the Vendor by any other Person(s) provided: (i) any such activities would not be reasonably

expected to interfere in any way with the Closing of the Transactions (including by delaying same), (ii) such transaction assumes and is structured as a transaction on or with respect to the Vendor excluding any ownership interest in the Corporation or the Subsidiary, and (iii) such transaction may only be completed after the Closing.

ARTICLE 6 TAX MATTERS

6.1 Tax Filings

6.1.1 Subject to Section 4.1.4(a), the Vendor shall prepare and file, or cause to be prepared and filed, consistent with past practice except as required under applicable Law, all Tax Returns in respect of any Pre-Closing Tax Period for the Corporation and the Subsidiary that are required to be filed after the Closing Date, and notwithstanding anything to the contrary in this Agreement, the Vendor shall be authorized to prepare and file such Tax Returns as it deems appropriate in accordance with the following parameters only (“**Authorized Tax Filing Parameters**”):

- (a) all such Tax Returns shall be prepared in accordance with applicable Law;
- (b) the Vendor shall not increase the Corporation’s or the Subsidiary’s liability for Tax payable in respect of a Post-Closing Tax Period, except as provided for in Sections 6.1.1(c) and 6.1.1(d);
- (c) in respect of income Tax Returns only, the Vendor shall be entitled to claim or use any amounts, or reduce any amounts previously claimed, in respect of Permitted Tax Attributes and/or Permissive Deductions, in order to reduce any Taxable income of the Corporation or the Subsidiary in respect of Pre-Closing Tax Periods, including for greater certainty, reserves available under the Tax Act in respect of a Pre-Closing Tax Period, as such may be adjusted;
- (d) the Vendor shall not claim an amount as a reserve under paragraph 20(1)(m) of the Tax Act in such income Tax Returns for the Pre-Closing Tax Period year ending as a result of the Closing which is in excess of the amount of the deferred revenue liability for accounting purposes that is recorded in the non-consolidated financial statements of the Corporation and the Subsidiary of the Closing Date, prepared in accordance with IFRS (except for such derogations from IFRS consistent with the disclosures in respect of the Financial Statements set out in Section 3.2.14 of the Disclosure Letter), applied using the same accounting methods, practices, principles, policies and procedures, with consistent classifications, judgment and valuation and estimation methodologies that were used in preparation of the

Vendor's audited consolidated financial statements for the financial year ended December 31, 2017 as if such non-consolidated financial statements of the Corporation and the Subsidiary were being prepared and audited as of a financial year end, but at all times taking into account all current relevant facts and circumstances at the time of the preparation of the non-consolidated financial statements of the Corporation and the Subsidiary.

- 6.1.2 The Purchaser shall co-operate fully with the Vendor in, and make available to the Vendor in a timely fashion all information reasonably required for, the preparation of those Tax Returns.
- 6.1.3 With respect to income Tax Returns in respect of any Pre-Closing Tax Period for the Corporation and the Subsidiary, the Vendor shall provide the Purchaser with a draft of such income Tax Returns forty-five (45) days prior to the filing of such income Tax Returns with the appropriate Governmental Authorities. Within twenty (20) days after the receipt thereof, the Purchaser shall have the right to review the draft of such income Tax Returns provided to it by the Vendor and make any comments that it deems appropriate. The Vendor shall reasonably consider all such comments of the Purchaser in respect of those Tax Returns, and to the extent that the Vendor agrees with such comments, it will incorporate the comments in the Tax Returns prior to filing. Notwithstanding the foregoing, the Vendor shall not be obligated to amend the draft income Tax Returns to reflect any comments of the Purchaser if such comments are not within the scope of the Authorized Tax Filing Parameters.
- 6.1.4 If the Purchaser, acting in good faith, believes that income Tax Returns proposed to be filed by the Vendor are not within the scope of the Authorized Tax Filing Parameters, the Purchaser shall notify the Vendor in writing of its disagreement twenty (20) days after receipt of the draft income Tax Returns, together with reasonable particulars of the basis of such disagreement. The Purchaser and the Vendor shall attempt, in good faith, to resolve their differences with respect thereto within ten (10) days after the Purchaser's notice of disagreement. To the extent that the Purchaser and the Vendor are unable to agree, the disagreement may be referred by either Party for determination by an Independent Firm in a similar manner as contemplated by Section 2.5.2 provided that the Independent Firm must complete its determination no later than five (5) Business Days prior to the filing due date of the income Tax Returns and if such determination cannot be completed prior such five (5) Business Day period, the Vendor shall be entitled to file the income Tax Returns on behalf of the Corporation and the Subsidiary, as applicable, subject to amended income Tax Returns being filed if the Independent Firm so determines. Once the disagreement is settled amongst the Purchaser and the Vendor or the income Tax Returns are determined by the Independent Firm hired pursuant to this Section 6.1.4, the Vendor shall file the Tax Returns or amended Tax Returns, as applicable. Notwithstanding the foregoing, in respect only of Paragraph (a) of Section 6.1.1 and without

limiting the other provisions of Section 6.1.1, this Section 6.1.4 or any other provision of this Agreement, in the event that the Vendor has obtained an opinion, co-addressed to the Corporation, on the basis of reasonable assumptions based on accurate and complete facts and taking into account all relevant circumstances, from a major national Canadian professional firm of high reputation confirming that such Tax Returns reflect a reasonable filing position under applicable Law, the Vendor may file such Tax Returns in the manner proposed. At the request of the Purchaser, the Vendor shall communicate in writing to the relevant Tax Authority, with a copy to the Purchaser, that the filing is being made and has been prepared solely by the Vendor and the filing has not been prepared, contributed to or endorsed by the Purchaser or the Corporation in any way.

- 6.1.5 The Vendor shall promptly pay, with satisfactory evidence to the Purchaser, to the applicable Governmental Authority, when due, all Taxes payable by the Corporation and the Subsidiary in respect of any Pre-Closing Tax Period provided such Taxes have not been taken into account in the Post-Closing Adjustment Calculations. The Purchaser shall, within fifteen (15) Business Days of receipt of any Tax Refund in respect of any Pre-Closing Tax Period (other than a Tax Refund pertaining to a Specific Indemnity for which the provisions of Sections 6.2 and 9.10 shall apply), pay to the Vendor the amount of such Tax Refund, net of any Taxes thereon or other costs or expenses related thereto, provided such Tax Refund has not been taken into account in the Post-Closing Adjustment Calculations.
- 6.1.6 At the Purchaser's request, the Vendor will cause the Corporation and the Subsidiary to make the election prepared by the Purchaser and referred to in subsection 256(9) of the Tax Act, and comparable provisions of applicable provincial or territorial legislation, and to timely file such election for the Corporation's or the Subsidiary's taxation year ending on or immediately before the Closing Date.
- 6.1.7 The Purchaser agrees that it will not, and it will cause the Corporation and the Subsidiary not to, make any election or amend any Tax Return, including a carry-back of Tax Attributes arising from a Post-Closing Tax Period, with respect to any Pre-Closing Tax Period, except as contemplated by Section 6.2. The Purchaser agrees that the Vendor shall have no liability for any Tax (including any related interest and penalties) resulting from any action referred to in the preceding sentence.

6.2 Amendments to Pre-Closing Income Tax Filings and Tax Adjustments

- 6.2.1 To the extent that the Vendor determines that amendments to the income Tax Returns filed by the Corporation or the Subsidiary for Pre-Closing Tax Periods would reduce the amount or facilitate the settlement of Tax Claims for which the Vendor is indemnifying the Purchaser or result in a Tax Refund in respect of any Pre-Closing Tax Period, the Purchaser shall cooperate fully and

timely with the Vendor to cause any such amendment to be filed, and make available to the Vendor in a timely fashion all information reasonably required for the filing of such amendment, provided, however, that such amendment to an income Tax Return is not outside the scope of the Authorized Tax Filing Parameters.

6.2.2 If, following the application of Section 6.2.1, the amendments to the income Tax Returns filed by the Corporation or the Subsidiary result in a Tax Refund for a Pre-Closing Tax Period, whether paid in cash or credited against a Tax liability in respect of a Post-Closing Tax Period, and such Tax Refund:

- (a) was not subject to adjustment in accordance with Article 2 in determining the Purchase Price; and
- (b) did not arise as a result of the use or application of Tax Attributes arising from a Post-Closing Tax Period, including a carry-back of non-capital losses arising from a Post-Closing Tax Period, it being understood that such Post-Closing Tax Attributes may only be used in a Pre-Closing Tax Period once the Vendor determines, acting reasonably, that all Permitted Tax Attributes have been or may be used;

the Purchaser shall, subject to Section 9.10, pay or cause the Corporation and/or the Subsidiary, as applicable, to pay such Tax Refund to the Vendor within fifteen (15) Business Days after receipt. All such Tax Refunds paid by the Purchaser pursuant to this Section 6.2.2 shall be considered to be an increase in the Purchase Price.

6.3 Books and Records Relating to Taxes

Within ten (10) Business Days after the Closing Date, the Vendor shall deliver to the Purchaser all documents relating to the Taxes of the Corporation and the Subsidiary in respect of the Pre-Closing Tax Periods that the Vendor retained pursuant to Section 4.3.2 and all working papers, correspondence and other documents prepared after the Closing Date which relate to Taxes for all Pre-Closing Tax Periods.

6.4 The Vendor Indemnification

Without duplication of any other indemnification provisions of this Agreement, from and after the Closing Date and whether or not disclosed in the Data Room, the Vendor shall indemnify, defend and save harmless the Purchaser and each of the Purchaser's Representatives from and against any and all Losses suffered by, imposed upon, asserted against, or incurred by them and, following the Closing, the Corporation and/or the Subsidiary, as a direct or indirect result of or arising in connection with or related in any manner whatsoever to:

- (a) any inaccuracy in, or breach of, a representation and warranty made in this Agreement or in any Closing Document (insofar as such representation or warranty relates to Taxes);
- (b) any Claim by any Tax Authority against the Corporation and/or the Subsidiary for Taxes, whether made before or after the Closing, relating to all Pre-Closing Tax Periods, including any Claim by any Tax Authority against the Corporation and/or the Subsidiary for Taxes in connection with the Restructuring Transactions, it being understood that the Losses indemnifiable pursuant to any Claims contemplated by this Section 6.4(b) shall be reduced to take into account any Permitted Tax Attributes available (or that would have been available if not already used in respect of a Post-Closing Tax Period), except to the extent those Taxes have been taken into account in the adjustments to the Purchase Price pursuant to Sections 2.4 or 2.5;
- (c) any Claim by any Tax Authority relating to the Tax credits associated with the Leased Premises located at 525 Viger Avenue West, being the tenant's head office;
- (d) any net reduction of the eligible capital expenditure account or Class 14.1 in excess of \$50,000,000, in the aggregate, as a result of the Restructuring Transactions;
- (e) any Taxes of the Corporation and/or the Subsidiary in a Post-Closing Tax Period as a result of a tax credit claimed in a Pre-Closing Tax Period;
- (f) any Claim by any Tax Authority for income Taxes payable by the Corporation in a Post-Closing Tax Period as a result of the use of any non-capital losses carry forward as contemplated by Section 6.5.4;
- (g) any breach by the Vendor of any covenant or undertaking set forth in Article 6.

6.5 Future Tax Savings

- 6.5.1 For all deductions or reductions of income claimed in respect of the 2013 Pre-Closing Tax Period of the Corporation that are currently the subject of an audit which could result in a potential reassessment by a Tax Authority which give rise, consistent with such Tax Authority's position, to any subsequent related deductions, reductions of income or, without duplication, non-capital losses carry forward resulting therefrom, that are available to be claimed in Post-Closing Tax Periods, such deductions, reductions of income or non-capital losses carry forward will be claimed (to the extent permitted by applicable Law), as directed by the Vendor, and the Tax savings realized thereby will be paid by the Purchaser, or the Purchaser shall cause the Corporation or the Subsidiary, as applicable, to pay, to the Vendor after

receipt of such savings in respect of a Post-Closing Tax Period ending within sixty (60) months following the Closing Date (each year for Tax purposes during such period being an “**Eligible Post-Closing Tax Year**”), without duplication of any amounts paid pursuant to any other provision of this Agreement.

6.5.2 For the purposes of determining whether any Tax savings (contemplated by Section 6.5.1) have been realized by the Corporation, and provided the Corporation has sufficient income to claim such deductions or reductions or sufficient taxable income to apply such non-capital losses carry forward, the Corporation shall compute its Tax liability for the applicable Eligible Post-Closing Tax Year, illustrating the following scenarios:

- (a) once on the assumption that any deductions, reductions of income or non-capital losses carry forward contemplated by Section 6.5.1 of the Corporation were not available; and
- (b) once on the assumption that any deductions, reductions of income or non-capital losses carry forward contemplated by Section 6.5.1 of the Corporation were available and applied.

6.5.3 If the Corporation’s actual Tax liability determined in accordance with Section 6.5.2(b) is less than the actual liability determined in accordance with 6.5.2(a), the Corporation shall be considered to have realized Tax savings which are payable pursuant to Section 6.5.1.

6.5.4 If the Corporation has any available non-capital losses carry forward from a Pre-Closing Tax Period available for a Post-Closing Tax Period, for Quebec income Tax purposes, when such non-capital losses carry forward are deducted from, or reduce, taxable income (in each case, to the extent permitted by applicable Law), as directed by the Vendor, the Quebec income Tax savings generated thereby will be paid by the Purchaser, or the Purchaser shall cause the Corporation or the Subsidiary, as applicable, to pay, to the Vendor after receipt of such savings with respect to an Eligible Post-Closing Tax Year, without duplication of any amounts paid pursuant to any other provision of this Agreement.

6.6 Defence of Third Party Claims for Taxes

6.6.1 An Indemnifier may assume the defence of a Claim from any Tax Authority relating to Taxes (a “**Tax Claim**”). Subject to Section 9.10, in connection with any Tax Claim, the Indemnifier shall provide the Corporation or the Subsidiary:

- (a) in the event of a contestation of such Tax Claim by the Vendor, at least the amount required to deposit or pay under any Law in order to suspend collection measures in respect of the Tax Claim; and

- (b) in the event the Vendor does not contest such Tax Claim, 100% of the amount of Taxes owing pursuant thereto.

6.6.2 The funds provided by the Indemnifier, which may represent, among other amounts and without limitation, all or part of the Tax Claim, shall be provided to the Corporation or the Subsidiary on an interest-free basis. If the Corporation or the Subsidiary does not receive sufficient funds within a thirty (30) day period following the sending of a notice of a Tax Claim to entitle it to fulfill all legal prerequisites necessary to contest a Tax Claim and with prior written notice to the Vendor, the Corporation or the Subsidiary, as applicable, shall be entitled to settle the Tax Claim, acting reasonably, and the Indemnifier shall be required to indemnify the Corporation or the Subsidiary, as applicable, pursuant to the terms of this Agreement.

6.6.3 Subject to Section 9.10 (and for the avoidance of doubt, this Section 6.6.3 shall not apply to the matters pertaining to a Specific Indemnity which are contemplated by Section 9.10):

- (a) To the extent that the required funds have been provided by the Indemnifier and the contestation of the Tax Claim has resulted in a final determination by the competent Governmental Authority or court rejecting the Tax Claim in its entirety, the Corporation or the Subsidiary, as applicable, shall release and pay the funds received from the Indemnifier back to the Indemnifier within the five (5) Business Days following the receipt of the funds from the applicable Tax Authority.
- (b) To the extent that the Tax Claim has been either wholly or partially upheld by the final determination of the competent Governmental Authority or court, the Corporation or the Subsidiary, as applicable, shall release and pay back to the Indemnifier the amount, if any, by which the funds provided by the Indemnifier and that are described in this Section 6.6 exceed the amount that must be paid by the Corporation or the Subsidiary, as applicable, pursuant to the final determination of the Tax Claim within the five (5) Business Days following the receipt of the funds from the third party or the application of the funds to other Tax obligations of the Corporation or the Subsidiary.
- (c) If the amount of funds that is reimbursed pursuant to the final determination of the Tax Claim to the Corporation or the Subsidiary, as applicable, includes an amount of interest, the Corporation or the Subsidiary, as applicable, shall pay to the Indemnifier within the five (5) Business Days following the receipt of the funds from the third party or the application of the funds to other Tax obligations of the Corporation or the Subsidiary, as applicable, an amount equal to the interest received on the funds that were paid or deposited, less an

amount equal to the amount, as determined by the Corporation or the Subsidiary, that the Corporation or the Subsidiary, as applicable, shall pay to any Governmental Authority as Taxes on the interest.

- 6.6.4 Notwithstanding anything to the contrary herein (including Section 9.7), in no event shall the Indemnifier be entitled to settle a Tax Claim without the prior written consent of the Indemnified Party, such consent not to be unreasonably withheld, and it being understood however that if the Indemnified Party is the Purchaser, Corporation or the Subsidiary, such Person shall not be entitled to withhold its consent if such settlement is consistent with, or would require the preparation and filing of Tax Returns or amendments thereto which are consistent with, the Authorized Tax Filing Parameters.
- 6.6.5 If the Indemnifier has assumed the defence of a Tax Claim in accordance with this Agreement, the Indemnified Party shall not settle such Tax Claim without the prior written consent of the Indemnifier, such consent not to be unreasonably withheld. The Purchaser shall, or shall cause the Corporation or the Subsidiary to, pay to a Governmental Authority, any and all amounts received by the Corporation or the Subsidiary from the Vendor pursuant to this Section 6.6, which amounts are required to be paid to such Governmental Authority.
- 6.6.6 The Vendor's obligation to indemnify the Purchaser shall be reduced by the amount of any Losses suffered by the Vendor as a result of the Purchaser's failure to comply with any covenant or undertaking set forth in Article 6 that renders the Vendor incapable of defending a Tax Claim.
- 6.6.7 The Indemnified Party shall execute or caused to be executed the necessary power of attorneys required by any competent Governmental Authority or court to representatives of the Indemnifier (including its legal and tax advisors), in the Indemnifier's sole discretion, to act in the defence of the Tax Claim.

6.7 Indemnification Procedures

Except to the extent expressly provided to the contrary in this Article 6 and Section 9.10, the general procedures regarding notice and pursuit of indemnification Claims set forth in Article 9 apply to all Claims for indemnification made under this Article 6, except that notwithstanding any provision of Article 9 to the contrary, Sections 6.6 and 9.10 shall govern regarding the defence and handling of any Tax Claim. Except as provided in Section 3.5.1(b), there is no limit on the time period during which a Claim for indemnification may be made under this Article 6.

6.8 Restrictive Covenant Election

The Vendors and the Purchaser hereby acknowledge and agree that no portion of the Purchase Price is payable as a consideration for the undertakings contained in the Non-Competition Agreement. The Parties acknowledge and agree that the undertakings set

forth in the Non-Competition Agreement are integral to this Agreement and are aimed to maintain and protect the fair market value of the Purchased Shares and that it is intended by the Parties that subsections 56.4(5) and (7) of the Tax Act, and the similar provisions of the Taxation Act (Quebec), apply with respect to the undertakings described in the Non-Competition Agreement.

6.9 Interest

Unless paid to the Corporation, the Subsidiary or the Purchaser pursuant to any other provision of this Agreement, to the extent any payment, reimbursement, indemnity, Tax Refund or other amount payable by the Corporation, the Subsidiary or the Purchaser to the Vendor includes an amount of interest income, the Tax cost (being the Tax payable or reduction of available Tax losses or credits) of the inclusion of such amount of interest income in the income of the Corporation, the Subsidiary or the Purchaser, as applicable, for Tax purposes shall be deducted from such payment, reimbursement, indemnity, Tax Refund or other amount payable to the Vendor.

ARTICLE 7 CONDITIONS PRECEDENT

7.1 Conditions Precedent in favour of the Purchaser

7.1.1 *Conditions.* The obligations of the Purchaser to purchase the Purchased Shares shall be subject to the satisfaction, as of the Closing Time, of each of the following conditions precedent (each of which is for the Purchaser's exclusive benefit and may be waived in writing by the Purchaser, in whole or in part at its sole discretion):

- (a) each of the acts, undertakings, obligations, agreements and covenants of the Vendor under this Agreement or under any Closing Document to be performed or complied with on or before the Closing Date shall have been duly performed or complied with in all material respects (with the exception of those acts, undertakings, obligations, agreements and covenants which are qualified by materiality or similar expressions, or are subject to the same or similar type exceptions, each of which shall have been duly performed or complied with in all respects), and the Purchaser shall have received an executive officer's certificate of the Vendor addressed to the Purchaser and dated as of the Closing Date confirming same;
- (b) each of the representations and warranties made in favour of the Purchaser pursuant to this Agreement shall be true and correct in all material respects on the Closing Date as if made on and as of such date (with the exception of (i) those representations and warranties which are qualified as to material, materiality, Material Adverse Change or similar expressions, or are subject to the same or similar type exceptions, each of which shall be true and correct in all respects on

the Closing Date, (ii) the Vendor Fundamental Representations, each of which shall be true and correct in all respects on the Closing Date, and (iii) those representations and warranties that by their terms speak specifically as of the date of this Agreement or another date, each of which shall be true and correct in all respects on such date) and the Purchaser shall have received an executive officer's certificate of the Vendor addressed to the Purchaser and dated as of the Closing Date confirming same;

- (c) there shall not have occurred a Material Adverse Change since the execution of this Agreement and the Purchaser shall have received an executive officer's certificate of the Vendor addressed to the Purchaser and dated as of the Closing Date confirming same;
- (d) the Support Agreements with each of the Supporting Shareholders shall be effective and in full force and effect and the Transaction Resolution Approval shall have been obtained;
- (e) all assets and liabilities related to the Business which are not assets owned by or liabilities of the Corporation on the date hereof shall have been transferred to the Corporation on or prior to the Closing Date, and all assets and liabilities unrelated to the Business which are assets owned by, or liabilities of, the Corporation or the Subsidiary on the date hereof shall have been transferred by the Corporation or the Subsidiary to the Vendor on or prior to the Closing Date, the whole as contemplated and to be effected by the Restructuring Transactions and the Restructuring Transactions shall have been implemented in accordance with the Restructuring Memorandum;
- (f) each of the Loyalty Partnership Agreements shall have been terminated without any liability or obligation owing by, or continuing to bear upon the Corporation, the Subsidiary or the Purchaser, and each of the Corporation, the Subsidiary and the Purchaser shall have received satisfactory evidence, acting reasonably, thereof together with a certificate of an executive officer of the Vendor addressed to the Purchaser, the Corporation and the Subsidiary and dated as of the Closing Date confirming same;
- (g) each of the Contracts contemplated by Section 4.7 shall have been terminated and all amounts owing thereunder shall have been repaid, without any penalty, obligations or other liability imposed on any of the Corporation, the Subsidiary or the Purchaser, and each of the Corporation, the Subsidiary and the Purchaser shall have received a full and final release in connection therewith, in form and substance satisfactory to the Purchaser, acting reasonably;

- (h) no Claim shall have been taken, made, threatened or instituted, whether or not having the force of Law, and no Law or Order shall have been proposed, enacted, promulgated, issued or applied: (i) to prohibit the Transactions or the right of the Purchaser to own or exercise full rights of ownership of all of the Purchased Shares; or (ii) which, if the Transactions were completed, would reasonably be expected to result in a Material Adverse Change or prevent the Business from being carried on in all material respects as presently carried on;
- (i) the Purchaser shall have received satisfactory evidence, acting reasonably, that all of the assets of the Corporation and the Subsidiary shall be free and clear of any Encumbrances (other than Permitted Encumbrances), and the Corporation shall have been, or shall at Closing be, unconditionally released from any and all obligations under all of the Vendor's credit facilities and inter-creditor arrangements;
- (j) the Purchaser shall have received satisfactory evidence, acting reasonably, that all documents required to irrevocably defease the Notes and effectuate the Defeasance Option in respect of the Trust Indenture (including (i) the deposit of monies concurrently with Closing using a portion of the Initial Consideration proceeds and (ii) all documents required to effect the release of all Encumbrances and other security interests in connection with the Trust Indenture) concurrently with Closing shall have been executed and delivered by the Vendor and/or the Corporation to CIBC Mellon Trust Company as Trustee for the Notes and held in escrow pending Closing, and such Trustee shall have agreed (to the reasonable satisfaction of the Purchaser) either to prepare and register discharges in respect of such Encumbrances or authorized the Corporation to prepare and register such discharges;
- (k) all Required Third Party Consents (other than the Regulatory Approvals) shall have been obtained;
- (l) all Regulatory Approvals necessary or required in connection with the consummation of the Transactions shall have been made, obtained or effected and shall remain in full force and effect; and
- (m) all other deliveries of the Vendor, the Corporation or the Subsidiary required to be delivered by the Closing Date set forth in Section 8.2 (other than Section 8.2.1(t)) shall have been delivered to the Purchaser.

7.1.2 *Non-Fulfilment.* In the event that one or more of the conditions set forth in this Section 7.1 is not fulfilled on or before the Closing Date and the Purchaser does not waive such condition pursuant to this Section 7.1, the

Purchaser may, in its discretion and upon delivery of written confirmation thereof to the Vendor, grant to the Vendor a thirty (30) day extension period to fulfill such condition. Any additional extension period may be agreed to in writing by the Purchaser and the Vendor. However, in the event that one or more of the conditions set forth in this Section 7.1 is not fulfilled on or before the extended date, the date agreed upon by the Parties or, at the latest, the Outside Date and the Purchaser does not waive such condition pursuant to this Section 7.1, the Purchaser may elect to terminate this Agreement subject to the provisions of, and in accordance with, Section 10.1.3.

7.2 Conditions Precedent in favour of the Vendor

7.2.1 *Conditions.* The obligations of the Vendor to sell the Purchased Shares shall be subject to the satisfaction, as of the Closing Date, of each of the following conditions precedent (each of which is for the exclusive benefit of the Vendor and may be waived in writing by the Vendor, in whole or in part at its sole discretion):

- (a) each of the acts, undertakings, obligations, agreements and covenants of the Purchaser under this Agreement or under any Closing Document to be performed or complied with on or before the Closing Date shall have been duly performed or complied with in all material respects (with the exception of those acts, undertakings, obligations, agreements and covenants which are qualified by materiality or similar expressions, or are subject to the same or similar type exceptions, each of which shall have been duly performed or complied with in all respects), and the Vendor shall have received an executive officer's certificate of the Purchaser addressed to the Vendor, and dated as of the Closing Date, confirming same;
- (b) each of the representations and warranties made in favour of the Vendor pursuant to this Agreement shall be true and correct in all material respects on the Closing Date as if made on and as of such date and the Vendor shall have received an executive officer's certificate of the Purchaser addressed to the Vendor and dated as of the Closing Date confirming same;
- (c) the Transaction Resolution Approval shall have been obtained;
- (d) all Regulatory Approvals necessary or required in connection with the consummation of the Transactions shall have been made, obtained or effected and shall remain in full force and effect; and
- (e) all other deliveries of the Purchaser required to be delivered by the Closing Date set forth in Section 8.3 (other than Section 8.3.1(h)) shall have been delivered to the Vendor.

7.2.2 *Non-Fulfilment.* In the event that one or more of the conditions set forth in this Section 7.2 is not fulfilled on or before the Closing Date and the Vendor does not waive such condition pursuant to this Section 7.2, the Vendor may, in its discretion and upon delivery of written confirmation thereof to the Purchaser, grant to the Purchaser a thirty (30) day extension period to fulfill such condition. Any additional extension period may be agreed to by the Purchaser and the Vendor. However, in the event that one or more of the conditions set forth in this Section 7.2 is not fulfilled on or before the extended date, the date agreed upon by the Parties or, at the latest, the Outside Date and the Vendor does not waive such condition pursuant to this Section 7.2, the Vendor may elect to terminate this Agreement, subject to the provisions of, and in accordance with, Section 10.1.4.

ARTICLE 8 CLOSING ARRANGEMENTS

8.1 Closing

The Closing shall take place at the Closing Time.

8.2 Vendor and Corporation Closing Deliveries

8.2.1 *Vendor Deliveries.* At the Closing, the Vendor shall deliver or cause to be delivered to the Purchaser the following documents (and payments, if applicable):

- (a) the payment of the Consideration Shortfall, if applicable and payable;
- (b) the certificates referred to in Sections 7.1.1(a), 7.1.1(b) 7.1.1(c) and 7.1.1(f), in form and substance satisfactory to the Purchaser, acting reasonably;
- (c) certified copies of the authorizing resolutions, including the Transaction Resolution, and incumbency certificates in respect of each of the Corporation and the Vendor;
- (d) certified copies of the articles and by-laws of the Corporation and the Subsidiary;
- (e) evidence in form and substance satisfactory to the Purchaser, acting reasonably, that the Required Third Party Consents (other than the Regulatory Approvals) have been obtained and remain in effect as of the Closing Time;
- (f) except as otherwise requested by the Purchaser, resignations and releases from all directors or officers of the Corporation and the Subsidiary from their respective positions with the Corporation and the Subsidiary, as applicable, in the form attached hereto as Exhibit B;

- (g) except as contemplated by the Transition Services Agreement, evidence in form and substance satisfactory to the Purchaser, acting reasonably, that all Contracts between or among the Corporation or the Subsidiary, on the one hand, and any one or more of the Vendor, its Affiliates or any of their respective Representatives, on the other hand (other than (i) any employment agreements and (ii) that certain Fulfillment Services Agreement effective October 1, 2010 between the Corporation and Aimia Proprietary Loyalty Canada Inc.) have been terminated, without any penalty, obligations or other liability imposed on the Corporation, the Subsidiary or the Purchaser;
- (h) the documents referred to in Section 7.1.1(f);
- (i) evidence in form and substance satisfactory to the Purchaser, acting reasonably, that all Contracts contemplated by Section 4.7 have been terminated and all amounts owing thereunder have been repaid, without any penalty, obligations or other liability imposed on any of the Corporation, the Subsidiary or the Purchaser;
- (j) evidence in form and substance satisfactory to the Purchaser, acting reasonably, of (i) the debt repayments and defeasances to be effected concurrently with Closing provided in Section 7.1.1(i) and 7.1.1(j), and (ii) the release and discharge (which may be concurrently with and conditional upon the Closing) of all Encumbrances specified in Section 8.2.1(j) of the Disclosure Letter, including the Encumbrances in favour of the lenders under the Credit Agreement and the Trustee and holders of the Notes under the Trust Indenture;
- (k) all materials and documents relating to the research and development projects of the Vendor, the Corporation or the Subsidiary which relate to the Business in respect of the periods after June 30, 2020;
- (l) a duly executed release by the Vendor in the form attached hereto as Exhibit C;
- (m) all share certificates representing the Purchased Shares duly endorsed for transfer;
- (n) the Escrow Agreement duly executed by the Vendor;
- (o) written confirmation of the Vendor of the effectiveness and coming-into-force of the Non-Competition Agreement;
- (p) the Transition Services Agreement duly executed by the Vendor;
- (q) the Restricted Cash Account Control Agreement duly executed by the Vendor and the Account Bank;

- (r) the duly executed Restructuring Documents;
- (s) the originals of the Constating Records of the Corporation and the Subsidiary; and
- (t) all such other assurances, consents, agreements, instruments and Closing Documents as may be reasonably required by the Purchaser to complete the Transactions, all of which shall be in form and substance satisfactory to the Purchaser.

8.3 Purchaser Closing Deliveries

8.3.1 *Purchaser Deliveries.* At the Closing, the Purchaser shall deliver or cause to be delivered to the Vendor and the Escrow Agent, as applicable, the following documents and payments:

- (a) the payment of the Initial Consideration and the Restricted Cash Amount to the Vendor and the Indemnity Escrow Amount to the Escrow Agent;
- (b) the certificates referred to in Sections 7.2.1(a) and 7.2.1(b), in form and substance satisfactory to the Vendor, acting reasonably;
- (c) evidence in form and substance satisfactory to the Vendor, acting reasonably, that the Regulatory Approvals necessary or required in connection with the consummation of the Transactions have been made, obtained or effected and remain in full force and effect;
- (d) the Escrow Agreement duly executed by the Purchaser;
- (e) written confirmation of the Purchaser of the effectiveness and coming-into-force of the Non-Competition Agreement;
- (f) the Restricted Cash Account Control Agreement duly executed by the Purchaser and the Account Bank;
- (g) the Transition Services Agreement duly executed by the Purchaser; and
- (h) all such other assurances, consents, agreements, instruments and Closing Documents as may be reasonably required by the Vendor to complete the Transactions, all of which shall be in form and substance satisfactory to the Vendor.

ARTICLE 9 INDEMNIFICATION

9.1 Indemnification by the Vendor

9.1.1 The Vendor shall indemnify, defend and save harmless the Purchaser and the Purchaser's Representatives, from and against any and all Loss suffered by, imposed upon, asserted against, or incurred by them and, following the Closing, the Corporation and/or the Subsidiary, as a result of or arising in connection with:

- (a) any inaccuracy, misrepresentation or breach of any representation or warranty made or given by the Vendor in this Agreement or any certificate delivered by the Vendor as a Closing Document hereunder;
- (b) any failure by the Vendor to observe, fulfill or perform any covenant or obligation contained in this Agreement;
- (c) without duplication, any of the matters contemplated by Section 6.4 (including for avoidance of doubt, any Specific Indemnity); and
- (d) any Claims against the Corporation and/or the Subsidiary (whether made before or after the Closing but related only to facts or circumstances that arose or that existed prior to or on the Closing Date) in connection with:
 - (i) the class action proceedings described in Section 9.1.1(d)(i) of the Disclosure Letter; and
 - (ii) the compliance by the Corporation and/or the Subsidiary with Anti-Spam Laws, Consumer Protection Laws, Privacy Laws or other Laws pertaining to the security and protection of Personal Information.

9.2 Indemnification by the Purchaser

9.2.1 The Purchaser shall indemnify, defend and save harmless the Vendor and the Vendor's Representatives, from and against any and all Loss suffered by, imposed upon, asserted against, or incurred by it, as a result of, or arising in connection with:

- (a) any inaccuracy, misrepresentation or breach of any representation or warranty made or given by the Purchaser in this Agreement or any certificate delivered by the Purchaser as a Closing Document hereunder; and
- (b) any failure by the Purchaser to observe, fulfill or perform any covenant or obligation contained in this Agreement.

9.3 Limitations on Liability and Other Indemnification Rules

- 9.3.1 *Limitations.* The obligation of the Vendor to indemnify the Purchaser and any Purchaser Representatives is subject to the following:
- (a) in connection with Claims for indemnification under Section 9.1.1(a) (other than the Vendor's Fundamental Representations), the Vendor shall have no obligation to indemnify the Purchaser unless and until the aggregate amount of the Losses incurred by the Purchaser in connection therewith exceed, in the aggregate, \$2,250,000, in which case, all such Losses above \$2,250,000 shall be indemnifiable by the Vendor;
 - (b) subject to Section 9.3.1(c), the liability of the Vendor in respect of Claims of the Purchaser for Losses under Section 9.1.1(a) of this Agreement shall not exceed, in the aggregate, \$55,000,000;
 - (c) notwithstanding the provisions of Section 9.3.1(b), the liability of the Vendor in respect of Claims of the Purchaser for Losses under Section 9.1.1(a) of this Agreement shall not exceed the Purchase Price, in respect of the Vendor's Fundamental Representations;
 - (d) the liability of the Vendor in respect of Claims for Losses under Section 9.1.1(d)(i) of this Agreement shall not exceed 50% of any and all Losses relating to any class action proceedings described in Section 9.1.1(d)(i) of the Disclosure Letter, subject to a maximum aggregate liability of \$25,000,000.
- 9.3.2 *No Limitations.* The limitations set forth in Section 9.3.1 shall not apply to any Claim for indemnification pursuant to Sections 9.1.1(b), 9.1.1(c) or 9.1.1(d) (other than Section 9.1.1(d)(i)), nor in the event of any fraud, or intentional or gross fault committed by the Vendor.
- 9.3.3 *No Additional Recovery for Adjustments.* No Party shall have any liability or obligation to indemnify any other Party to the extent that the Losses suffered by the Indemnified Party have been taken into account in the determination and payment of any adjustments to the Purchase Price in accordance with Article 2.
- 9.3.4 *Single Recovery.* With respect to any Loss suffered by an Indemnified Party, no liability shall attach to the Indemnifier to the extent that the same Loss has been recovered by the Indemnified Party under any other provision of this Article 9 and, accordingly, the Indemnified Party may only recover once in respect of the same Loss. Notwithstanding the foregoing, to the extent any Loss is recoverable under a provision which excludes such Loss from the limitations set forth in Section 9.3.1, but is also recoverable under another provision which is subject to the limitations set forth in Section 9.3.1, the

Indemnified Party shall have the right to seek recovery under the provision which is not subject to the limitations set forth in Section 9.3.1.

9.3.5 *After-Tax Basis.* In respect of any Indemnity Payment made under this Agreement, the amount of the Indemnity Payment, shall be:

- (a) to the extent the Indemnity Payment is taxable, grossed-up such that the net Indemnity Payment received by the Indemnified Party after any deduction, loss of any Tax Attributes, withholding or other Taxes payable equals the amount of the Losses indemnifiable pursuant to this Agreement; and
- (b) reduced to take into account the value to the Indemnified Party of any deduction, credit or additional Tax Attributes, for Tax purposes, reasonably resulting from the Losses to which the Indemnity Payment relates.

9.4 **Losses by the Corporation and/or the Subsidiary**

Subject to Section 9.3.4, the Parties agree that, for the purposes of this Article 9, any and all Loss suffered or incurred by the Corporation and/or the Subsidiary as a direct or indirect result of, or arising in connection with, or related in any manner to the matters referred to in Section 9.1 shall, dollar-for-dollar, be deemed to be a Loss suffered or incurred by the Purchaser.

9.5 **Direct Claims**

Any Direct Claim shall be asserted by giving the Indemnifier reasonably prompt written notice thereof, but in any event not later than thirty (30) days after the Indemnified Party becomes aware of acts, omissions or facts that may give rise to such Direct Claim; provided that failure to provide such notice within such thirty (30) day period shall not relieve the Indemnifier of any liability which it may have to the Indemnified Party except and only to the extent that such failure materially prejudices the ability to defend the Direct Claim or results in a material increase in the amount of the Loss. Such notice to the Indemnifier shall describe the Direct Claim in reasonable detail and shall indicate, if reasonably practicable, the estimated amount of the Loss that has been or may be sustained by the Indemnified Party. The Indemnifier shall then have a period of thirty (30) days within which to respond in writing to such Direct Claim (the “**Response Period**”). If the Indemnifier does not so respond within the Response Period, or if the Indemnifier agrees prior to the expiration of the Response Period as to the validity of the Direct Claim, the Parties shall direct the Escrow Agent (in the event that the Vendor is the Indemnifier) to pay to the Indemnified Party the amount of such Direct Claim forthwith upon such amount being quantified. If the Parties fail to agree as to the validity of the Direct Claim or its amount, any Party may exercise all remedies as may be available to such Party hereunder.

9.6 Notice of Third Party Claims

If an Indemnified Party receives notice of the commencement or assertion of any Third Party Claim, the Indemnified Party shall give the Indemnifier reasonably prompt written notice thereof, but in any event no later than thirty (30) days after receipt of such notice of such Third Party Claim. Such notice to the Indemnifier shall describe the Third Party Claim in reasonable detail and shall indicate, if reasonably practicable, the estimated amount of the Loss that has been or may be sustained by the Indemnified Party.

9.7 Defence of Third Party Claims

9.7.1 *Defence by Indemnifier.* Subject to Sections 6.5 and 9.7.2, the Indemnifier may participate in or assume the defence, compromise or settlement of any Third Party Claim by giving notice (the “**Defence Assumption Notice**”) to that effect to the Indemnified Party not later than thirty (30) days after receiving notice of that Third Party Claim (the “**Notice Period**”) provided the Indemnifier concurrently (i) furnishes reasonable evidence to the Indemnified Party at the written request of the Indemnified Party of its financial ability to indemnify the Indemnified Party and (ii) irrevocably acknowledges in writing complete responsibility (subject to Section 9.3) for, and agrees to indemnify the Indemnified Party in respect of, such Third Party Claim. The Indemnifier’s right to do so shall be subject to the rights of any insurer or other party who has potential liability in respect of that Third Party Claim. The Indemnifier shall pay all of its own expenses of participating in or assuming such defence. The Indemnified Party may participate in such defence assisted by counsel of its own choice at the cost and expense of the Indemnifier, provided that the Indemnifier and its legal counsel shall lead the defence. The Indemnifier shall not enter into any compromise or settlement of any Third Party Claim without obtaining the prior written consent of the Indemnified Party, such consent not to be unreasonably withheld.

9.7.2 *Defence by Indemnified Party.*

- (a) If, within the Notice Period, the Indemnified Party has not received the Defence Assumption Notice and/or the Indemnifier has not satisfied the requirements of Section 9.7.1 (i) and (ii), the Indemnified Party may, at its option, elect to settle or compromise the Third Party Claim or assume such defence, assisted by counsel of its own choosing and the Indemnifier shall be liable for all Loss suffered or incurred by the Indemnified Party with respect to such Third Party Claim (including for certainty the costs and expenses paid or incurred in connection therewith). No admission of fault may be made on behalf of any Person without the prior written consent of such Person.
- (b) In addition, if at any time, the Indemnifier fails to take reasonable steps necessary to defend diligently a Third Party Claim, the Indemnified Party may, within thirty (30) days after giving notice that

the Indemnified Party *bona fide* believes on reasonable grounds that the Indemnifier has failed to take such steps, at its option, elect to assume the defence of and to compromise or settle the Third Party Claim assisted by counsel of its own choosing and the provisions of Section 9.7.2(a) shall apply *mutatis mutandis*.

- (c) Furthermore, the Indemnified Party may elect to assume the defence or otherwise deal with any (or any part of) such Third Party Claim assisted by counsel of its own choosing and the provisions of Section 9.7.2(a) shall apply *mutatis mutandis*, if:
- (i) the Indemnified Party's counsel advises that a conflict of interest exists or may arise in the event the Indemnifier elects to control or defend any Third Party Claim;
 - (ii) the Claim for indemnification relates to or arises in connection with any criminal or quasi criminal proceeding, action, indictment, allegation or investigation;
 - (iii) the Indemnified Party reasonably believes an adverse determination with respect to the Third Party Claim giving rise to such Claim for indemnification would be detrimental to or injure the Indemnified Party's reputation or future business prospects in a material respect, acting reasonably;
 - (iv) the Claim seeks an injunction, equitable or other non-monetary relief against the Indemnified Party; or
 - (v) the Indemnified Party's counsel advises that the Claim would be reasonably expected to result in liability in excess of the maximum amount for which the Indemnifier is liable hereunder with regard to such Claim.

9.7.3 *Seizure.* The Purchaser and the Vendor shall cooperate in a good faith manner in respect of any purported, alleged or valid Third Party Claim that could reasonably result in a seizure of the Purchased Shares or any other assets of the Corporation or the Subsidiary after the Closing Date and in respect of which, for greater certainty, written notice shall have been provided in accordance with Section 9.6, and shall keep each other informed of the status and progress thereof. If for any reason the Purchased Shares or any other assets of the Corporation or the Subsidiary are the subject of a seizure after the Closing Date due to an alleged, purported or valid Third Party Claim in respect of which indemnification may be reasonably owing under this Agreement by the Vendor, the Purchaser shall promptly inform the Vendor in writing of such seizure and require that the Vendor lift and cancel the seizure as soon as practicable, and in no case later than three (3) Business Days, from the receipt of such notice. The Purchaser and the Vendor shall cooperate in

good faith in the defence of the seizure. Should the Vendor be unable to lift and cancel the seizure within the aforesaid time period (either by paying the Claim, posting an adequate bond or obtaining a judgment), the Purchaser shall be entitled to take such steps as it determines, in its sole discretion, are necessary to lift and cancel the seizure without prejudice to its right to make a Direct Claim against the Vendor for any Loss suffered or incurred by it in respect of the seizure and the lifting and cancellation of the seizure. The Purchaser shall advise the Vendor in writing of the steps it was required to take to lift and cancel the seizure. In the event the Vendor is obligated by this Agreement as Indemnifier to indemnify the Purchaser as Indemnified Party with respect to such Third Party Claim, the Purchaser shall be entitled to assert a Claim against the Vendor by way of Direct Claim in order to recover any and all Losses incurred in respect of the seizure and the lifting and cancellation of the seizure, the whole in accordance with Section 9.5.

9.8 Duty to Mitigate and Subrogation

- 9.8.1 Nothing in this Agreement in any way restricts or limits the general obligation at law of an Indemnified Party to mitigate any Loss which it may suffer or incur. The amount of Loss under this Article 9 will be determined net of any amounts recovered or recoverable by the Indemnified Party under insurance policies, indemnities, reimbursement arrangements or similar agreements with respect to such Loss. The Indemnified Party shall take all appropriate steps to enforce such recovery.
- 9.8.2 The Indemnified Party shall, to the fullest extent permitted by law, subrogate its rights to the Indemnifier and will make all counterclaims and join in any litigation all other Persons as may be reasonably required by the Indemnifier, the whole at the cost and expense of the Indemnifier.

9.9 Assistance for Third Party Claims

The Indemnifier and the Indemnified Party shall use all Commercially Reasonable Efforts to make available to the Party which is undertaking and controlling the defence, compromise or settlement of any Third Party Claim (the “**Defending Party**”):

- 9.9.1 those employees whose assistance, testimony or presence is reasonably necessary to assist the Defending Party in evaluating and in defending any Third Party Claim; and
- 9.9.2 all documents, records and other materials in the possession of such Party reasonably required by the Defending Party for its use in defending any Third Party Claim.

Each of them shall otherwise cooperate with the Defending Party. The Indemnifier shall be responsible for all expenses associated with making such documents, records and materials available and for all salary and reasonable expenses of any employees made available by the Indemnified Party to the Indemnifier hereunder.

9.10 Priority of Recourses and Right of Set-Off

9.10.1 The Parties expressly agree that the Purchaser shall first seek to be indemnified for all Losses to which it may be entitled under Section 9.1.1(a) against the Indemnity Escrow Amount, and thereafter, the Purchaser agrees to make valid Claims against the R&W Policy. To the extent the Indemnity Escrow Amount and the R&W Policy have been exhausted or, in the case of the R&W Policy, is otherwise unavailable, the Parties further expressly agree that the Purchaser may set off all amounts to which it may be entitled under Section 9.1 against any other amount owed by the Purchaser to the Vendor in accordance with Article 1672 of the *Civil Code of Quebec*, and the Vendor must fully pay any missing portion of the Indemnity Payment to the Purchaser which remains unsatisfied.

9.10.2 In the event of a final determination by the applicable Governmental Authorities confirming that there shall be no Tax Claim made in respect of the matters underlying the Specific Indemnities:

(a) to the extent such final determination is made during the Interim Period, all provisions of this Agreement pertaining to the Specific Indemnities, Restricted Cash Account, Restricted Cash Amount and Restricted Cash Account Control Agreement, shall be deemed inoperative, including without limitation, Sections 2.3.3, 8.2.1(q) and 8.3.1(f); and

(b) to the extent such final determination is made after Closing, all sums in the Restricted Cash Account shall be released to the Vendor within five (5) Business Days of such final determination.

9.10.3 In the event of a Tax Claim pertaining to a Specific Indemnity following the Closing, the Vendor shall pay to the Purchaser:

(a) in the event of a contestation of such Tax Claim by the Vendor, at least the amount required to deposit or pay under any Law in order to suspend collection measures in respect of the Tax Claim; and

(b) in the event the Vendor does not contest such Tax Claim, 100% of the amount of Taxes owing pursuant thereto;

it being understood that the Vendor shall be entitled to use the Restricted Cash Amount, and to withdraw the relevant amount from the Restricted Cash Account, in whole or in part to satisfy such obligations. For the avoidance of doubt, to the extent the Restricted Cash Amount is insufficient to pay the entirety of the Taxes pursuant to the Tax Claim pertaining to a Specific Indemnity, the Vendor shall continue to be liable for, and shall pay when due and payable, any balance owing on account of such Taxes.

- 9.10.4 In the event of a Tax Claim pertaining to a Specific Indemnity during the Interim Period, then:
- (a) in the event of a contestation of such Tax Claim by the Vendor, the Vendor may cause the Corporation to pay to the Tax Authorities at least the amount required to deposit or pay under any Law in order to suspend collection measures in respect of the Tax Claim and, in the event that such amount is paid, the Restricted Cash Amount shall be reduced in accordance with its definition thereof in Exhibit A;
 - (b) in the event that no portion of such Tax Claim is paid by the Corporation prior to the Closing then the payment of amounts with respect to such Tax Claim shall be dealt with in accordance with Section 9.10.3; and
 - (c) in the event the Vendor does not contest such Tax Claim, the Vendor shall cause the Corporation to pay to the Tax Authorities 100% of the amount of Taxes owing pursuant thereto and the Restricted Cash Amount shall be reduced in accordance with the definition thereof in Exhibit A;

Notwithstanding anything to the contrary in this Agreement, the amount of the Tax Claim contemplated by this Section 9.10.4 shall neither constitute Indebtedness for the purposes of this Agreement, nor shall it be included in the definition and calculation of Working Capital.

- 9.10.5 To the extent that the contestation of the Tax Claim pertaining to a Specific Indemnity has resulted in a final determination by the competent Governmental Authority or court rejecting such Tax Claim in its entirety:
- (a) the amount paid by the Vendor or the Corporation, as applicable, pursuant to Section 9.10.3 or 9.10.4 shall be paid by the Corporation to the Vendor, within the five (5) Business Days following receipt thereof, less the amount of Taxes required to satisfy any Correlative Assessments for all taxation years related to the Tax Claim, as jointly determined by the Purchaser and the Vendor, acting reasonably, which amounts shall be deposited in the Restricted Cash Account;
 - (b) the Vendor shall be entitled to withdraw all sums remaining from the Restricted Cash Account within the five (5) Business Days following such final determination, less amounts deposited in the Restricted Cash Account under 9.10.5(a);
 - (c) upon receipt of any such Correlative Assessments, the Vendor shall withdraw from the Restricted Cash Account, and pay to the Corporation, any amount to satisfy the Taxes thereon; and

- (d) upon receipt of the amounts contemplated by Section 9.10.5(c), the Corporation shall remit such amounts to the applicable Governmental Authorities.

For greater certainty, once all such Correlative Assessments have been satisfied in full, any remaining amounts in the Restricted Cash Account shall be released to the Vendor.

9.10.6 To the extent that the contestation of the Tax Claim pertaining to a Specific Indemnity has been upheld either in whole or in part by the final determination of the competent Governmental Authority or court, the Purchaser and the Vendor shall cooperate in good faith with a view to determining the extent of the release and shall:

- (a) release a portion or all of the amounts in the Restricted Cash Account to the Corporation, within the following five (5) Business Days, which corresponds to any amounts required to satisfy such Tax Claim; and
- (b) release any remaining portion of the Restricted Cash Amount to the Vendor within the following five (5) Business Days, less any amounts required to satisfy any Correlative Assessments for all taxation years related to the Tax Claim, as jointly determined by the Purchaser and the Vendor, acting reasonably.

For the avoidance of doubt, the Vendor shall continue to be liable for all amounts required to satisfy any Tax Claim and any Correlative Assessments for all taxation years affected by the Tax Claim. For greater certainty, once such Tax Claim and all such Correlative Assessments have been satisfied in full, any remaining amounts in the Restricted Cash Account shall be released to the Vendor.

9.10.7 To the extent that the amount of the Tax Claim pertaining to a Specific Indemnity is less than the Restricted Cash Amount, the difference between the Restricted Cash Amount and the amount of the Tax Claim shall be released from the Restricted Cash Account to the Vendor.

9.10.8 Notwithstanding any provisions hereof and any reference to the R&W Policy, the procurement of the R&W Policy shall be the sole responsibility of the Purchaser and at its sole cost. Under no circumstances shall the Vendor bear any liability or obligation in connection with the R&W Policy and it is specifically agreed that the provider of the R&W Policy shall have no subrogation right, right to seek or claim from the Vendor indemnity or contribution, entitlement of privilege, or any recourse whatsoever, against the Vendor under this Agreement, the R&W Policy or otherwise, except in case of fraud or intentional or gross fault of the Vendor. Without limiting the foregoing, the Vendor shall have no liability in addition to what has been provided under Article 6 and this Article 9, and the limitations of liability

under Section 9.3 shall not be limited, restricted or affected in any manner (and the Vendor shall continue to benefit from all rights it has under Section 9.3), in the event that: (a) the R&W Policy is not in force at the time of Closing for any reason; (b) the R&W Policy is terminated or cancelled or becomes null and of no effect at any time after the Closing for any reason other than as a result of the fault of the Vendor; or (c) the provider of the R&W Policy refuses, omits, is unable to or delays to make any payment under the R&W Policy for any reason, whether or not the provider of the R&W Policy is in default or not under the R&W Policy, other than as a result of the fraud or intentional or gross fault of the Vendor.

9.11 Failure to Give Timely Notice

A failure of an Indemnified Party to give timely notice as provided in this Article 9 (other than a failure of the Indemnifier to respond to a Direct Claim as set forth in Section 9.5 or the failure of the Indemnifier to deliver the Defence Assumption Notice in accordance with Section 9.7.1) shall not affect the rights or obligations of any Party except and only to the extent that, as a result of such failure, any Party which was entitled to receive such notice was deprived of its right to recover any payment under its applicable insurance coverage or otherwise sustained a Loss as a result of such failure.

9.12 Payment and Interest

All Losses shall bear interest at a rate per annum equal to the Prime Rate, calculated and payable monthly, both before and after judgment, from the date on which notice of Claim was given to the Indemnifier, to the date of payment by the Indemnifier to the Indemnified Party.

9.13 Calculation of Loss

For purposes of this Agreement, the calculation of the resulting Loss from any inaccuracy in or breach of any representation or warranty shall be determined without regard to any materiality or other similar qualification contained in or otherwise applicable to such representation or warranty.

9.14 Purchase Price Adjustment

Any Indemnity Payment and any payment made pursuant to Article 6 shall be treated by the Purchaser and the Vendor as an adjustment to the Purchase Price.

9.15 Exceptions to Indemnification

The Purchaser shall not be entitled to any Claim or other recourse against the Vendor nor does the Vendor have any liability in connection with any breach of any representation, warranty, obligation, condition or covenant of the Vendor in this Agreement, occurring during the Interim Period and which breach was committed by the Vendor or the Corporation as a result of written instructions received from the Purchaser (or any of its Representatives).

9.16 Indemnification Sole Remedy

The rights and remedies that a Party may have against any other Party for a breach of any representation, warranty, covenant or obligation under this Agreement are exclusively governed by this Agreement (including for avoidance of doubt this Article 9 and Section 11.13). To the extent permitted by applicable Laws, any further Claims and remedies (other than Claims for specific performance, injunctive relief or other equitable remedy which do not include Claims for monetary damages), irrespective of the nature, amount or legal basis, are hereby expressly waived and excluded.

ARTICLE 10 TERMINATION

10.1 Termination

10.1.1 *Mutual Termination.* This Agreement may be terminated by the mutual written agreement of the Purchaser and the Vendor at any time prior to Closing.

10.1.2 *Termination by the Purchaser or the Vendor.* This Agreement may be terminated by either the Purchaser or the Vendor if:

- (a) after the date of this Agreement, any Law is enacted or amended, as applicable, that makes the consummation of the Transaction illegal or otherwise prohibits or enjoins the Vendor, the Corporation, the Subsidiary or the Purchaser from consummating the Transactions, and such Law has, if applicable, become final, provided that the Party seeking to terminate this Agreement pursuant to this Section 10.1.2(a) has used its Commercially Reasonable Efforts to, as applicable, appeal or overturn such Law or otherwise have it lifted or rendered non-applicable in respect of the Transactions and provided further that if the Parties are unsuccessful in appealing or overturning such Law or otherwise to have it lifted or rendered non-applicable in respect of the Transactions, the Purchaser, the Corporation and the Vendor agree to negotiate and implement, acting reasonably, amendments to the terms of this Agreement such that such alternative form of transaction would not be illegal or otherwise prohibited or enjoined (provided, in each case, that the amended Agreement or alternative form of transaction is not disproportionately or materially prejudicial to the Vendor, the Corporation, the Subsidiary or the Purchaser in relation to the terms of this Agreement); or
- (b) Closing does not occur on or prior to the Outside Date, provided that neither the Purchaser nor the Vendor may terminate this Agreement pursuant to this Section 10.1.2(b) if the failure of the Closing to so occur has been principally caused by, or is a result of, a breach by the Purchaser on the one hand, or of the Vendor, the Corporation or the

Subsidiary on the other hand, of any of their respective representations or warranties or their failure to perform any of their respective covenants or agreements under this Agreement.

10.1.3 *Termination by the Purchaser.* The Purchaser, when not in default in any material respect in the performance of its obligations under this Agreement, may elect, without prejudice to any other rights, to terminate this Agreement at any time prior to Closing by written notice to the Vendor if:

- (a) a breach of any representation or warranty or failure to perform any covenant or agreement on the part of the Vendor, the Corporation or the Subsidiary under this Agreement occurs that would cause any condition in Section 7.1.1(a) or Section 7.1.1(b) not to be satisfied, and such breach or failure is incapable of being cured or is not cured in accordance with the terms of Section 4.14; or
- (b) any other condition contained in Section 7.1 is not fulfilled, waived or satisfied in accordance with Section 7.1.2 (or it becomes apparent that such condition cannot be satisfied on the Closing Date).

10.1.4 *Termination by the Vendor.* When the Vendor and the Corporation are not in default in any material respect in the performance of their obligations under this Agreement, the Vendor may elect, without prejudice to any other rights, to terminate this Agreement at any time prior to Closing by written notice to the Purchaser if:

- (a) a breach of any representation or warranty or failure to perform any covenant or agreement on the part of the Purchaser under this Agreement occurs that would cause any condition in Section 7.2.1(a) or Section 7.2.1(b) not to be satisfied, and such breach or failure is incapable of being cured or is not cured in accordance with the terms of Section 4.14; or
- (b) any other condition contained in Section 7.2 is not fulfilled, waived or satisfied in accordance with Section 7.2.2 (or it becomes apparent that such condition cannot be satisfied on the Closing Date).

10.1.5 *Effect of Termination.* In the case of any termination of this Agreement pursuant to this Article 10, this Agreement shall be of no further force and effect and, prior to the Closing, the right of a Party to terminate this Agreement pursuant to this Section 10.1 and an action for specific performance shall be such Party's sole and exclusive remedies with respect to any violation or breach by any other Party of any covenant, obligation, agreement, representation or warranty contained in this Agreement (other than fraud or intentional or gross fault resulting in a breach of a representation, warranty, covenant, obligation or agreement contained in this Agreement), and no Party will have any other entitlement, remedy or recourse, whether

contractually, extra-contractually or otherwise, with respect thereto, it being agreed that all such other remedies, entitlements and recourses are hereby expressly waived and released by each Party (for itself, and on behalf of its Related Parties and their respective successors and permitted assigns) to the fullest extent permitted by applicable Law and, provided, however, that Sections 4.2.6, 11.3, 11.4, 11.6, 11.10 and 11.11 shall, notwithstanding the foregoing, continue in full force and effect. In the event of termination of this Agreement as a result of fraud or intentional or gross fault resulting in a breach of a representation, warranty, covenant, obligation or agreement contained in this Agreement, there shall be no limitation on the entitlements, remedies and recourses available to Terminating Party.

10.2 Failure to Close

Without limiting Section 10.1.5, if this Agreement is terminated:

10.2.1 pursuant to Section 10.1.3 (other than in the circumstances contemplated by Section 10.2.2) or Section 10.1.4, the Vendor (in the case of termination by the Purchaser pursuant to Section 10.1.3) and the Purchaser (in the case of termination by the Vendor pursuant to Section 10.1.4(a) or 10.1.4(b)) shall be liable for the other Party's costs and expenses incurred in connection with the Transactions up to an aggregate amount of \$5,000,000, payable within five (5) Business Days of delivery of notice with documentation evidencing such costs and expenses, which documentation must be delivered by the Party claiming such costs and expenses within twenty (20) Business Days of termination of this Agreement;

10.2.2 by the Purchaser pursuant to Section 10.1.3, as a result of:

- (a) the board of directors of the Vendor having changed its recommendation to Shareholders described in Section 5.2.3(b) and the Transaction Resolution Approval is not obtained by the Outside Date;
- (b) the Vendor's breach of its obligations set forth in Section 5.4; or
- (c) a breach by the Vendor, the Corporation or the Subsidiary of any representation, warranty, covenant, obligation or agreement set forth herein involving fraud, gross negligence or willful misconduct;

the Vendor shall pay to the Purchaser, within five (5) Business Days of delivery of the notice of termination, an amount of \$65,000,000.

ARTICLE 11 GENERAL

11.1 Further Assurances

Each of the Parties hereto shall from time to time execute and deliver all such further documents and instruments and do all acts and things as another Party 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.

11.2 No Waiver

Failure of a Party to insist upon the strict performance of any term or condition of this Agreement or to exercise any right, remedy or recourse hereunder shall not be construed as a waiver or relinquishment of any such term and condition.

11.3 Cost and Expenses

Subject to Section 10.2, each of the Parties shall be responsible for and pay their respective legal, financial advisory and accounting costs and expenses incurred in connection with the consummation of the Transactions, including the preparation, execution and delivery of this Agreement, the Closing Documents and in connection with the Migration Plan, and any other costs and expenses whatsoever and howsoever incurred in connection herewith and/or therewith, except that (i) any fees paid under the Competition Act relating to pre-merger notification of the Transactions and to obtaining an Advance Ruling Certificate in respect of the Transactions and (ii) any fees paid in connection with the CTA Approval shall be paid, incurred and borne entirely by the Purchaser. For greater certainty, the Vendor shall assume all costs and expenses incurred by the Corporation and the Subsidiary in connection with this Agreement and the consummation of the Transactions.

11.4 Public Announcements

The Parties shall each issue a press release upon the signing of this Agreement in such form as mutually agreed by the Parties. During the Interim Period, no Party shall be permitted to make any other public announcement, statement or press release regarding the entering into of this Agreement, except (i) as may be required to comply with a Party's disclosure obligations under applicable securities Laws and/or stock exchange rules, (ii) the Vendor may make a public announcement, statement or press release with the Purchaser's prior consent thereto, such consent not to be unreasonably withheld, and the Purchaser may make a public announcement, statement or press release with the Vendor's prior consent thereto, such consent not to be unreasonably withheld, provided that in the cases where a public announcement, statement or press release is permitted in accordance with the foregoing, to the extent practicable and subject to applicable Law, each Party will provide to the other Parties a reasonable opportunity to review and provide comments on any such public announcement documents proposed to be issued by such Party, or (iii) for any public statements concerning this Agreement that are

consistent with the terms of this Agreement (including, for greater certainty, with respect to the Circular) or any previously approved public press release.

11.5 Successors, Assigns and Assignments

This Agreement will enure to the benefit of and be binding upon the respective successors (including any successor by reason of the amalgamation or statutory arrangement of any Party) and permitted assigns of the Parties. This Agreement may not be assigned by any Party without the prior written consent of the other Parties, except that the Purchaser may, upon giving notice to the Vendor and the Corporation at any time of not less than five (5) Business Days (whether before or after the Closing Date), assign all of its rights and/or obligations under this Agreement to a designee of the Purchaser, provided that such assignment shall not release the Purchaser from liability for its obligations under this Agreement.

11.6 No Third Party Beneficiary

This Agreement is solely for the benefit of the Parties and no third party accrues any benefit, Claim or right of any kind pursuant to, under, by or through this Agreement.

11.7 Non-Merger

Except as otherwise provided in this Agreement, the covenants, representations and warranties set out in this Agreement do not merge but survive Closing and, notwithstanding such Closing or any investigation by or on behalf of a Party, continue in full force and effect. Closing does not prejudice any right of one Party against another Party in respect of any remedy in connection with anything done or omitted to be done under this Agreement.

11.8 Entire Agreement

This Agreement and the Closing Documents constitute the entire agreement between the Parties with respect to the subject matter hereof and thereof and cancels and supersedes any prior understandings, agreements, negotiations and discussions between the Parties with respect thereto including, other than with respect to Section 4.2.1, the Agreement in Principle. 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 and the Closing Documents. Notwithstanding the foregoing, (a) the Non-Disclosure Agreement shall continue in full force and effect until Closing; and (b) following the Closing, (i) the Non-Disclosure Agreement shall continue in full force and effect solely for purposes of Section 4.2.6; and (ii) the standstill provisions in the fourth paragraph of the Non-Disclosure Agreement shall continue in full force and effect until the earlier of (x) the Closing and (y) the expiry of the Standstill Period (as defined in the Non-Disclosure Agreement).

11.9 Amendments and Waivers

No amendment to this Agreement shall be valid or binding unless set forth in writing and duly executed by all Parties. No waiver of any breach of any provision of this Agreement or any waiver or consent to depart from the requirements of this Agreement shall be effective or binding unless made in writing and signed by the Party purporting to give the same.

11.10 Notices

11.10.1 Any demand, notice or other communication to be given in connection with this Agreement shall be given in writing and will be given by personal delivery, by registered mail, by courier services or e-mail or by facsimile addressed to each Party as set forth in Schedule 11.10 or to other coordinates that have been designated by notice by any recipient Party to the others, to such other coordinates.

11.10.2 Any demand, notice or other communication given by personal delivery or courier services shall be conclusively deemed to have been given on the day of actual delivery thereof and, if given by registered mail, on the third (3rd) Business Day following the deposit thereof in the mail and, if given by e-mail or facsimile, on the day of transmittal thereof if given during the normal business hours of the recipient on a Business Day and on the next Business Day if not given during such hours. If the Party giving any demand, notice or other communication knows or ought reasonably to know of any difficulties with the postal system that might affect the delivery of mail, any such demand, notice or other communication may not be mailed but must be given by personal delivery or by e-mail (followed by receipt by registered mail or courier services within two (2) Business Days).

11.11 Governing Law and Forum

This Agreement shall be governed by and construed in accordance with the Laws of the Province of Quebec and the Laws of Canada applicable therein (excluding any conflict of laws rule or principle, foreign or domestic, which might refer such interpretation to the laws of another jurisdiction). Except in connection with Sections 2.5.2 and 6.1.4, the Parties hereby irrevocably and unconditionally submit to the exclusive jurisdiction of the courts of the Province of Quebec and elect domicile in the City of Montreal with respect to any matter relating to the execution or construction of this Agreement or the exercise of any right or the enforcement of any obligation arising hereunder (excluding any conflict of forum rule or principle, foreign or domestic, which might refer such matter to the courts of another jurisdiction).

11.12 Severability

If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such determination shall not impair or

affect the validity, legality or enforceability of the remaining provisions hereof, and each provision is hereby declared to be separate, severable and distinct.

11.13 Specific Performance and other Discretionary Rights

Each of the Parties acknowledges and agrees that a breach by a Party of any obligation in this Agreement may cause the other Parties to sustain injury for which it would not have an adequate remedy at Law for money damages. Therefore, each of the Parties agrees that in the event of any such breach, the aggrieved Party shall be entitled to specific performance of such obligation and provisional interlocutory and permanent injunctive relief and other discretionary remedies in addition to any other remedy to which it may be entitled and the Parties further agree to waive any requirement for the securing or posting of any bond in connection with the obtaining of any such injunctive relief or other equitable remedies.

11.14 Counterparts

This Agreement may be executed in one or more counterparts, each of which shall conclusively be deemed to be an original but all of which taken together shall be deemed to constitute one and the same agreement and shall become effective, subject to any escrow arrangements as agreed by counsel to the Purchaser and the Vendor, when one or more counterparts have been signed by each of the Parties and delivered to the other Parties. A facsimile, PDF or other electronic transmission of this Agreement bearing a signature on behalf of a party shall be legal, valid and binding on such party and have the same force and effect as a manually signed original.

11.15 Language

The Parties acknowledge that they have required that this Agreement and all related documents be drawn up in English. *Les parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais.*

(Remainder of this page left blank intentionally)

IN WITNESS WHEREOF the Parties have executed this Agreement on the date first written hereinabove.

AIMIA INC.

AIR CANADA

By: /s/ Mark Grafton
Name: Mark Grafton
Title: Chief Financial Officer

By: _____
Name: _____
Title: _____

By: /s/ Jeremy Rabe
Name: Jeremy Rabe
Title: Chief Executive Officer

By: _____
Name: _____
Title: _____

AIMIA CANADA INC.

By: /s/ Mark Grafton
Name: Mark Grafton
Title: Chief Financial Officer

By: /s/ Edouard Dong Vo-Quang
Name: Edouard Dong Vo-Quang
Title: Corporate Secretary

IN WITNESS WHEREOF the Parties have executed this Agreement on the date first written hereinabove.

AIMIA INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

AIR CANADA

By: /s/ Calin Rovinescu
Name: Calin Rovinescu
Title: President and Chief Executive Officer

By: /s/ Michael Rousseau
Name: Michael Rousseau
Title: Executive Vice President & Chief
Financial Officer

AIMIA CANADA INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

EXHIBIT A DEFINITIONS

References in this Exhibit A to Sections and paragraph numbers are to Sections and paragraph numbers of the Agreement unless otherwise expressly stated herein.

“Account” means each account established and maintained by the Vendor or the Corporation pursuant to a member agreement with members arising under the Aeroplan Loyalty Program.

“Account Bank” means the financial institution selected by the Purchaser and the Vendor for the purpose of opening and administering the Restricted Cash Account;

“Accounts Payable” means the trade accounts payable of the Corporation and the Subsidiary incurred on or before the Closing Date (including those for which invoices are received after the Closing Date) that remain unpaid on the Closing Date but relate to products purchased or services performed in the Ordinary Course prior to the Closing Date.

“Accounts Receivable” means all accounts receivable, trade accounts, notes receivable, book debts and other debts (other than cash on hand and deposit accounts held with banks and other financial institutions) of the Corporation and the Subsidiary due, accruing and payable to the Corporation or the Subsidiary which arise from services performed and sales made by the Corporation or the Subsidiary in the Ordinary Course prior to the Closing Date.

“Advance Ruling Certificate” means an advance ruling certificate issued by the Commissioner pursuant to section 102 of the Competition Act with respect to the Transactions.

“Aeroplan Loyalty Program” means the coalition loyalty marketing program owned and operated by the Corporation pursuant to which members can earn Aeroplan Miles from program partners and redeem Aeroplan Miles for a variety of travel, merchandise, gift cards, and other rewards.

“Aeroplan Miles” means the loyalty units issued pursuant to the Aeroplan Loyalty Program.

“Affiliate” means, with respect to any Person, any Person which Controls, is Controlled by, or is under common Control with, directly or indirectly, such Person.

“Agreement” means the share purchase agreement to which this Exhibit A is appended, its recitals, together with its Appendices, Schedules, Exhibits and the Disclosure Letter and all amendments made hereto by written agreement between the Parties.

“Agreement in Principle” means the agreement in principle dated August 20, 2018 among the Purchaser, the Vendor, and the other members of the Consortium.

“Anti-Spam Laws” means, collectively, (a) An Act to promote the efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities, and to amend the Canadian Radio-Television and Telecommunications Commission Act, the Competition Act, the Personal Information Protection

and Electronic Documents Act and the Telecommunications Act, S.C. 2010, c. 23, along with its associated regulations; (b) similar Laws in other jurisdictions; and (c) practice guidelines, bulletins and enforcement advisories issued by any Governmental Authority in connection with those Laws in clauses (a) and (b) of this definition.

“**Assessments**” has the meaning set forth in Section 3.2.32 of Schedule 3.2.

“**Auditors**” means the external auditors of the Corporation and the Subsidiary, being PricewaterhouseCoopers LLP.

“**Authorized Tax Filing Parameters**” has the meaning set forth in Section 6.1.1.

“**Breaching Party**” has the meaning set forth in Section 4.14.4.

“**Breakage**” means the estimated Aeroplan Miles issued under and by the Corporation’s Aeroplan Loyalty Program which are not expected to be redeemed.

“**Books and Records**” means any books, records and accounts of the Corporation and the Subsidiary (originals, to the extent they exist, or, if originals do not exist, copies thereof) other than the Constatting Records of the Corporation and the Subsidiary, including with respect to the Purchased Shares, the Employees and Member Data, including databases, documents, forms, advertising material, brochures, books and records relating to the purchase of materials and supplies, the services performed or provided, dealings with customers, invoices, customer lists, mailing lists, suppliers lists, telephone numbers, financial records, personnel records, Taxes and Tax Returns, correspondence with Tax Authorities and notices of assessment and reassessment, and any analyses, presentations or other documentation pertaining to Member Data or derived therefrom.

“**Buildings**” means all plants, buildings, structures, erections, improvements, appurtenances and fixtures (including fixed machinery and fixed equipment), including those under construction, which contain Leased Real Property.

“**Business**” has the meaning set forth in the recitals to this Agreement.

“**Business Day**” means any day on which Canadian chartered banks are generally open for business in Montréal (Quebec) and Toronto (Ontario) other than a Saturday or a Sunday.

“**Canada Transportation Act**” means the *Canada Transportation Act* (Canada), and includes the regulations made thereunder.

“**Capital Lease**” means any lease of any property by the Corporation or the Subsidiary as lessee that, in accordance with IFRS effective as of the Closing Date, either would be required to be classified and accounted for as a capital lease on a balance sheet of the Corporation or the Subsidiary or would otherwise be disclosed as such in a note to the financial statements.

“**Cash, Cash Equivalents and Investments**” means, with respect to the Corporation and the Subsidiary, funds in current operating bank accounts, term deposits and fixed income securities

with an original term to maturity of three (3) months or less, investments in corporate, provincial and federal bonds, as well as interest accrued on the foregoing.

“**CBCA**” means the *Canada Business Corporations Act*, as now in effect and as may be amended from time to time prior to the Closing Date.

“**Circular**” means the notice of meeting and accompanying management information circular of the Vendor, including all appendices, schedules and exhibits thereto, to be sent by the Vendor to the Shareholders in connection with the Meeting, as amended, supplemented or otherwise modified.

“**Claims**” means claims, notices, demands, requests, complaints, proceedings, actions, applications, arbitrations, suits, causes of action, appeals, audits, hearings, investigations, inquiries, assessments or reassessments (including claims, assessments and reassessments for Tax), charges, judgments, grievances, or hearings.

“**Closing**” means the completion on the Closing Date of the sale to, and purchase by, the Purchaser of the Purchased Shares and the completion of all other Transactions which are to occur concurrently with the purchase and sale of the Purchased Shares.

“**Closing Cash, Cash Equivalents and Investments**” means the Cash, Cash Equivalents and Investments immediately prior to Closing based on the Closing Date Financial Statements.

“**Closing Date**” means January 10, 2019, or such other date as the Purchaser and the Vendor mutually agree, provided that if the conditions to Closing set out in Article 7 have not been satisfied or waived at that time, then the Closing Date shall be the fifth (5th) Business Day following the satisfaction or waiver of the conditions (excluding conditions that, by their terms, cannot be satisfied until the Closing Date, but subject to the satisfaction or waiver of those conditions on the Closing Date), unless another time or date is agreed to in writing by the Parties, provided that the Closing Date shall be no later than the Outside Date.

“**Closing Date Financial Statements**” means the consolidated financial statements of the Corporation and the Subsidiary for the period ending at 11:59 pm (EST) on the day immediately prior to the Closing Date.

“**Closing Document**” means any agreement, assignment, instrument, undertaking, resolution, share certificate, certificate or any other document delivered in relation to the Closing, including without limitation the Escrow Agreement, the Non-Competition Agreement, the Transition Services Agreement, the Restricted Cash Account Control Agreement, the Restructuring Memorandum and the Restructuring Documents.

“**Closing Indebtedness**” means the Indebtedness at Closing based on the Closing Date Financial Statements.

“**Closing Redemption Liability**” means the Redemption Liability immediately prior to Closing calculated using the same methodology as set forth in Appendix A, as contemplated by Section 2.5.1(b), increased by an amount of \$10,000,000 in additional Redemption Liabilities, which shall be reduced by the value of any Aeroplan Miles issued prior to Closing as “promotional

Aeroplan Miles” in relation to Section 6.3.5 of the Amended and Restated Affinity Program Agreement between the Corporation and The Toronto-Dominion Bank dated September 16, 2013 (such Aeroplan Miles will be valued net of Breakage and at the average cost per loyalty unit used in the Closing Redemption Liability calculated in accordance with Section 2.5.1(b)).

“**Closing Time**” means 8:00 AM on the Closing Date or such other time on such date as the Purchaser and the Vendor mutually agree in writing as the time at which the Closing will be effective.

“**Closing Working Capital**” means the Working Capital immediately prior to Closing calculated using the same methodology as set forth in Appendix A and based on the Closing Date Financial Statements.

“**Collective Agreement**” means any collective agreement, letters of understanding or letters of intent with any trade union or association which may qualify as a trade union which covers any Employee.

“**Commercial Electronic Message**” means “commercial electronic message” as defined in Anti-Spam Laws applicable in Canada.

“**Commercially Reasonable Efforts**” means the good faith efforts that a reasonable and prudent person who desires to achieve a business result would use in similar circumstances to ensure that such result is achieved as expeditiously as possible in the context of a commercial transaction; provided, however that this obligation does not require a Person to take extraordinary measures, including the payment of amounts in excess of normal or usual filing or processing fees, if any, or any other payments that are disproportionate to the relative benefits in the applicable context.

“**Commissioner**” means the Commissioner of Competition appointed under the Competition Act and includes any person duly authorized to exercise the powers and perform the duties on behalf of the Commissioner of Competition.

“**Common Shares**” means the outstanding common shares in the capital of the Vendor.

“**Competition Act**” means the *Competition Act* (Canada), and includes the regulations made thereunder.

“**Competition Approval**” means: (i) the issuance of an Advance Ruling Certificate; or (ii) the applicable waiting period under section 123 of the Competition Act has expired or been terminated, or the obligation to notify the Commissioner has been waived, and a No Action Letter has been issued in accordance with subsection 123(2) of the Competition Act.

“**Competing Proposal**” has the meaning set forth in Section 5.4.3.

“**Competing Transaction**” has the meaning set forth in Section 5.4.1.

“**Confidential Information**” consists of all information and data relating to the Corporation, the Subsidiary, or the Business (including Intellectual Property, customer and supplier lists, marketing plans, market studies, client development plans, business acquisition plans and all

other information or data), except for data or information that is or becomes available to the public other than as a result of a breach of Section 4.4.

“**Consideration Shortfall**” has the meaning set forth in Section 2.4.3.

“**Consortium**” means the consortium consisting of the Purchaser, The Toronto-Dominion Bank, Canadian Imperial Bank of Commerce, and Visa Canada Corporation.

“**Consortium Agreement**” means the agreement entered into on or prior to the date hereof by the members of the Consortium.

“**Constituting Records**” means, in respect of any entity, the corporate and constituting records of such entity, including (a) all articles, constituting and organizational documents and by-laws (including any partnership agreement, deed of trust or other); (b) all shareholders agreements affecting such entity; (c) all minutes of meetings and resolutions of shareholders and directors (and any committees); and (d) the share certificate books, securities register, register of transfers and register of directors.

“**Consumer Protection Laws**” means: (a) the Consumer Protection Act, CQLR c P-40.1, along with its associated regulations; and (b) similar Laws in other jurisdictions.

“**Contracts**” means any and all written or oral contracts and agreements (including orders and rebates), Derivative Contracts, leases (including Capital Leases and Real Property Leases), insurance policies, deeds, indentures, instruments, entitlements, warranties and warranty rights, commitments, indemnities, guarantees, undertakings and orders made by or to which the Corporation or the Subsidiary is a party or by which the Corporation or the Subsidiary is bound by one or more obligations or under which the Corporation or the Subsidiary has, or will have, any rights and includes rights to use, franchises, license and sub-licenses agreements and agreements for the purchase and sale of assets or shares.

“**Control**” (including “**Controlled**” or any variation thereof) means (a) in respect of a corporation, a company or a similar entity, the ownership, directly or indirectly through other Controlled entities, of shares, units or other equity interests of such corporation or company carrying more than 50% of the voting rights ordinarily exercisable at meetings of shareholders or members of such corporation or company, and (b) in respect of a partnership, joint venture or other entity that is not a corporation, a company or a similar entity, the ownership, directly or indirectly through other Controlled entities, of more than 50% of the voting and ownership interests of such partnership, joint venture or other entity or the right to direct, or cause the direction, of the senior management and policies of any such entity (including as a trustee or general partner).

“**Corporation**” has the meaning set forth in the preamble.

“**Correlative Assessment**” means an assessment in respect of a taxation year which results from, is related to, otherwise pertains to, or in respect of, an assessment, reassessment, settlement or final determination by a Governmental Authority in respect of any other taxation year.

“**CRA**” means Canada Revenue Agency or any successor agency.

“**Credit Agreement**” means the Amended and Restated Credit Agreement of the Vendor, dated as of May 6, 2011 as amended, supplemented and amended and restated through January 31, 2018.

“**CTA Approval**” means the appropriate Persons as contemplated in the Canada Transportation Act shall have received: (i) notice of an opinion from the Minister of Transport that the Transactions do not raise issues with respect to the public interest as it relates to national transportation, in accordance with subsection 53.1(4) of the Canada Transportation Act; or (ii) both (a) approval of the Transactions contemplated herein from the Governor in Council pursuant to subsection 53.2(7) of the Canada Transportation Act on terms and conditions satisfactory to the Parties, each acting reasonably, and (b) a determination from the Canadian Transportation Agency pursuant to section 53.3 of the Canada Transportation Act that the Transactions contemplated herein would result in an undertaking that is Canadian as defined in subsection 55(1) of the Canada Transportation Act.

“**Data Room**” means the electronic data room, as existing at the date of this Agreement and made available by the Vendor to the Purchaser in connection with the Transactions.

“**Day 1 Readiness**” has the meaning set forth in Section 4.12.3.

“**Defeasance Option**” has the meaning set forth in the Trust Indenture.

“**Defence Assumption Notice**” has the meaning set forth in Section 9.7.1.

“**Defending Party**” has the meaning set forth in Section 9.9.

“**Derivative Contracts**” means all Contracts involving foreign exchange, forward contracts, swaps, risk management contracts or any other form of derivative instruments used by or binding the Corporation or the Subsidiary.

“**Direct Claim**” means any Claim by an Indemnified Party against an Indemnifier which does not result from a Third Party Claim.

“**Disclosure Letter**” means the disclosure letter dated the date of this Agreement delivered by the Vendor and the Corporation to the Purchaser.

“**Electronic Address**” means “electronic address” as defined in Anti-Spam Laws.

“**Eligible Post-Closing Tax Year**” has the meaning set forth in Section 6.5.1.

“**Employees**” means all of the employees of the Corporation and the Subsidiary, a complete and accurate list of which is attached as Section 3.2.29 of the Disclosure Letter, and, for greater certainty, includes (a) employees employed on an hourly or salaried basis, (b) unionized employees, (c) part-time employees, and (d) employees receiving short-term or long-term disability benefits or payments or workmen’s compensation and employees on an ongoing leave of absence, including but not limited to sick leave, or parental leave.

“Employee Plans” means each and every retirement, pension, supplemental pension (including any Pension Plan), savings, retirement savings, bonus or incentive, profit sharing, deferred compensation, severance or termination pay (including any redundancy policy), change of control, life insurance, medical, hospital, dental care, vision care, drug, sick leave, short term or long term disability, salary continuation, unemployment benefits, supplemental income, vacation, incentive, compensation, stock purchase, stock option, phantom stock, share appreciation rights, share unit, fringe benefit or other employee benefit plan, program, agreement, arrangement, policy or practice whether written or oral, formal or informal, funded or unfunded, registered or unregistered, bargained or not bargained, insured or self-insured that is administered, maintained, sponsored or otherwise funded or contributed to, or required to be funded or contributed to, by or on behalf of the Corporation or the Subsidiary, or under which the Corporation or the Subsidiary pays premiums or benefits or has any liability whatsoever whether absolute or contingent, relating to or available to any Employees or former employees of the Corporation or the Subsidiary for the benefit of any consultant or other independent contractor who currently provides or formerly provided services to the Corporation or the Subsidiary, except that the term **“Employee Plan”** shall not include any statutory plans with which the Corporation or the Subsidiary is required to comply, including the Canada Pension Plan, Quebec Pension Plan, and plans administered pursuant to applicable provincial health tax, workers’ compensation and workers’ safety and employment insurance legislation.

“Encumbrances” means pledges, liens (statutory or otherwise), charges, security interests, privileges, title retention agreements, mortgages, hypothecs, assignments by way of security, security interests, conditional sales contracts, or other similar interests or instruments charging, or creating a security interest in, or against title, restrictions, development or similar agreements, easements, servitudes, rights-of-way (registered or unregistered), restrictive covenants, title defects, restrictions, executions, tax arrears, permissions, options or adverse Claims, encroachments or burden or any other right or Claim or encumbrances of any kind or character whatsoever or however arising, or any agreement to enter into or create any of the foregoing, on or affecting all or any part of any of the assets of a Person or any of its subsidiaries or any interest therein, or any direct or indirect interest in such Person or any of its subsidiaries, any financing lease having substantially the same economic effect as any of the foregoing, the filing of any financing statement, encumbrances of mechanics, labourers, workmen, builders, contractors, suppliers of material or architects or other similar encumbrances incidental to construction, maintenance or repair operations and other similar liens, legal hypothecs and encumbrances.

“Escrow Agent” means a professional licensed trust company appointed by the Purchaser and the Vendor to act as escrow agent pursuant to the Escrow Agreement.

“Escrow Agreement” means the escrow agreement between the Purchaser, the Vendor and the Escrow Agent to be executed on or prior to the Closing and effective as of the Closing Date, in the form attached hereto as Exhibit D.

“Estimated Closing Cash, Cash Equivalents and Investments” has the meaning set forth in Section 2.4.1.

“Estimated Closing Indebtedness” has the meaning set forth in Section 2.4.1.

“**Estimated Closing Redemption Liability**” has the meaning set forth in Section 2.4.1.

“**Estimated Closing Working Capital**” has the meaning set forth in Section 2.4.1.

“**Fairness Opinion**” means the opinion of RBC Capital Markets, as a financial advisor to the Vendor, delivered to the Vendor’s board of directors on or about November 20, 2018, to the effect that the consideration to be received by Vendor under the Transactions is fair, from a financial point of view, to the Vendor.

“**Financial Statements**” means the Year End Financial Statements, and the Interim Financial Statements, copies of which are attached to Section 3.2.14 of the Disclosure Letter.

“**Fixed Assets**” means the fixed assets and tangible moveable or personal property, machinery, equipment, computers, networking equipment, fixtures, furniture, furnishings, parts and tooling, spare parts furniture, supplies, photocopiers and office equipment owned, held or used by the Corporation or the Subsidiary in connection with the Business, wherever located.

“**Governmental Authority**” means any (a) multinational, federal, provincial, state, regional, municipal, local, governmental or public department, ministry, central bank, court, tribunal, arbitral body, commission, commissioner, agency board or bureau, domestic or foreign, (b) any subdivision, board or authority of any of the foregoing, (c) any quasi-governmental or private body exercising any regulatory, administrative, expropriation or Tax Authority under or for the account of any of the foregoing, (d) any judiciary or quasi-judiciary tribunal, court or body, (e) any self-regulatory authority (including the Toronto Stock Exchange), and (f) any Securities Regulator.

“**Governing Body**” means, with respect to any Person, (a) the board of directors of such Person, and (b) any Person or group of Persons exercising a similar authority.

“**GST**” means Taxes imposed under Part IX of the *Excise Tax Act* (Canada) and the regulations promulgated thereunder.

“**HST**” means harmonized sales Tax imposed under Part IX of the *Excise Tax Act* (Canada) and the regulations promulgated thereunder.

“**IFRS**” means generally accepted accounting principles in Canada as set out in the CPA Canada Handbook – Accounting which incorporates the International Financial Reporting Standards applied on a basis consistent with previous years.

“**Indebtedness**” means any liability, debt or other obligation of the Corporation or the Subsidiary, whether absolute, accrued, fixed, contingent or otherwise, including the following:

- (a) all indebtedness, obligations and liabilities of whatsoever nature and kind of the Corporation or the Subsidiary for borrowed money or for the deferred purchase price of property or services (including reimbursement and all other obligations with respect to surety bonds, letters of credit, note purchase obligations and bankers’ acceptances, whether or not matured) and including any short term portion of long term indebtedness and any shareholders’ loans or advances;

- (b) all indebtedness of the Corporation or the Subsidiary created or arising under any conditional sale, other title retention agreements with respect to acquired property or pursuant to deferred purchase price obligations;
- (c) all obligations of the Corporation or the Subsidiary as lessee under a Capital Lease (other than any leases accounted for as liabilities as a result of the adoption of IFRS16 effective January 1, 2019) that, in accordance with IFRS effective as of the Closing Date, would appear on a balance sheet of such lessee in respect of such Capital Lease or otherwise be disclosed as such in a note to such balance sheet, and obligations under sale leasebacks of the Corporation or the Subsidiary;
- (d) all indebtedness, obligations and liabilities of whatsoever nature and kind of the Corporation or the Subsidiary resulting from any subsidy agreement, contribution agreement or similar agreement between the Corporation or the Subsidiary, on the one hand, and any Governmental Authority, on the other hand;
- (e) all obligations of the Corporation or the Subsidiary guaranteeing or providing indemnification or insurance with respect to any indebtedness or other obligation of any Person (other than an obligation by the Corporation or the Subsidiary to guarantee or provide indemnification for the obligations of the other);
- (f) all income Taxes payable by the Corporation or the Subsidiary in respect of any 2018 Pre-Closing Tax Period and the Pre-Closing Tax Period beginning on January 1, 2019 and ending as a result of the Closing;
- (g) all accrued interest relating to any indebtedness owing by the Corporation or the Subsidiary of the type referred to in any of the items of this definition; and
- (h) all prepayment penalties or break-up fees of any nature relating to any indebtedness of the type referred to in any of the items of this definition which is being repaid by the Corporation or the Subsidiary on or immediately after Closing.

Notwithstanding the foregoing, Indebtedness shall not include any amount included in the calculation of the Working Capital, Cash, Cash Equivalents and Investments, or Redemption Liability, or any intercompany indebtedness between the Corporation and the Subsidiary.

“Indemnifier” means any Party obligated to provide indemnification pursuant to Article 6 or Article 9.

“Indemnified Party” means any Person entitled to indemnification pursuant to Article 6 or Article 9.

“Indemnity Escrow Amount” has the meaning set forth in Section 2.3.2.

“Indemnity Payment” means any amount of Loss required to be paid pursuant to Article 6, Section 9.1 or 9.2.

“Independent Firm” has the meaning set forth in Section 2.5.2(d).

“**Initial Consideration**” has the meaning set forth in Section 2.3.1.

“**Intellectual Property**” means any and all intellectual property rights, whether registered or not, including those rights arising out of or related to: (i) all domestic and foreign patents and applications therefor and all re-examinations, reissues, divisions, renewals, extensions, provisionals, continuations and continuations-in-part thereof; (ii) all trade-marks, trade names, service marks, service names, certification marks, brands, logos, trade dresses, domain names and social media identifiers, together with the goodwill associated therewith; (iii) all copyrights and works protected by copyright (including computer software, documentation, designs, schematics, specifications or records), data rights, integrated circuit topographies and protected plant varieties; (iv) all industrial designs and CAD designs; (v) all inventions (whether or not patentable); and (vi) all proprietary and confidential business and technical information including technical data, trade secrets, ideas, formulae, algorithms, methods, techniques, processes, research and development and technology know-how, databases, data compilations and collections and technical data; including, in the case of each of clauses (i) through (v), inclusively, whether such rights are registered or not and, in the case of each of clauses (i) through (vi), exclusively, any and all registrations, applications, recordings, common-law rights, and all moral rights, however denominated, throughout the world and in all media now known, and all rights to sue at law or in equity for any past infringement or other impairment of any and all of the foregoing, including the right to receive all proceeds and damages therefrom, where applicable at Law.

“**Interim Financial Statements**” means the unaudited unconsolidated financial statements of the Corporation and the Subsidiary for the nine (9) month period ended September 30, 2018, consisting of a balance sheet and the accompanying statement of operations of the Corporation and the Subsidiary.

“**Interim Period**” means the period beginning on the date hereof and ending on the Closing Date.

“**Key Executives**” means those individuals identified as Key Executives in Section 3.2.29 of the Disclosure Schedule.

“**Key Intellectual Property**” has the meaning set forth in Section 3.2.35(a) of Schedule 3.2.

“**Laws**” means all laws (including common law, civil law and equity), statutes, codes, ordinances, decrees, rules, regulations, by-laws, statutory rules, published policies and guidelines, bulletins and enforcement advisories, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, Orders, decisions or rulings and terms and conditions of any grant of approval, permission, authority or Permit, in all cases, having the force of law, of any Governmental Authority, self-regulatory authority or statutory body, 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 or claiming to exercise legal jurisdiction over the Person or Persons or its or their business, undertaking, property or securities.

“Leased Real Properties” means those parts of the Buildings which are subject to the Real Property Leases, a complete list of which is attached hereto as 3.2.34 of the Disclosure Letter, together with all licenses, rights and appurtenances relating to the foregoing.

“License and Co-Ownership Agreement” means the acknowledgement, confirmation and cross-license of intellectual property rights agreement dated November 20, 2018 between the Vendor and the Corporation.

“Loss” means any and all loss, liability, damage, interest, cost or expense resulting from or arising out of any Claim, including the costs and expenses of any action, suit, proceeding, demand, assessment, reassessment, judgment, settlement or compromise relating thereto and all interest, punitive damages, fines and penalties and reasonable legal fees and expenses incurred in connection therewith, but excluding, except to the extent awarded by a Governmental Authority pursuant to a Third Party Claim, any incidental, indirect, special, exemplary, punitive or consequential damage or loss of profits (including loss of revenue, income or profits, diminution of value or loss of business reputation or opportunity or goodwill).

“Loyalty Partnership Agreements” means the loyalty program agreements entered into by the Vendor or the Corporation with each of Flair Airlines Ltd., Air Transat A.T. Inc. and Porter Airlines Inc, or any of their respective Affiliates.

“Material Adverse Change” means any change, event, occurrence, effect, or state of facts that, individually or in the aggregate with all other changes, events, occurrences, effects or states of fact, has, or would be reasonably expected to have, a materially adverse effect upon the Business, operations, assets, liabilities (but excluding and not taking into account Redemption Liabilities), property or the financial condition of the Vendor, the Corporation or the Subsidiary, taken as a whole; provided, however, that **“Material Adverse Change”** shall not include any change, event, occurrence, effect, or state of fact relating to, arising from or attributable to:

- (a) general political, economic or financial conditions;
- (b) any change in financial, banking, credit, securities or currency markets in general, including any disruption thereof;
- (c) any change generally affecting the loyalty program industry in Canada or the United States;
- (d) any governmental, regulatory or other change, development or announcement with respect or relative to interchange;
- (e) the commencement, occurrence, continuation, escalation or worsening of any war (whether or not declared), armed hostilities or acts of terrorism;
- (f) any natural or man-made disaster or act of God;
- (g) any change or proposed change in applicable Laws or the enforcement, implementation, interpretation, application or non-application of applicable Laws by any Governmental Authority;

- (h) the failure of the Corporation or the Subsidiary to meet any internal or published projections, forecasts, estimates or predictions in respect of revenues, earnings or other financial or operating metrics before, on or after the date of this Agreement with respect to the Business;
- (i) any matter or prospective matter which has, at or prior to the date hereof, been publicly disclosed by the Vendor in regulatory or securities filings or disclosed in the Disclosure Letter;
- (j) any change in accounting rules (including IFRS) or the implementation or interpretation thereof;
- (k) any increase in or decrease to any item or element subject to adjustment pursuant to Article 2; or
- (l) any action or omission or exercise of any legal or contractual right of or by any member of the Consortium involving any of the Vendor, the Corporation or the Subsidiary;

provided, however, any such change, event, occurrence, effect or state of facts referred to in clauses (a), (b), (c), (d), (g) or (j) above does not (i) primarily relate only to (or have the effect of primarily relating only to) the Vendor, the Corporation or the Subsidiary, taken as a whole, or (ii) disproportionately adversely affect the Vendor, the Corporation or the Subsidiary, taken as a whole, compared to other businesses of similar size in Canada operating in the industries in which the Vendor, the Corporation and the Subsidiary operate.

“Material Contract” means any:

- (a) Contract involving aggregate payments in any year to or by the Corporation or the Subsidiary of an amount or value in excess of \$5,000,000 (other than those disclosed at (b) below);
- (b) existing purchase order of an amount or value in excess of \$2,000,000;
- (c) Contract between the Corporation or the Subsidiary, and any Related Party;
- (d) Contract not entered into in the Ordinary Course and that involves expenditures or receipts of the Corporation or the Subsidiary in excess of \$2,000,000;
- (e) lease, rental or occupancy agreement (including each Real Property Lease), license (other than a license agreement for commercially available software sold through retailers), instalment and conditional sale agreement, and other Contract affecting the ownership of, leasing of, title to, use of, or any leasehold or other interest in, any real or personal property (except personal property leases and instalment and conditional sales agreements having a value per item or aggregate payments of less than \$2,000,000);

- (f) Contract with respect to Intellectual Property or which is a Derivative Contract (other than a license agreement for commercially available software sold through retailers);
- (g) Contract containing covenants that in any way restrict or purport to restrict the business activity of the Corporation or the Subsidiary to engage in any business or to compete with any Person, including any non-competition, non-solicitation, or most-favoured nations or pricing covenants;
- (h) power of attorney of the Corporation or the Subsidiary that is currently effective and outstanding;
- (i) warranty, guarantee, support, bond, letter of credit, indemnification, assumption or other similar commitment with respect to the obligations, liabilities (whether accrued, absolute, contingent or otherwise) or indebtedness of any Person other than (i) in the Ordinary Course and (ii) tenders from Governmental Authorities entered into in the Ordinary Course;
- (j) Contract which concerns any joint venture, partnership or other Contract (however named) involving a sharing of profits, losses, costs, or liabilities by the Corporation or the Subsidiary;
- (k) Contract relating to or creating any trust indenture, mortgage, hypothec, promissory note, bond, loan agreement, letter of credit or other contract for the borrowing of money or otherwise evidencing any Indebtedness of the Corporation or the Subsidiary;
- (l) Contract relating to any individual capital expenditure to be incurred after the date of this Agreement in excess of \$2,000,000;
- (m) Contract containing liquidated damages or penalty provisions (other than tenders from Governmental Authorities entered into in the Ordinary Course);
- (n) Contract between the Corporation or the Subsidiary, and a Governmental Authority;
or
- (o) amendment, supplement, and modification (whether oral or written) in respect of any of the foregoing.

Notwithstanding the foregoing, “**Material Contract**” does not mean and shall not include: (i) the Credit Agreement; (ii) the Trust Indenture; and (iii) any Contract between the Corporation and/or the Subsidiary, on the one hand, and one or more members of the Consortium and/or airline members of the Star Alliance, on the other hand (provided the Purchaser is already a party to any such Contract).

“**Meeting**” means the special meeting of the Shareholders, including any adjournment or postponement thereof in accordance with the terms of this Agreement, to be called and held in accordance with this Agreement to consider the Transaction Resolution and for any other purpose as may be set out in the Circular and agreed to in writing by the Purchaser.

“**Member Data**” collectively means the following as and to the extent applicable and relating to the Accounts and maintained, possessed or Controlled, whether directly or indirectly through third party service providers, by the Vendor or the Corporation:

- (a) the files and information reflected on the data processing system used by the Vendor or the Corporation to process and service the Accounts to the extent relating to the Accounts;
- (b) the historical reflection of the files and information referred to in clause (a), in whatever medium such files and information are stored;
- (c) all correspondence between the Vendor or its Affiliates and any members, and all customer service and collections correspondence, notes and other documentation;
- (d) to the extent authorized by applicable Law, all correspondence with Governmental Authorities relating to any member complaints and compliance with Laws;
- (e) all membership applications, documentation and correspondence with past or current members, Personal Information of past or current members, member agreements, documentation of finance and other charges, and credit, redemption and payment history with respect to the Accounts, and electronic statements of historical credit, redemption and payment activity; and
- (f) any other written records or materials of whatever form or nature (excluding, however, electronic media but including the information contained therein) arising from or relating to any of the foregoing to the extent related to an Account.

“**MI 61-101**” means Multilateral Instrument 61-101 adopted by certain of the Canadian Securities Administrators.

“**Migration Plan**” has the meaning set forth in Section 4.12.2.

“**Miles Shortfall**” means the value representing the receivable in an amount of approximately \$20,000,000 as at December 31, 2018 under Section 4.3 of the Amended and Restated Affinity Program Agreement between the Corporation and The Toronto-Dominion Bank dated September 16, 2013.

“**Mittleman Standstill Agreement**” has the meaning set forth in Section 4.13.2(b).

“**NI 45-106**” means National Instrument 45-106 *Prospectus Exemptions* of the Canadian Securities Administrators.

“**Negative Adjustment Amount**” has the meaning set forth in Section 2.6.2.

“**Net Pre-Closing Adjustments**” has the meaning set forth in Section 2.4.2.

“**No Action Letter**” means written confirmation from the Commissioner that he does not, at that time, intend to make an application under section 92 of the Competition Act in respect of the Transactions.

“**Non-Competing Proposal**” has the meaning set forth in Section 5.4.5.

“**Non-Competition Agreement**” has the meaning set forth in the recitals to this Agreement.

“**Non-Disclosure Agreement**” has the meaning set forth in Section 4.2.6.

“**Notes**” means the Vendor’s 5.60% Senior Secured Notes Series 4, due May 17, 2019, issued under the Trust Indenture.

“**Notice Period**” has the meaning set forth in Section 9.7.1.

“**Objection Notice**” has the meaning set forth in Section 2.5.2(c).

“**Order**” means any final and enforceable order or any final judgment, injunction, decree, ruling, stipulation, award or writ of any court, tribunal, arbitrator or other Governmental Authority.

“**Ordinary Course**” means, when used in relation to the conduct of the Business, any action which: (i) is consistent in nature, scope and magnitude with the past practices of the Corporation or the Subsidiary and is taken in the ordinary course of the normal day-to-day operations of the Corporation; and (ii) is similar in nature, scope and magnitude to actions customarily taken, without authorization by a Governing Body, in the ordinary course of the normal day-to-day operations of other Persons that are in the same line of business as the Corporation and the Subsidiary.

“**Outside Date**” means January 31, 2019 or such later date as the Parties may determine by mutual written agreement, provided however that if the Regulatory Approvals have not been obtained by such date, the Parties may extend the Outside Date by mutual written agreement for up to three (3) consecutive ten (10) Business Day periods.

“**Owned Intellectual Property**” has the meaning set forth in Section 3.2.35(a) of Schedule 3.2.

“**Parties**” means the Vendor, the Purchaser and the Corporation, and “**Party**” means any one of them.

“**Pension Plan**” means each of the Employee Plans that is a “registered pension plan” as that term is defined in subsection 248(1) of the Tax Act.

“**Permissive Deductions**” means those permissive deductions described in “IC84-1 Revision of Capital Cost Allowance Claims and Other Permissive Deductions” published by the CRA.

“**Permits**” means all permits, certificates, certificates of authorization, certificates of compliance, authorizations, consents, licenses, concessions, franchises, approvals of and registrations with any Governmental Authority or pursuant to any Laws used or held in connection with the Business.

“Permitted Encumbrances” means (a) any easements, servitudes, rights-of-way, licenses, agreements, restrictions that run with the land and other minor Encumbrances (including easements, rights-of-way and agreements for railways, sewers, drains, gas and water mains or electric light and power or telephone, telecommunications or cable conduits, poles, wires and cables) relating to the Buildings; (b) reservations, limitations, provisos and conditions, if any, expressed in any original grants of land by a Governmental Authority relating to the Buildings; (c) statutory Encumbrances relating to obligations not due and payable; (d) Encumbrances for Taxes, assessments, Governmental Authority charges or levies not due and payable as at the Closing Date; (e) Encumbrances for public utilities not due and payable as at the Closing Date; and (f) the Encumbrances set out in Section 3.2.23 of the Disclosure Letter.

“Permitted Tax Attributes” means all:

- (a) Tax Attributes of each of the Corporation and the Subsidiary arising from a Pre-Closing Tax Period, excluding the eligible capital expenditure account or Class 14.1 property account (other than the available maximum capital cost allowance deductions on the eligible capital expenditure account or Class 14.1 property account, and the admissible reductions of up to \$50,000,000 contemplated by Section 6.4(d)); and
- (b) Tax Attributes contemplated by Section 6.5.

“Person” includes any individual, trust, trustee, executor, administrator, legal personal representative, estate, firm, partnership, joint venture, venture capital fund, joint stock company, association, body corporate, corporation, unincorporated association or organization, Governmental Authority, syndicate or other entity, whether or not having legal status.

“Personal Information” means all information regarding or capable of being associated with an individual person, legal person or device (in jurisdictions where legal persons or devices have the benefit of, or are protected by, Privacy Laws), including information that identifies, could be used to identify or is otherwise identifiable with an individual, including name, physical address, telephone number, email address, financial account number or government-issued identifier (including Social Insurance Number, Social Security Number and driver’s license number), medical, health or insurance information, gender, date of birth, educational or employment information, religious or political views or affiliations, marital or other status, and location data or online identifier or any other data used or intended to be used to identify, contact or precisely locate an individual. Personal Information may relate to any individual, including a current, prospective or former customer or employee of the Corporation or the Subsidiary. Personal Information includes information in any form, including paper, electronic and other forms.

“Positive Adjustment Amount” has the meaning set forth in Section 2.6.1.

“Post-Closing Adjustment Calculations” has the meaning set forth in Section 2.5.2.

“Post-Closing Tax Period” means any Tax period beginning on or after the Closing Date.

“Pre-Closing Cash, Cash Equivalents and Investments Adjustment” has the meaning set forth in Section 2.4.2(d).

“**Pre-Closing Indebtedness Adjustment**” has the meaning set forth in Section 2.4.2(a).

“**Pre-Closing Redemption Liability Adjustment**” has the meaning set forth in Section 2.4.2(b).

“**Pre-Closing Working Capital Adjustment**” has the meaning set forth in Section 2.4.2(c).

“**Pre-Closing Tax Period**” means any Tax period that is not a Post-Closing Tax Period.

“**Preferred Shares**” means the outstanding Series 1, Series 2 and Series 3 cumulative rate reset preferred shares in the capital of the Vendor.

“**Prime Rate**” means the annual rate of interest announced from time to time by the Royal Bank of Canada as being its reference rate then in effect for determining interest rates on commercial loans in Canadian dollars made in Canada to its most credit worthy borrowers by such bank plus three (3)%.

“**Privacy Law**” means any applicable Law relating to the collection, use, handing, processing, retention, disclosure, transfer or protection of Personal Information, including, for avoidance of doubt *The Personal Information Protection and Electronic Documents Act* (Canada), the *Personal Information Protection Act* (Alberta), the *Personal Information Protection Act* (British Columbia), the *Act respecting the protection of personal information in the private sector* (Québec), *General Data Protection Regulation 2016/679* and other similar Laws of other jurisdictions.

“**Purchase Price**” has the meaning set forth in Section 2.2.

“**Purchased Shares**” has the meaning set forth in Section 2.1.

“**Purchaser**” has the meaning set forth in the preamble.

“**Purchaser Fundamental Representations**” has the meaning set forth in Section 3.5.2(a).

“**R&W Policy**” means the insurance policy obtained by the Purchaser on or prior to the Closing Date in connection with the Transactions and this Agreement.

“**Real Property Leases**” means the leases, subleases and other agreements or arrangements in the nature of a lease or right of occupancy of real property to which the Corporation or the Subsidiary is a party, whether as lessor, lessee or as indemnitor, a complete and accurate list of which is attached to Section 3.2.34 of the Disclosure Letter.

“**Redemption Liability**” means the total estimated liability of the future costs of rewards for Aeroplan Miles which have been issued and remain outstanding, net of Breakage and valued at the average cost of rewards per Aeroplan Mile experienced during the most recent trailing twelve (12) month period, determined using the same Breakage rate (being eleven percent (11%)) and methodology used by the Vendor and the Corporation in the calculation of the disclosures included in the Vendor’s Management’s Discussion & Analysis of Financial Condition and Results of Operations for the years ended December 31, 2017 and 2016 and filed on SEDAR.

“Regulatory Approvals” means a consent, advance ruling certificate, authorization or approval or non-disapproval of, by or from a Governmental Authority (including the expiration of any waiting or other time period required to elapse before such consent, authorization or approval of an applicable Governmental Authority may be assumed or relied on), including for avoidance of doubt the Competition Approval and the CTA Approval; a complete and accurate list of the Regulatory Approvals is set forth in Schedule 4.9.

“Related Party” means (a) the Vendor, (b) any Affiliate of the Vendor, (c) any partner, holder of ten percent (10%) or more of the outstanding Common Shares, director, officer, trust, trustee or similar fiduciary, of the Vendor, the Corporation, the Subsidiary or any of their respective Affiliates, (d) any Person not acting at arm’s length (as defined in the Tax Act) with the Vendor, the Corporation or the Subsidiary, or (e) without limiting the foregoing, any family member (including siblings, parents, siblings-in-law, parents-in-law, son/daughter-in-law, spouse, niece, nephew, cousin, descendant or other family relation) of any individual referred to in this definition.

“Representatives” means, with respect to any Person, the Affiliates, officers, directors, employees, agents and external advisors of such Person.

“Required Third Party Consents” means those Third Party Consents identified as “required” in Section 3.1.4 of the Disclosure Letter.

“Response Period” has the meaning set forth in Section 9.5.

“Restricted Cash Account” means the blocked account established by the Vendor pursuant to which the Purchaser and Vendor shall exercise joint control over all sums held therein until such sums are released therefrom in accordance herewith.

“Restricted Cash Amount” means: (i) \$100,000,000; or (ii) if the Corporation receives Tax Claims during the Interim Period in respect of the Specific Indemnities, the aggregate amount of such Tax Claims up to a maximum amount of \$100,000,000; in each case, reduced by any and all amounts paid by the Corporation to any Governmental Authority pursuant to Section 9.10.

“Restricted Cash Account Control Agreement” means the agreement among the Account Bank, the Vendor and the Purchaser relating to the opening and administration of the Restricted Cash Account and the Restricted Cash Amount held therein and disbursed therefrom.

“Restructuring Documents” means the agreements, assignments, undertakings, resolutions, share certificate, certificates and other documents pertaining to the Restructuring Transactions, including any Tax forms.

“Restructuring Memorandum” means the restructuring memorandum in respect of the Corporation or the Subsidiary, in the form attached hereto as Exhibit E.

“Restructuring Transactions” means the transactions contemplated by the Restructuring Memorandum.

“Retained Shared Contracts” has the meaning set forth in Section 4.5.2.

“**Securities Regulator**” means “securities regulatory authority” as defined in National Instrument 14-101 *Definitions*.

“**Security-Based Compensation Plan**” means any plan under which securities, including shares or options, may be issued, credited, granted or matched, or incentive units the value of which is derived from or tracks an issuer’s shares. In the case of the Vendor, such plans include any form of stock purchase (including employee share purchase), stock option, phantom stock, share appreciation and share unit plans.

“**Shared Contracts**” has the meaning set forth in Section 4.5.2.

“**Shareholders**” means, collectively, the holders of the Common Shares and Preferred Shares of the Vendor.

“**Special Purpose Closing Statement**” means a statement prepared in accordance with Section 2.5.2(a).

“**Specific Indemnities**” means any of the following:

- (a) any Loss or other liability which may be suffered or incurred by the Corporation arising from the 2013 taxation year, including as a result of amendments being made to the Tax Returns for the 2013 taxation year;
- (b) any Loss or other liability which may be suffered or incurred by the Corporation in any year arising from amendments made to Tax Returns arising from the 2013 taxation year; and
- (c) any Loss or other liability which may be suffered or incurred by the Purchaser or the Corporation in connection with the defence of any Claim relating to the matters contemplated by the other paragraphs of this definition.

“**Specific Indemnity Period**” means the period beginning on the Closing Date and ending ninety (90) days after the expiry of all limitation and prescription periods applicable to the Specific Indemnities, provided however that in the event of Claim is made in respect of any Specific Indemnities pursuant to this Agreement, the Specific Indemnity Period shall be extended until such Claim is settled by mutual agreement of the Purchaser and the Vendor or by final, non-appealable Order of a court of competent jurisdiction.

“**Specified Audit Procedures**” means the accounting and audit procedures set forth in Appendix B.

“**Subsidiary**” means Aeroplan Travel Services Inc.

“**Support Agreements**” means the lock-up and support agreement dated August 20, 2018 among Mittleman Brothers, LLC and Mittleman Investment Management, LLC, the Vendor, the Purchaser, The Toronto-Dominion Bank, Canadian Imperial Bank of Commerce and Visa Canada Corporation and other support and voting agreements to be entered into between the

Purchaser and the other Supporting Shareholders, in their capacities as Shareholders, as the case may be.

“Supporting Shareholders” means Mittleman Brothers, LLC, Mittleman Investment Management, LLC and all directors and senior corporate officers of the Vendor, in respect of Common Shares and, if applicable, Preferred Shares of the Vendor legally and beneficially owned by them, as applicable.

“Target Cash, Cash Equivalents and Investments” means \$0.00.

“Target Indebtedness” means \$0.00.

“Target Redemption Liability” means \$1,900,000,000.

“Target Working Capital” means \$(50,000,000) (namely a negative figure).

“Tax” and **“Taxes”** includes any taxes, duties, fees, premiums, assessments, imposts, levies and other charges of any kind whatsoever and wheresoever imposed by any Governmental Authority, including all interest, penalties, fines, additions to tax or other additional amounts imposed by any Governmental Authority in respect thereof, and including those levied on, or measured by, or referred to as, income, gross receipts, profits, capital, transfer, land transfer, sales, goods and services, harmonized sales, Québec sales, use, local, value-added, excise, stamp, withholding, business, franchising, property, development, occupancy, employer health, payroll, employment, health, social services, education and social security taxes, all surtaxes, all customs duties and import and export taxes, countervailing and anti-dumping and all employment insurance, health insurance and Canada and other Governmental Authority pension plan premiums or contributions and for greater certainty, all contributions payable under any tax Laws.

“Tax Act” means the *Income Tax Act* (Canada) and the regulations promulgated thereunder.

“Tax Attributes” means those certain non-capital losses carry forward, credits, tax basis in assets, expenditure pools, or other tax attributes of the Corporation or the Subsidiary (determined in accordance with applicable provisions of the Tax Act or any similar applicable Law of any province of Canada).

“Tax Authority” means the CRA, and any other national, state, local, provincial, territorial or other Governmental Authority responsible for the administration, implementation, assessment, determination, enforcement, compliance, collection or other imposition of any Taxes.

“Tax Claim” has the meaning ascribed in Section 6.6.

“Tax Refund” means a refund of Taxes previously paid or cash received with respect to a credit claimed, and for greater certainty includes any interest thereon (whether paid by way of a cash refund or credited against any liability for Taxes).

“Tax Returns” means any and all returns, reports, declarations, statements, information, estimates, rebates or credits, elections, designations, schedules, waivers, filings or other documents (including any related or supporting information) relating to Taxes filed or required

to be filed by any Tax Authority or pursuant to any Law relating to Taxes or in fact filed with any Tax Authority, including all information returns, Claims for refund, amended returns, declarations of estimated Taxes, and requests for extensions of time to file any of the preceding items and all amendments, attachments or supplement thereto, whether in tangible or electronic form.

“**Terminating Party**” has the meaning set forth in Section 4.14.4.

“**Termination Notice**” has the meaning set forth in Section 4.14.4.

“**Third Party Claim**” means any Claim asserted against an Indemnified Party, the Corporation, or the Subsidiary, that is paid or payable to, or claimed by, any Person who is not (i) a Party or an Affiliate of a Party, or (ii) any other member of the Consortium or an Affiliate of such other member of the Consortium.

“**Third Party Consents**” means all consents, approvals, notices, Orders, rulings, authorizations, acknowledgements, registrations, declarations, filings, submissions of information, waivers, sanctions, licenses, exemptions or Permits necessary or otherwise required from any Governmental Authority or Person or pursuant to any Law in order to consummate the Transactions, including any Regulatory Approvals and any consents necessary in connection with the Transition Services Agreement; a complete and accurate list of the Third Party Consents is set forth in Section 3.1.4 of the Disclosure Letter.

“**Threatened**” means, in respect of any Claim, where such Claim has been made (orally or in writing) or any notice has been given (orally or in writing), or if any other event has occurred or any other circumstances exist that would lead a reasonable Person to conclude that such a Claim or matter is likely to be asserted, commenced, taken or otherwise pursued in the future.

“**Top 10 Customer**” has the meaning set forth in Section 3.2.13 of Schedule 3.2.

“**Top 10 Supplier**” has the meaning set forth in Section 3.2.13 of Schedule 3.2.

“**Transaction Expenses**” means all monies payable by:

- (a) the Corporation or the Subsidiary in connection with the Transactions, including:
 - (i) change of Control, special bonuses or any other similar payments owed to Employees, consultants, the directors or officers of the Corporation or the Subsidiary, conditional on, or payable pursuant to, the Closing; and
 - (ii) fees and expenses payable to all attorneys, accountants, financial advisors and other professionals and bankers’, brokers’ or finders’ fees for Persons not engaged by the Purchaser; and
- (b) the Corporation or the Subsidiary in connection with the Restructuring Transactions, the Restructuring Memorandum or the preparation and negotiation of the Restructuring Documents.

“**Transaction Resolution**” means the resolution to be passed at the Meeting by a majority of not less than two-thirds of the votes to be cast by the Shareholders in respect of the Transactions, the form of which will be attached to the Circular.

“**Transaction Resolution Approval**” means the approval of the Transaction Resolution by a majority of not less than two-thirds of the votes to be cast by the Shareholders at the Meeting, voting together as a single class, as required by subsection 189(3) *et seq.* of the CBCA.

“**Transactions**” means the purchase and sale of the Purchased Shares and all other transactions contemplated by the Agreement or any Closing Document.

“**Transferred Shared Contracts**” has the meaning set forth in Section 4.5.2.

“**Transition Services Agreement**” means the transition services agreement to be executed on or prior to the Closing and effective as of the Closing Date, in the form attached hereto as Exhibit F.

“**Trust Indenture**” means the trust indenture entered into by the Vendor and CIBC Mellon Trust Company, as trustee, on April 23, 2009 (as amended from time to time).

“**TSA Project Manager**” has the meaning set forth in Section 4.12.1.

“**Vendor**” has the meaning set forth in the preamble.

“**Vendor’s Fundamental Representations**” has the meaning set forth in Section 3.5.1(a).

“**Working Capital**” means, in respect of the Corporation and the Subsidiary, current assets (including the Miles Shortfall without deduction for any reserve, allowance or provision whatsoever irrespective of whether The Toronto-Dominion Bank acknowledges owing it or remits payment) minus current liabilities, and adjusted to exclude Cash, Cash Equivalents and Investments, accrued interest on short term investments, intercompany assets and liabilities, income tax assets and liabilities, deferred tax assets and liabilities and deferred revenue, defined benefit and other post-retirement benefit liabilities, any obligations in respect of employees other than Employees, including incentive program obligations and adjusted per excluded items agreed between the Vendor and Purchaser in accordance with illustrative example in Appendix A and subject to the Specified Audit Procedures.

“**Year End Financial Statements**” means the unaudited unconsolidated financial statements of each of the Corporation and the Subsidiary for the year ended December 31, 2017.

EXHIBIT B
FORM OF D&O RESIGNATION AND RELEASE

(See attached document)

RESIGNATION AND RELEASE

WHEREAS Air Canada (the “**Purchaser**”), Aimia Inc. (the “**Vendor**”) and Aimia Canada Inc. (“**Aimia Canada**”) have entered into a Purchase Agreement on November 26, 2018 (the “**Purchase Agreement**”), pursuant to which, *inter alia*, the Purchaser agreed to purchase, and the Vendor agreed to sell all of the Purchased Shares, the whole in accordance with the terms and subject to the conditions therein contained.

WHEREAS the execution, delivery and performance of this release is integral to the obligation of the Purchaser to complete the transactions and satisfy the obligations set forth in the Purchase Agreement, without which the Purchaser would not have agreed to enter into the Purchase Agreement.

I, [Name of Director/Officer] (the “**Individual**”), hereby submit my resignation as [director and/or officer] of [●]¹ (the “**Corporation**”), this resignation being effective immediately.

In consideration of the mutual releases set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby recognized, each of the Individual (on behalf of his or her self, heirs, successors and assigns) on the one hand, and the Corporation (on behalf of itself, its successors and assigns) on the other hand (each referred to as a “**Releasor**”) does hereby fully and unconditionally remise, release and forever discharge the other party (each referred to as a “**Releasee**”, and in the case of the release by the Individual of the Corporation, “**Releasee**” includes the Corporation’s [parents, subsidiaries,]² divisions and affiliates and all of their respective officers, directors, employees, servants and agents and all of their respective heirs, successors and assigns), individually and collectively from any and all Released Claims except for the Excluded Claims.

“**Released Claims**” means actions, causes of action, suits, proceedings, debts, dues, contracts and covenants, whether expressed or implied, claims or demands for damages, sums due, indemnity, costs, interest, loss or injury of every nature and kind whatsoever and howsoever arising which a Releasor may heretofore have had, may now have, or may hereinafter have for or by reason of or in any way arising out of any cause, matter or thing done or omitted to be done, in any way relating to or in connection with the Individual having been a director or officer of the Corporation, or the employment or hiring of the Individual by the Corporation prior to the date hereof, or the Releasor’s resignation as a director or officer of the Corporation, including without limitation, for or by reason of or in any way arising out of any claim for director’s fees, salary, wages, bonuses, expenses, retirement or pension allowances, director’s fees, participation in profits or earnings or other remuneration, whether authorized or provided for by by-law, resolution, contract or otherwise.

“**Excluded Claims**” means any claim relating to or arising out of: (i) a Releasor’s rights to indemnity under the *Canada Business Corporations Act* or the by-laws of the Corporation; (ii) a Releasor’s rights to indemnification with respect to coverage under any applicable director’s and officer’s insurance policy of the Corporation; or (iii) a Releasor’s rights under the Purchase

¹ To refer to Aimia Canada or Aeroplan Travel Services Inc., depending on the circumstances.

² To refer to Aimia Canada or Aeroplan Travel Services Inc., depending on the circumstances.

Agreement, any Closing Document or any employment with the Purchaser or the Corporation which is entered into on the date hereof.

Each Releasor agrees and undertakes not to encourage or instigate any claims by other persons or entities against a Releasee in connection with the Released Claims except for the Excluded Claims or institute or continue any proceedings by way of action, arbitration or otherwise against any person or entity who or which might be entitled to claim contribution, indemnity, damages or other relief over or against a Releasee in connection with the Released Claims except for the Excluded Claims. Each Releasor further represents and warrants to and in favour of the Releasee that it has not assigned, transferred or otherwise alienated any of its rights in any Released Claims to any person.

This release shall enure to the benefit of and shall be binding upon each party's respective heirs, executors, administrators, legal and/or personal representatives, successors and assigns, as applicable.

The capitalized words and expressions used in this release, unless otherwise defined herein, shall have the meaning ascribed to them in the Purchase Agreement. This release shall be governed by and construed in accordance with the Laws of the Province of Québec and the Laws of Canada applicable therein (excluding any conflict of laws rule or principle, foreign or domestic, which might refer such interpretation to the laws of another jurisdiction). This release may be executed in one or more counterparts, each of which shall conclusively be deemed to be an original but all of which taken together shall be deemed to constitute one and the same agreement and shall become effective, subject to any escrow arrangements as agreed by counsel to the Purchaser and the Vendors, when one or more counterparts have been signed by each of the parties and delivered to the other parties. A facsimile, PDF or other electronic transmission of this release bearing a signature on behalf of a party shall be legal, valid and binding on such party and have the same force and effect as a manually signed original. The parties hereto acknowledge that they have required that this release and all related documents be drawn up in English. *Les parties aux présentes reconnaissent avoir exigé que la présente quittance et tous les documents connexes soient rédigés en anglais.*

DATED this _____ day of _____, 2018.

[NAME OF DIRECTOR/OFFICER]

READ AND ACCEPTED on this _____ day of _____, 2018.

[AIMIA CANADA INC.]
[AEROPLAN TRAVEL SERVICES
INC.]

By: _____
[●]

EXHIBIT C
FORM OF VENDOR RELEASE

(See attached document)

VENDOR'S RELEASE

To: Aimia Canada Inc. (the "**Corporation**")
Aeroplan Travel Services Inc. (the "**Subsidiary**")

WHEREAS Air Canada (the "**Purchaser**"), Aimia Inc. (the "**Vendor**") and the Corporation have entered into a Purchase Agreement on November 26, 2018 (the "**Purchase Agreement**"), pursuant to which, *inter alia*, the Purchaser agreed to purchase, and the Vendor agreed to sell all of the Purchased Shares, the whole in accordance with the terms and subject to the conditions therein contained;

WHEREAS the execution, delivery and performance of this release is integral to the obligation of the Purchaser to complete the transactions and satisfy the obligations set forth in the Purchase Agreement, without which the Purchaser would not have agreed to enter into the Purchase Agreement.

In consideration of the sum paid by the Purchaser to the undersigned as a Vendor pursuant to the terms of the Purchase Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby recognized, the undersigned, the Vendor, on behalf of itself, its Affiliates, and their respective successors and assigns (hereinafter collectively referred to as the "**Releasor**") does hereby fully and unconditionally remise, release and forever discharge the Corporation, the Subsidiary, their respective officers, directors, employees, servants and agents, and all of their respective heirs, successors and assigns (hereinafter collectively referred to as the "**Releasee**"), individually and collectively from any and all Released Claims except for the Excluded Claims.

"**Released Claims**" means actions, causes of action, suits, proceedings, debts, dues, contracts and covenants, whether expressed or implied, claims or demands for damages, sums due, indemnity, costs, interest, loss or injury of every nature and kind whatsoever and howsoever arising which the Releasor may heretofore have had, may now have, or may hereinafter have for or by reason of or in any way arising out of any cause, matter or thing done or omitted to be done, including without limitation, in any way relating to or in connection with having been a creditor, guarantor or shareholder of the Corporation or the Subsidiary.

"**Excluded Claims**" means any claim relating to or arising out of the Releasor's rights under (i) the Purchase Agreement, or (ii) any Closing Document.

The Releasor agrees and undertakes not to encourage or instigate any claims by other persons or entities against the Releasee in connection with the Released Claims except for the Excluded Claims or institute or continue any proceedings by way of action, arbitration or otherwise against any person or entity who or which might be entitled to claim contribution, indemnity, damages or other relief over or against the Releasee in connection with the Released Claims except for the Excluded Claims. The Releasor further represents and warrants to and in favour of the Releasee that it has not assigned, transferred or otherwise alienated any of its rights in any Released Claims to any person.

This release shall enure to the benefit of each Releasee’s respective heirs, executors, administrators, legal and/or personal representatives, successors and assigns, as applicable, and shall be binding upon the successors and assigns of the Releasor.

The capitalized words and expressions used in this release, unless otherwise defined herein, shall have the meaning ascribed to them in the Purchase Agreement. This release shall be governed by and construed in accordance with the Laws of the Province of Québec and the Laws of Canada applicable therein (excluding any conflict of laws rule or principle, foreign or domestic, which might refer such interpretation to the laws of another jurisdiction). This release may be executed in one or more counterparts, each of which shall conclusively be deemed to be an original but all of which taken together shall be deemed to constitute one and the same agreement and shall become effective, subject to any escrow arrangements as agreed by counsel to the Purchaser and the Vendors, when one or more counterparts have been signed by each of the parties and delivered to the other parties. A facsimile, PDF or other electronic transmission of this release bearing a signature on behalf of a party shall be legal, valid and binding on such party and have the same force and effect as a manually signed original. The parties hereto acknowledge that they have required that this release and all related documents be drawn up in English. *Les parties aux présentes reconnaissent avoir exigé que la présente quittance et tous les documents connexes soient rédigés en anglais.*

DATED this _____ day of _____, 2018.

AIMIA INC.

By: _____
[●]

By: _____
[●]

READ AND ACCEPTED on this _____ day of _____, 2018.

AIMIA CANADA INC.

AEROPLAN TRAVEL SERVICES INC.

By: _____
[●]

By: _____
[●]

By: _____
[●]

By: _____
[●]

EXHIBIT D
FORM OF ESCROW AGREEMENT

(See attached document)

THIS ESCROW AGREEMENT is made as of [●], 2018.

AMONG: **AIMIA INC.**, a corporation duly constituted under the laws of Canada, having a place of business at 525 Viger Avenue West, Tour Aimia, Suite 1000, Montreal (Quebec) H2Z 0B2;

(the “**Vendor**”)

AND: **AIR CANADA**, a corporation duly constituted under the laws of Canada, having a place of business at 7373 Côte Vertu Boulevard West, Saint-Laurent (Québec) H4S 1Z3;

(the “**Purchaser**”)

AND: [●], a company existing under the laws of Canada

(the “**Escrow Agent**”)

WHEREAS the Purchaser, the Vendor and Aimia Canada Inc. (the “**Corporation**”) have entered into a share purchase agreement on November 26, 2018 (the “**Purchase Agreement**”) pursuant to which, *inter alia*, the Purchaser agreed to purchase, and Vendor agreed to sell all of the Purchased Shares, the whole in accordance with the terms and subject to the conditions therein contained;

WHEREAS the execution, delivery and performance of this Agreement between the Purchaser, the Vendor and the Escrow Agent is a condition precedent to the obligation of the Purchaser to complete the transactions and satisfy its obligations set forth in the Purchase Agreement, without which the Purchaser would not have agreed to enter into the Purchase Agreement;

WHEREAS the foregoing recitals are representations and statements of fact made by the Vendor and the Purchaser and not by the Escrow Agent;

NOW THEREFORE, in consideration of the premises and mutual agreements herein contained, and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by each party), the parties hereto agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

The capitalized words and expressions used in this Agreement or in its Schedules, unless otherwise defined herein or below, shall have the meaning ascribed to them in the Purchase Agreement. The capitalized words and expressions below shall have the following meanings:

- 1.1.1 “**Affiliate**” means, with respect to any Person, any Person which Controls, is Controlled by, or is under common Control with, directly or indirectly, such Person.
- 1.1.2 “**Agreement**” means this escrow agreement, its recitals, together with its Schedules and all amendments made hereto by written agreement among the parties hereto.
- 1.1.3 “**Business Day**” means any day on which Canadian chartered banks are generally open for business in Montréal (Quebec) and Toronto (Ontario) other than a Saturday or a Sunday.
- 1.1.4 “**CBCA**” means the *Canada Business Corporations Act*.
- 1.1.5 “**Claims**” means claims, notices, demands, requests, complaints, proceedings, actions, applications, arbitrations, suits, causes of action, appeals, audits, hearings, investigations, inquiries, assessments or reassessments (including claims, assessments and reassessments for Tax), charges, judgments, grievances, or hearings.
- 1.1.6 “**Control**” (including “**Controlled**” or any variation thereof) means (a) in respect of a corporation, a company or a similar entity, the ownership, directly or indirectly through other Controlled entities, of shares, units or other equity interests of such corporation or company carrying more than 50% of the voting rights ordinarily exercisable at meetings of shareholders or members of such corporation or company, and (b) in respect of a partnership, joint venture or other entity that is not a corporation, a company or a similar entity, the ownership, directly or indirectly through other Controlled entities, of more than 50% of the voting and ownership interests of such partnership, joint venture or other entity or the right to direct, or cause the direction, of the senior management and policies of any such entity (including as a trustee or general partner).
- 1.1.7 “**Direct Claim**” means any Claim by an Indemnified Party against an Indemnifier which does not result from a Third Party Claim.
- 1.1.8 “**Final Determination**” means: (i) with respect to a Direct Claim, an Order or any settlement with respect to such Direct Claim; and (ii) with respect to a Third Party Claim, an Order or any settlement with respect to such Third Party Claim, as between the Purchaser and the Vendor.
- 1.1.9 “**Governmental Authority**” means any (a) multinational, federal, provincial, state, regional, municipal, local, governmental or public department, ministry, central bank, court, tribunal, arbitral body, commission, commissioner, agency board or bureau, domestic or foreign, (b) any subdivision, board or authority of any of the foregoing, (c) any quasi-governmental or private body exercising any regulatory, administrative, expropriation or Tax Authority under or for the account of any of the foregoing, (d) any judiciary or quasi-judiciary tribunal, court or body, (e) any self-regulatory authority (including the Toronto Stock Exchange), and (f) any Securities Regulator.

- 1.1.10 “**Indemnifier**” means any party obligated to provide indemnification pursuant to the Purchase Agreement.
- 1.1.11 “**Indemnified Party**” means any Person entitled to indemnification pursuant to the Purchase Agreement.
- 1.1.12 “**Laws**” means all laws (including common law, civil law and equity), statutes, codes, ordinances, decrees, rules, regulations, by-laws, statutory rules, published policies and guidelines, bulletins and enforcement advisories, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, Orders, decisions or rulings and terms and conditions of any grant of approval, permission, authority or Permit, in all cases, having the force of law, of any Governmental Authority, self-regulatory authority or statutory body, 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 or claiming to exercise legal jurisdiction over the Person or Persons or its or their business, undertaking, property or securities.
- 1.1.13 “**Notice of Final Determination**” means a notice delivered by a party pursuant to this Agreement pertaining to a Final Determination accompanied by a certified copy thereof, and in the case of a Final Determination made by Order, such notice shall be accompanied by a certificate issued by the applicable court, tribunal, arbitrator or other Governmental Authority or other reasonable proof that such Order is not under appeal or that the delays for appeal have expired.
- 1.1.14 “**Order**” means any final and enforceable order or any final judgment, injunction, decree, ruling, stipulation, award or writ of any court, tribunal, arbitrator or other Governmental Authority.
- 1.1.15 “**Person**” includes any individual, trust, trustee, executor, administrator, legal personal representative, estate, firm, partnership, joint venture, venture capital fund, joint stock company, association, body corporate, corporation, unincorporated association or organization, Governmental Authority, syndicate or other entity, whether or not having legal status.
- 1.1.16 “**Subsidiary**” has the meaning set forth in the CBCA.
- 1.1.17 “**Tax**” and “**Taxes**” includes any taxes, duties, fees, premiums, assessments, imposts, levies and other charges of any kind whatsoever and wheresoever imposed by any Governmental Authority, including all interest, penalties, fines, additions to tax or other additional amounts imposed by any Governmental Authority in respect thereof, and including those levied on, or measured by, or referred to as, income, gross receipts, profits, capital, transfer, land transfer, sales, goods and services, harmonized sales, Québec sales, use, local, value-added, excise, stamp, withholding, business, franchising, property, development, occupancy, employer health, payroll, employment, health, social services, education and social security taxes, all surtaxes, all customs duties and import and

export taxes, countervailing and anti-dumping and all employment insurance, health insurance and Canada and other Governmental Authority pension plan premiums or contributions and for greater certainty, all contributions payable under any tax Laws.

1.1.18 **“Tax Authority”** means the Canada Revenue Agency, and any other national, state, local, provincial, territorial or other Governmental Authority responsible for the administration, implementation, assessment, determination, enforcement, compliance, collection or other imposition of any Taxes.

1.1.19 **“Tax Claim”** means a Claim from any Tax Authority relating to Taxes.

1.1.20 **“Third Party Claim”** means any Claim asserted against an Indemnified Party, the Corporation, or a Subsidiary, that is paid or payable to, or claimed by, any Person who is not (i) a Party or an Affiliate of a Party, or (ii) any other member of the Consortium or an Affiliate of such other member of the Consortium.

1.2 Articles, Sections and Headings

The division of this Agreement into Articles, Sections and Schedules and the insertion of headings are for convenience of reference only and will not affect the construction or interpretation of this Agreement. The terms “hereof”, “hereunder”, “herein” and similar expressions refer to this Agreement as a whole and not to any particular Article, Section, Schedule or other portion hereof. References herein to Articles, Sections or Schedules are to Articles, Sections and Schedules of this Agreement or of the Schedules hereto unless otherwise expressly stated herein.

1.3 Extended Meanings

In this Agreement, unless specified otherwise or the context otherwise requires:

1.3.1 “including” or “includes” means “including (or includes) but is not limited to” and is not to be construed to limit any general statement preceding it to the specific or similar items or matters immediately following it;

1.3.2 “the aggregate of”, “the total of”, “the sum of”, or a phrase of similar meaning means “the aggregate (or total or sum), without duplication, of”;

1.3.3 references to Contracts are deemed to include all present amendments, supplements, restatements and replacements to such Contracts;

1.3.4 references to any Law or a section thereof are references to the Law as amended, re-enacted, consolidated or replaced from time to time;

1.3.5 references in this Agreement to consent and the taking or refraining from taking action except with the consent of a Party or its Representatives shall be qualified by “such consent not to be unreasonably withheld, conditioned or delayed” unless otherwise stated to be in the sole discretion of such Party or its Representatives; and

1.3.6 words in the singular include the plural and vice-versa and words in one gender include all genders.

1.4 Calculation of Time

1.4.1 *Time.* Time is of the essence in this Agreement.

1.4.2 *Calculation of Time.* Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends.

1.4.3 *Business Days.* Whenever any action to be taken or payment to be made pursuant to this Agreement would otherwise be required to be made on a day that is not a Business Day, such action shall be taken, or such payment shall be made on the first Business Day following such day.

1.4.4 *Time of Day.* All references to times of the day are to the times of the day in Montreal, Quebec.

1.5 Currency

All references to currency contained herein are to lawful money of Canada.

ARTICLE 2 APPOINTMENT AND ESCROW AMOUNT

2.1 Appointment

The parties hereto hereby appoint the Escrow Agent to act as escrow agent pursuant to the terms and provisions of this Agreement. The Escrow Agent acknowledges receipt of a sum in the amount of \$2,250,000 (such amount, plus any interest thereon, the “**Escrow Amount**”) which shall be held and dealt with by the Escrow Agent in accordance with the terms of this Agreement. The Escrow Agent acknowledges and agrees that it is not the beneficial owner of the Escrow Amount but holds same as agent for the Purchaser and the Vendor on the terms and conditions set out herein.

2.2 Investment

Up to the date of release, the Escrow Agent shall invest the Escrow Amount in an interest bearing trust account. For purposes of this Escrow Agreement, the net rate to be paid is equal to [●] bps per annum (subject to change without notice due to market conditions). All interest earned and paid on the Escrow Amount shall be added to the Escrow Amount and shall belong to and accrue to the benefit of the Vendor irrespective of the ultimate apportionment of the original Escrow Amount between the Vendor and the Purchaser. For income tax purposes, the Escrow Agent shall provide the Vendor, on an annual basis, with the tax statements prescribed by the applicable tax Laws attesting that all interest earned on the Escrow Amount has been earned by the Vendor.

2.3 Payment

The parties hereto understand and agree that the Escrow Agent shall never be compelled to deliver to any party hereto any amount which exceeds the sums available in the Escrow Amount. Any amount required to be paid in excess of the Escrow Amount, shall be payable directly by such party to the party entitled to such payment pursuant to this Agreement or the Purchase Agreement. Payments hereunder will be made net of applicable withholding taxes.

2.4 Fees

The Escrow Agent shall be entitled to the reimbursement of reasonable out-of-pocket expenses and reasonable fees (collectively, the “**Escrow Fees**”) for carrying out its duties hereunder upon 30 days’ written notice, including relevant invoices to the Purchaser. The Purchaser shall be liable for the payment of all of the Escrow Fees.

ARTICLE 3 RELEASE OF ESCROW AMOUNT

3.1 Notice of Claim

The Purchaser shall send to the Escrow Agent a copy of any notice of Direct Claim or Third Party Claim (including any Tax Claim) made by the Purchaser during the term of this Escrow Agreement (such claims being hereinafter referred to, collectively, as “**Outstanding Claims**” and, individually, as an “**Outstanding Claim**”). The Purchaser shall concurrently send a copy of such transmission to the Vendor.

3.2 Release of Escrow Amount

The Escrow Agent shall release to the accounts set forth in Schedule A hereto all or part of the Escrow Amount as follows:

- 3.2.1 Within three (3) Business Days following receipt of a joint written direction of the Purchaser and the Vendor, in the amounts, to such Persons and as set forth in such joint written direction.
- 3.2.2 To the Purchaser, three (3) Business Days following receipt by the Escrow Agent of a Notice of Final Determination, to the extent of any amount payable to the Purchaser pursuant to a Final Determination.
- 3.2.3 To the Vendor, on [●] **[NTD: Insert date which is 18 months following the Closing Date.]** the amount by which the amount of the Escrow Amount still held by the Escrow Agent at such time exceeds the amount of all Outstanding Claims at such time for which payment has not been released to the Purchaser.
- 3.2.4 With respect to any amount retained by the Escrow Agent after [●], **[NTD: Insert date which is 18 months following the Closing Date.]** to the Vendor or to the Purchaser, as applicable, to the extent and in the amount payable pursuant to a

Final Determination, in each case, within three (3) Business Days following receipt by the Escrow Agent of a Notice of Final Determination.

ARTICLE 4 RESIGNATION, REMOVAL OF ESCROW AGENT

The Escrow Agent may resign and be discharged from all further duties and liabilities hereunder upon ten (10) Business Days prior written notice to the other parties hereto, and may be removed from its office of Escrow Agent by the Purchaser and the Vendor at any time upon not less than ten (10) Business Days' prior written notice given to the Escrow Agent by the Purchaser and the Vendor, acting jointly. Upon the discharge or removal of the Escrow Agent, and upon receipt of payment for any outstanding Escrow Fees then unpaid, the Escrow Agent shall release the Escrow Amount and any related documents in its possession to any Person designated by the Purchaser and the Vendor, acting jointly, in a written notice delivered to the Escrow Agent not later than two (2) Business Days following such discharge or termination (the "**Transfer Notice**"). Where the Purchaser and the Vendor acting jointly fail to remit the Transfer Notice to the Escrow Agent in the manner set forth in this Article 4, the Escrow Agent shall release the Escrow Amount and any related documents in its possession to a trust company or legal counsel of its choosing, at the cost and expense of the Purchaser and the Vendor, jointly and severally, subject to the Escrow Agent providing notice to the Purchaser and the Vendor as to the identity of the party to whom it has released the Escrow Amount. Any corporation or association into which the Escrow Agent may be merged or converted or with which it may be consolidated, or any corporation or association to which all or substantially all of the escrow business of the Escrow Agent's line of business may be transferred, shall be the Escrow Agent under this Agreement without further act.

ARTICLE 5 DUTIES AND LIABILITIES OF THE ESCROW AGENT

5.1 Duties and liabilities

The Escrow Agent shall have no duties or responsibilities other than those expressly set forth in this Agreement, and no implied duties or obligations of the Escrow Agent shall be read into this Agreement, including any agreement referred to in this Agreement to which the Escrow Agent is not a party. In addition:

- 5.1.1 The Escrow Agent shall have no duty to enforce any obligation of any Person, other than as expressly provided herein.
- 5.1.2 The Escrow Agent shall not be liable for any action taken or omitted by it, in good faith and in the exercise of its reasonable judgment, unless it shall be proved that the Escrow Agent committed an intentional or gross fault.
- 5.1.3 The Escrow Agent may rely, and shall be protected in acting, upon any judgment, order, notice, demand, direction, certificate or other instrument, paper or document which may be submitted to it in connection with its duties hereunder and the directions incorporated therein and which is or are believed by the Escrow Agent to be genuine and signed or presented by the proper Person(s), and may accept same as sufficient evidence of the facts stated therein. The Escrow Agent

shall in no way be bound to request further evidence or exercise any discretion or independent judgment (whether as to due execution or validity or as to the truth of any fact), and shall not be responsible or liable for any loss that may be occasioned by its failing to do so.

- 5.1.4 The Escrow Agent shall have the right not to act and shall not be liable for refusing to act under this Agreement if, due to a lack of information or for any other reason whatsoever, the Escrow Agent in its reasonable judgment, determines that such act might cause it to be in non-compliance with any applicable anti-money laundering or anti-terrorist legislation, regulation or guideline. Should the Escrow Agent, in its reasonable judgment, determine at any time that its acting under this Agreement has resulted in the Escrow Agent being in non-compliance with any applicable anti-money laundering or anti-terrorist financing legislation, regulation or guideline, then the Escrow Agent shall have the right to resign on ten (10) Business Days' written notice to the Purchaser and the Vendor, provided (i) that the written notice shall describe the circumstances of such non-compliance to the extent permitted under applicable anti-money laundering or anti-terrorist financing legislation, regulation or guideline; and (ii) that if such circumstances are rectified to the Escrow Agent's satisfaction within such ten (10) Business Day period, then such resignation shall not be effective.
- 5.1.5 The Escrow Agent may appoint such agents and employ or retain such counsel, accountants, appraisers or other experts or advisers as it may reasonably require for the purpose of discharging its duties and determining its rights hereunder and may pay reasonable remuneration for all services performed by any of them, without taxation of costs of any counsel, and shall not be responsible for any misconduct on the part of any of them. The Purchaser and the Vendor, jointly and severally, shall pay or reimburse the Escrow Agent for any reasonable fees, expenses and disbursements of such counsel, advisors, agents or other experts.
- 5.1.6 If the Escrow Agent shall be uncertain as to its duties or rights hereunder or shall receive instructions, claims or demands from any party hereto or from a third Person with respect to any matter arising pursuant to this Agreement which, in its opinion, are in conflict with any provision of this Agreement, it shall be entitled to obtain all third party counsel as it shall deem necessary in its discretion and shall at all times be further entitled to refrain from taking any action authorized and directed hereunder until it shall be authorized or directed otherwise in writing by each of the relevant parties hereto, or by an order of a court of competent jurisdiction from which no further appeal may be taken.
- 5.1.7 The Escrow Agent will have no duties or responsibilities except as expressly provided in this Agreement and will have no duty or responsibility arising under any other agreement, including any agreement referred to in this Agreement, to which the Escrow Agent is not a party.
- 5.1.8 The Escrow Agent may act and rely and shall be protected in acting and relying in good faith on the opinion or advice of or information obtained from any agent, counsel, accountant, appraiser or other expert or adviser, retained or employed by

the Purchaser or the Vendor or the Escrow Agent, in relation to any matter arising in the performance of its duties under this Agreement.

5.1.9 Under no circumstances will the Escrow Agent be liable for any incidental, indirect, special, exemplary, punitive or consequential damage or loss of profits (including loss of revenue, income or profits, diminution of value or loss of business reputation or opportunity or goodwill). Notwithstanding the foregoing or any other provision of this Agreement, in no event will the collective liability of the Escrow Agent under or in connection with this Agreement to any one or more parties exceed the amount of its annual fees under this Agreement.

5.1.10 The Escrow Agent is automatically released from any and all liabilities and obligations upon release of the Escrow Amount in accordance with Article 3.

5.1.11 None of the provisions contained in this Agreement or any supplement shall require the Escrow Agent to expend or risk its own funds or otherwise incur financial liability in performing its duties or in the exercise of any of its rights or powers.

ARTICLE 6 INDEMNIFICATION OF ESCROW AGENT

6.1 Indemnification

In addition to and without limiting any other protection of the Escrow Agent hereunder or otherwise by Law, the Purchaser, on the one hand, and the Vendor, on the other hand, will hold harmless and indemnify the Escrow Agent and its respective officers, directors, agents and employees and former officers, directors, agents and employees (collectively, the “**Releasees**”) against all actions, suits, proceedings, losses, liabilities, penalties, damages, expenses and disbursements (including reasonable legal and adviser fees and expenses), levies, judgments, costs, claims and demands of whatever kind or nature which may at any time be suffered by, imposed on, incurred or sustained by any Releasee, whether groundless or otherwise, in respect of any matter or thing done by it under, pursuant to or in connection with this Agreement, except insofar as the same arose through the intentional or gross fault of the Escrow Agent. Notwithstanding anything else herein contained, this indemnity shall survive the termination of this Agreement.

6.2 Claim

The Escrow Agent may, but shall not have the obligation to, initiate a Claim, defend a Claim or intervene to a Claim with respect to this Agreement and shall be fully indemnified pursuant to Section 6.1 for so doing.

ARTICLE 7 TERMINATION OF THIS AGREEMENT

Upon the resignation or removal of the Escrow Agent in compliance with Article 4 or upon the release of all of the Escrow Amount in accordance with this Agreement, this Agreement shall terminate, subject however to the terms set forth in Article 6 and Article 8.

ARTICLE 8 GENERAL PROVISIONS

8.1 Confidentiality

The parties hereto shall keep confidential the existence and contents of this Agreement and all documentation executed and delivered in connection herewith except (a) information required to be given to their professional advisors in connection with this Agreement, the Purchase Agreement or the Closing Documents, (b) as they may be legally compelled to disclose and/or (c) information which has become generally available to the public.

8.2 Further Assurances

Each of the parties hereto shall from time to time execute and deliver all such further documents and instruments and do all acts and things as another party hereto may reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement.

8.3 No Waiver

Failure of a party hereto to insist upon the strict performance of any term or condition of this Agreement or to exercise any right, remedy or recourse hereunder shall not be construed as a waiver or relinquishment of any such term and condition.

8.4 Successors, Assigns and Assignment

This Agreement will enure to the benefit of and be binding upon the respective successors and permitted assigns of the parties hereto. Except as set forth in Article 4, this Agreement may not be assigned by any party without the prior written consent of the other parties, except that the Purchaser may, upon giving notice to the Vendor at any time not less than five (5) Business Days, assign all of its rights and/or obligations under this Agreement to an Affiliate of the Purchaser.

8.5 Entire Agreement

This Agreement, the Purchase Agreement and the Closing Documents (as between the parties hereto other than the Escrow Agent, which shall not be bound by any such terms) constitute the entire agreement between the parties with respect to the subject matters hereof and thereof and cancels and supersedes any prior understandings, agreements, negotiations and discussions between the parties with respect thereto. 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, the Purchase Agreement and the Closing Documents.

8.6 Amendments and Waivers

No amendment to this Agreement shall be valid or binding unless set forth in writing and duly executed by all parties hereto. No waiver of any breach of any provision of this Agreement shall be effective or binding unless made in writing and signed by the party purporting to give same and, unless otherwise provided, will be limited to the specific breach waived.

8.7 Notices

Any demand, notice or other communication to be given in connection with this Agreement shall be given in writing and will be given by personal delivery, by courier services, by registered mail or by facsimile or e-mail as set forth below, and if another address, facsimile number or e-mail address has been designated by notice by any recipient party to the other, to such other address, facsimile number or e-mail address (followed by receipt by registered mail or courier services within two Business Days).

Notice to the Escrow Agent:

Addressed to	With a copy to

Notice to the Purchaser:

Addressed to	With a copy to
c/o Air Canada 7373 Côte Vertu Boulevard West Saint-Laurent (Québec) H4S 1Z3 Attention: <i>*Confidential Contact Details Redacted*</i> E-mail: <i>*Confidential Contact Details Redacted*</i>	Fasken Martineau DuMoulin LLP 800 Square Victoria, Suite 3700 Montreal (Quebec) H4Z 1E9 Attention: Neil Kravitz; Claude Jodoin; Constantinos Ragas Email: nkravitz@fasken.com; cjodoin@fasken.com; cragas@fasken.com

Notice to Vendor:

Addressed to	With a copy to
Aimia Inc. 525 Viger Avenue West, Tour Aimia, Suite 1000 Montreal (Quebec) H2Z 0B2	Norton Rose Fulbright Canada LLP 1 Place Ville Marie, Suite 2500 Montreal (Quebec) H3B 1R1

Addressed to	With a copy to
Attention: <i>*Confidential Contact Details Redacted*</i> E-mail: <i>*Confidential Contact Details Redacted*</i>	Attention: Stephen J. Kelly; Elliot Shapiro E-mail: stephen.kelly@nortonrosefulbright.com; elliott.shapiro@nortonrosefulbright.com

Any demand, notice or other communication given by personal delivery or courier services shall be conclusively deemed to have been given on the day of actual delivery thereof and, if given by registered mail, on the third (3rd) Business Day following the deposit thereof in the mail and, if given by facsimile or e-mail, on the day of transmittal thereof if given during the normal business hours of the recipient on a Business Day and on the next Business Day if not given during such hours. If the party giving any demand, notice or other communication knows or ought reasonably to know of any difficulties with the postal system that might affect the delivery of mail, any such demand, notice or other communication may not be mailed but must be given by personal delivery or by electronic communication (followed by receipt by registered mail or courier services within two Business Days).

8.8 Governing Law and Forum

This Agreement shall be governed by and construed in accordance with the Laws of the Province of Québec and the Laws of Canada applicable therein (excluding any conflict of laws rule or principle, foreign or domestic, which might refer such interpretation to the laws of another jurisdiction). The parties hereto hereby irrevocably and unconditionally submit to the exclusive jurisdiction of the courts of the Province of Québec and elect domicile in the City of Montreal with respect to any matter relating to the execution or construction of this Agreement or the exercise of any right or the enforcement of any obligation arising hereunder (excluding any conflict of forum rule or principle, foreign or domestic, which might refer such matter to the courts of another jurisdiction).

8.9 Severability

If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such determination shall not impair or affect the validity, legality or enforceability of the remaining provisions hereof, and each provision is hereby declared to be separate, severable and distinct.

8.10 Counterparts

This Agreement may be executed in one or more counterparts, each of which shall conclusively be deemed to be an original but all of which taken together shall be deemed to constitute one and the same agreement and shall become effective, subject to any escrow arrangements as agreed by counsel to the Purchaser and the Vendor, when one or more counterparts have been signed by each of the parties and delivered to the other parties. A facsimile, PDF or other electronic transmission of this Agreement bearing a

signature on behalf of a party shall be legal, valid and binding on such party and have the same force and effect as a manually signed original.

8.11 Language

The parties hereto acknowledge that they have required that this Agreement and all related documents be drawn up in English. *Les parties aux présentes reconnaissent avoir exigé que la présente convention d'écrou et tous les documents connexes soient rédigés en anglais.*

(remainder of this page left blank intentionally)

IN WITNESS WHEREOF the parties hereto have executed this Agreement.

AIMIA INC.

AIR CANADA

By: _____
Name: [●]
Title:

[ESCROW AGENT]

By: _____
Name: [●]
Title:

By: _____
Name: [●]
Title:

SCHEDULE A
WIRE TRANSFER INSTRUCTIONS

If payment is to be made to the Vendor:

[●]

If payment is to be made to the Purchaser:

[●]

EXHIBIT E
FORM OF RESTRUCTURING MEMORANDUM

(See attached document)

Commercially sensitive and confidential information redacted.

EXHIBIT F
FORM OF TRANSITION SERVICES AGREEMENT

(See attached document)

TRANSITION SERVICES AGREEMENT

THIS TRANSITION SERVICES AGREEMENT is made ●, 2018 (“Effective Date”)

BETWEEN:

AIMIA INC., a corporation duly constituted under the laws of Canada, having a place of business at 525 Viger Avenue West, Tour Aimia, Suite 1000, Montreal (Quebec) H2Z 0B2 (the “**Seller**”);

- and -

AIMIA CANADA INC., a corporation duly constituted under the laws of Canada, having a place of business at 525 Viger Avenue West, Tour Aimia, Suite 1000, Montreal (Quebec) H2Z 0B2 (“**ACI**”);

RECITALS:

WHEREAS ACI carries on the Aeroplan loyalty program business, which includes the operation of the Aeroplan loyalty program whereby members receive specified travel and other rewards or other benefits upon redeeming Aeroplan Miles including through travel on specified air carriers, the use or purchase of certain goods or services (including, for greater certainty, the use of certain credit and charge cards), as well as in connection with the foregoing, including the marketing, distribution, management, commercialization, issuance and redemption of Aeroplan Miles, as well as loyalty coalition activities, digital channel development and maintenance, marketing, communications, promotions and data analytics services, service and lifecycle management, and related ancillary services and activities (the “**Business**”);

WHEREAS pursuant to the terms of the share purchase agreement between the Seller, the Purchaser and ACI dated as November 26, 2018 (the “**SPA**”) the Seller agreed to sell, and the Purchaser agreed to purchase, all the issued and outstanding shares in the capital of ACI;

WHEREAS concurrently with entering into the SPA, the Seller and ACI are entering into this Agreement pursuant to which each of the Seller and ACI will provide certain transition services to the other.

NOW THEREFORE, in consideration of the premises and mutual agreements herein contained, and for other good and valuable consideration (the receipt and sufficiency of which are acknowledged by each Party), the Parties agree as follows:

ARTICLE 1 DEFINITIONS AND PRINCIPLES OF INTERPRETATION

1.1 Definitions

The capitalized words and expressions used in this Agreement or in its Schedules shall have the meaning ascribed to them in Schedule A, unless otherwise expressly stated herein. Capitalized words used herein and not defined, shall have the meaning given to them in the SPA.

1.2 Articles, Sections and Headings

The division of this Agreement into Articles, Sections, and Schedules and the insertion of headings are for convenience of reference only and will not affect the construction or interpretation of this Agreement. The terms “hereof”, “hereunder”, “herein” and similar expressions refer to this Agreement as a whole and not to any particular Article, Section, Schedule or other portion hereof. References herein to Articles,

Sections, or Schedules are to Articles, Sections, and Schedules of this Agreement or of the Schedules hereto unless otherwise expressly stated herein.

1.3 Extended Meanings

In this Agreement, unless specified otherwise or the context otherwise requires:

- (a) “including” or “includes” means “including (or includes) but is not limited to” and is not to be construed to limit any general statement preceding it to the specific or similar items or matters immediately following it;
- (b) “the aggregate of”, “the total of”, “the sum of”, or a phrase of similar meaning means “the aggregate (or total or sum), without duplication, of”;
- (c) references to contracts are deemed to include all present amendments, supplements, restatements and replacements to such contracts;
- (d) references to any Law or a section thereof are references to the Law as amended, re-enacted, consolidated or replaced from time to time;
- (e) references in this Agreement to consent and the taking or refraining from taking action except with the consent of a Party or its Representatives shall be qualified by “such consent not to be unreasonably withheld conditioned or delayed” unless otherwise stated to be in the sole discretion of such Party or its Representatives; and
- (f) words in the singular include the plural and vice-versa and words in one gender include all genders.

1.4 Accounting Principles

Except where expressly otherwise provided herein, wherever in this Agreement reference is made to a calculation to be made or an action to be taken in accordance with generally accepted accounting principles, such reference will be deemed to be made to IFRS, applicable as at the date on which such calculation or action is made or taken or required to be made or taken in accordance with IFRS.

1.5 Currency

Except as expressly provided herein, and subject to the existing payment terms of applicable Third Party Supply Agreements, all references to currency contained herein are to Canadian dollars.

1.6 Calculation of Time

- (a) *Calculation of Time.* Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends.
- (b) *Business Days.* Whenever any action to be taken or payment to be made pursuant to this Agreement would otherwise be required to be made on a day that is not a Business Day, such action shall be taken, or such payment shall be made on the first Business Day following such day.
- (c) *Time of Day.* All references to times of the day are to the times of the day in Montreal, Quebec.

1.7 Schedules

The following Schedules and Appendices attached hereto are incorporated by reference and deemed to be part hereof:

Schedules

A	Definitions
B	ACI Transition Services
C	Seller Transition Services
D	Notices
E	Migration Plan
F	Form of Premises Use Agreement

Appendix

1	Appendix 1 to Schedules B and C – Service Fees
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1.8 Conflicts with SPA

In the event of a conflict between the terms of this Agreement and the SPA, the terms of the SPA shall prevail.

1.9 Principles

Each of Seller and ACI acknowledges that as of the Closing Date a level of interdependence between the Parties exists in relation to the ongoing operation of the Business by ACI, and the Seller Business by Seller. Accordingly, the Parties agree that the performance of this Agreement shall be carried out in accordance with the following principles:

- (a) the Parties have a common interest in having a timely and successful separation of the Business from the Seller Business and they have the common and shared intent to use commercially reasonable efforts to cooperate in order to make this happen;
- (b) The Transition Periods set out in Schedules B and C have been agreed to by the Parties with an understanding, as at the Closing Date, that such periods of time should be reasonably sufficient to allow the Parties to take the necessary steps such that the Business can be operated without the Seller Transition Services, and that the Seller will be able to operate the Seller Business without the ACI Transition Services. However, the Parties have included certain contingency measures herein;
- (c) Unforeseen events, issues or complications may arise in the performance of the migration and Transition Services carried out hereunder and the Parties acknowledge and agree to act reasonably and cooperate with one another to resolve and address any such unforeseen events, issues or complications.

The Parties shall apply the principles set out in this Section in good faith. Such principles do not override any of the provisions of this Agreement, but shall serve as guiding principles to solve any matters not otherwise regulated by this Agreement or Disputes.

ARTICLE 2 TRANSITION SERVICES

2.1 Provision of Services

- (a) Subject to the terms of this Agreement, commencing on the Commencement Date, Seller shall, or shall cause the other Seller Service Providers to, provide the Seller Transition Services to the ACI Service Recipients during the Transition Period in accordance with the terms and conditions of this Agreement.
- (b) The Seller Transition Services shall be deemed to include all services, functions and responsibilities not expressly specified in Schedule C, but that were performed by or on behalf of the Seller Service Providers, as applicable, prior to Closing and that are required for the proper performance and provision of the applicable Seller Transition Service as performed prior to Closing, unless such service, function or responsibility is expressly identified in this Agreement as being the responsibility of ACI.
- (c) Subject to the terms of this Agreement, commencing on the Commencement Date, ACI shall, or shall cause the other ACI Service Providers to, provide the ACI Transition Services to the Seller Service Recipients during the Transition Period in accordance with the terms and conditions of this Agreement.
- (d) The ACI Transition Services shall be deemed to include all services, functions and responsibilities not expressly specified in Schedule B, but that were performed by or on behalf of the ACI Service Providers, as applicable, prior to Closing and that are required for the proper performance and provision of the applicable ACI Transition Service as performed by ACI prior to Closing, unless such service, function or responsibility is expressly identified in this Agreement as being the responsibility of the Seller.
- (e) For certainty and unless otherwise indicated, where the Transition Services are to be provided by an individual resource as specified in Schedules B and C:
 - (i) the Parties agree that such Transition Services are intended to constitute a continuation of such individual's day-to-day business tasks, functions and responsibilities prior to the Closing Date; and
 - (ii) the Parties have estimated an allocation (in the form of a percentage) of such individual's time that will be used to provide Transition Services; and
 - (iii) where, over a successive three month period, there has been a variance of the estimated percent allocation of greater than 20% of the estimated allocation, the Parties will use good faith efforts to mutually agree on an adjustment (increase or decrease) to any agreed Service Fee as it relates to the Transition Services being provided by such individual resource, and any failure to agree shall be a Dispute to be settled under Section 3.2.

2.2 Standard of Services

- (a) Each of the Seller Transition Services and the ACI Transition Services shall be provided or caused to be provided by the Seller or ACI, as the case may be, in a manner and at a level of service generally consistent with that provided by Seller (or its Affiliates or third parties on their behalf) in the case of Seller Transition Services, or ACI (or its Affiliates or third parties on its behalf) in the case of ACI Transition Services, preceding the Closing Date. Where the Transition Services schedules specify a specific level or standard of service, the Transition Service will be provided at the specified standard or level.

- (b) Where Transition Services will be provided by a Third Party Service Provider, Seller or ACI, as applicable, shall (without limiting its obligation under Section 2.6 (f)) use Commercially Reasonable Efforts to cause such Third Party Service Provider to provide Transition Services in accordance with the standards of performance and service levels that are indicated in the applicable Third Party Supply Agreement.
- (c) Each Party acknowledges that the other is not in the business of providing services substantially similar to the Transition Services on a commercial arm's-length basis to independent third parties, and that this Agreement is required for the specific circumstances of each Party to ensure the orderly management of the Business (in the case of ACI) and the Seller Business (in the case of the Seller), on a transition basis in connection with the transactions contemplated by the SPA.

2.3 Migration and Migration Planning

- (a) Pursuant to Section 4.12 of the SPA the Parties have, as of the execution of the SPA, commenced to develop a Migration Plan.
- (b) As part of the Transition Services, each of the Parties shall use Commercially Reasonable Efforts to ensure that the Migration Plan is implemented in accordance with its terms.
- (c) Except to the extent: (i) the performance of activities under the Migration Plan are included in a Transition Service set out in Schedule B or C, as applicable, or (ii) otherwise agreed in the Migration Plan, each Party shall bear its own costs in the performance of the Migration Plan activities.
- (d) Pursuant to Section 4.12 of the SPA the Parties have agreed each Party shall:
 - (i) provide all information to the other Party about any items or issues which are reasonably necessary and relevant to develop and perform the Migration Plan;
 - (ii) on being given reasonable notice, make available relevant Representatives for meetings with the other Party;
 - (iii) ensure that their respective TSA Project Managers and other personnel who are necessary for the implementation of the Migration Plan are available at all reasonable times for consultation on any matter relating to them; and
 - (iv) ensure that their respective TSA Project Managers shall provide regular status updates and performance reports relating to each Party's progress in fulfilling milestones and performing its obligations under this Agreement, including progress on the Migration Plan.

2.4 Knowledge Transfer Cooperation

The Parties shall co-operate with one another (and with the other's Third Party Service Providers) to facilitate a smooth transition of the Seller Transition Services from the Seller to ACI, and the ACI Transition Services from ACI to the Seller prior to the expiry of the Transition Periods. Without limiting any more specific knowledge transfer obligations set out in Schedules B and C, such co-operation shall include:

- (a) the provision of reasonable knowledge transfer assistance for the purpose of enabling the other to assume and become self-reliant with respect to, and continue to operate, the Business or Seller Business, as applicable;

- (b) the provision of such available and applicable information as possessed by a Party, and knowledge transfer with respect to such information, for the purpose of helping a Service Recipient to become self-reliant with respect to, and continue the conduct of the Business or Seller Business as applicable following the completion of the Transition Services; and
- (c) working with the relevant Third Party Service Providers with a view to facilitating the transfer of knowledge applicable to such Third Party Service Providers that are relevant to the other Party, and which shall include, at the request of the other Party, the use of Commercially Reasonable Efforts to introduce the other Party to any of its Third Party Service Providers which provide products, technology or services which are not part of the Transition Services but which are related to such services.

2.5 Personnel

- (a) Each Party shall be responsible to perform the Transition Services such that:
 - (i) a sufficient number of personnel (the "**Personnel**") consistent with the number of Personnel used to perform the relevant services prior to Closing are available;
 - (ii) Personnel are appropriately trained, qualified and experienced;
 - (iii) computer systems, know-how and other resources which are necessary are made available to the Personnel; and
 - (iv) where applicable necessary office accommodation and staff amenities (consistent with office accommodation and staff amenities available the prior to Closing) for the applicable Personnel are available,

provided that, except to the extent as may be provided in Schedule B or C (or otherwise agreed) in no event should a Party be required to dedicate more personnel and resources (on a combined basis with the other Party) than what was dedicated to the Business prior to the Closing Date.

- (b) Each Party will reasonably cooperate in determining which Personnel are involved in the provision of the Transition Services. If either Party is not satisfied (acting reasonably) with the performance of any member of the Personnel of the other Party, then it may notify the other Party of that fact. The Parties will consult in relation to any such notice as soon as reasonably practicable (and in any event within five (5) Business Days) after receiving such notice and will use reasonable efforts to address the concerns raised to the notifying Party's satisfaction (acting reasonably). If the concerns have not been satisfied at that time to the notifying Party's satisfaction then the matter shall be resolved through the dispute resolution procedures set out in Section 3.2.
- (c) For the avoidance of doubt nothing herein prohibits and either Party may, without the consent of the other Party, engage individuals to supplement its workforce as subcontractors to assist in the performance of the Transition Services provided that: (i) each individual agrees to be bound by confidentiality obligations at least as protective as the terms in this Agreement regarding confidentiality; and (ii) the subcontracting Party remains responsible for the performance of each of its subcontractors.
- (d) Should an ACI or Seller employee or contractor providing Transition Services resign from his / her position or should a Party terminate an employee or contractor providing Transition Services for cause:
 - (i) the Party which employed such employee or contractor shall use Commercially Reasonable Efforts to replace such employee or contractor with a suitable replacement

as soon as practically possible, and for the avoidance of doubt, any such resignation or termination shall not relieve the employing Party from its Transition Services obligations; and

- (ii) where there is a variance (increase or decrease) between the compensation of the existing individual with the replacement individual of greater than 20% the Parties will agree on an adjustment (increase or decrease) to reflect same.
- (e) Seller represents and warrants to ACI that: (i) in respect of any individual who (A) was an employee of Seller or ACI prior to the date hereof, and (B) as and from the date hereof will be performing Transition Services to be delivered to Seller, such individual is appropriately trained, qualified and experienced to perform such Transition Services in accordance with this Agreement; and (ii) the number of individuals allocated to each Transition Service as further set forth in Schedule B and C, is consistent with the number of individuals performing such services (or similar services) prior to the date hereof in connection with their employment or engagement with the Seller or ACI. ACI agrees to continue to make available such number of individuals in connection with the provision of the ACI Transition Services.

2.6 Third Party Suppliers

- (a) Each Party acknowledges and agrees that:
- (i) certain Transition Services will be provided by or through the use of Third Party Service Providers pursuant to Third Party Supply Agreements;
 - (ii) it shall comply with the terms of any Third Party Supply Agreement applicable to it insofar as such terms relate to the Transition Services provided by a Service Provider;
 - (iii) where Schedule B or C, as applicable, describes a particular Transition Service that is to be provided by a Third Party Service Provider, that description is only a high level description of that Transition Service which Transition Service shall be delivered in accordance with all of the applicable terms and conditions of the applicable Third Party Supply Agreement;
 - (iv) the Parties acknowledge Seller's agreement pursuant to Section 4.5.1 of the SPA to use Commercially Reasonable Efforts to obtain all necessary Authorizations;
 - (v) obtaining Authorizations may require the Service Provider to incur additional costs, expenses, fees, charges or commissions ("**Authorization Expenses**");
 - (vi) ACI or the Seller, as applicable, shall notify the other of any Authorization Expenses as soon as reasonably practicable upon becoming aware and prior to incurring such expense; and
 - (vii) Subject to Section 2.6(g), Aimia shall be responsible to pay the first five hundred thousand dollars (\$500,000) of any Authorization Expenses and the Parties shall equally share all Authorization Expenses in excess of such amount. Upon receipt of notification of an Authorization Expense (that a Party is obligated to pay in accordance with the foregoing cost payment principle) from the applicable Service Provider to the Service Recipient, the Service Recipient shall reimburse the Service Provider for its share of the specified Authorization Expense incurred in accordance with the payment terms in Article 4 (and notwithstanding Section 4.1(d)) unless, within five (5) days of receipt of the notice in Section 2.6(a)(vi) the Service Recipient declines in writing to pay its portion of the Authorization

Expense and to receive the Transition Service associated with such Authorization Expenses in which case the Service Provider shall be relieved of any obligation to provide the relevant Transition Service to the Service Recipient.

- (b) If as of the Effective Date an Authorization has not been obtained, then:
 - (i) the Service Provider shall use Commercially Reasonable Efforts to obtain any remaining Authorizations and the Service Recipient shall provide, at its own cost, all reasonable assistance to the Service Provider and the Parties shall cooperate with one another and all applicable Third Party Service Providers in good faith and in a timely and expeditious manner to procure the consent; and
 - (ii) subject to Section 2.6(c), the Service Provider shall not be in breach of this Agreement if a third party refuses to give it (for reasons other than the payment of an Authorization Expense).
- (c) If a third party refuses to give its Authorization in the circumstances described in Section 2.6(b)(ii), and other than in the circumstances where a Service Recipient has declined a Transition Service under Section 2.6(a)(vii), then:
 - (i) the Service Provider shall promptly notify the Service Recipient of the failure of the third party to grant the consent; and
 - (ii) the Parties shall use all commercially reasonable efforts acting in good faith to agree on and implement alternative means of continuing the provision of the Transition Service for which the consent is required for the duration of the relevant Transition Period, but shall not be liable to the other in respect of any inability to implement alternative means provided it has complied with the obligations in this subsection (ii).
- (d) Prior to the termination of a Third Party Supply Agreement during the term of this Agreement for reasons beyond the reasonable control of the Service Provider:
 - (i) the Service Provider shall promptly notify the Service Recipient of the receipt from a Third Party Service Provider, of any notice, of an impending termination or of an event that will trigger termination or if no such notice was provided, promptly notify the Service Recipient of the termination of the Third Party Supply Agreement, setting out the reasons for the termination;
 - (ii) the Parties shall use Commercially Reasonable Efforts to agree in good faith and implement alternative means of continuing the provision of any relevant Transition Service for the duration of the relevant Transition Period, including, allowing and facilitating the negotiation between Service Recipient and the Third Party Service Provider so as to procure services directly; and
 - (iii) there shall be an equitable reduction to the Service Fees to reflect any costs savings to the Service Provider as a consequence of the discontinuation of the relevant portion of the Transition Service (provided that any pre-paid amounts of fees paid to a Third Party Service Provider shall not be refundable).
- (e) If a Third Party Supply Agreement is terminated in the circumstances described in Section 2.6 (d), then provided that the Service Provider has complied with its obligations in that Section it shall not be obliged to continue to provide any Service that was provided by the Service Provider through the Third Party Service Provider pursuant to the terminated Third Party Supply Agreement.

- (f) Each Party acknowledges that the other Party, as a Service Recipient, is relying on it to diligently perform its obligations under the Third Party Supply Agreements relevant to the Service Recipient and agrees it shall take all necessary steps to enforce its rights under, and the performance by the Third Party Service Provider of, such Third Party Supply Agreements.
- (g) For the avoidance of doubt, each Party shall be solely responsible to pay, in addition to applicable Service Fees:
 - (i) any additional Authorization Expenses and any other costs applicable to its' receipt or use of products and services pursuant to any new Third Party Supply Agreement entered into by the Service Provider during the term of this Agreement that is required in order to provide Transition Services to it, and including Authorization Expenses applicable in respect of receipt or use in a period following the completion of the Transition Period if such new Third Party Supply Agreement requires a duration which exceeds the applicable Transition Period; and
 - (ii) any additional Authorization Expenses and any other costs applicable to its' continued receipt or use of products and services pursuant to an existing Third Party Supply Agreement that is renewed by the Service Provider at the request of the Service Recipient during the term of this Agreement in order to provide Transition Services to it (provided that this provision shall not be construed to amend the agreed cost allocation principles set out in Article 4 unless otherwise agreed in writing by the Parties at the time of renewal), and including Authorization Expenses applicable in respect of receipt or use in a period following the completion of the Transition Period if such renewed Third Party Supply Agreement requires a duration which exceeds the applicable Transition Period.

No Service Recipient shall be obligated to pay for any additional Authorization Expenses associated with any new Third Party Service Agreement, or the renewal of an existing Third Party Service Agreement, as described in this subsection (g) unless it has agreed to such Authorization Expenses in writing, and if such Service Recipient declines in writing to pay its portion of the additional Authorization Expense, the Service Provider shall be relieved of any obligation to provide the relevant Transition Service to the Service Recipient.

- (h) For the avoidance of doubt, each Party shall be solely responsible to pay all costs associated with any new Third Party Supply Agreement applicable to, and entered into by, such Party following the completion of the Transition Services.

2.7 Shared Contracts

- (a) The SPA contemplates that certain Shared Contracts will be assigned to ACI (or other entities) effective on the Closing Date, namely the Transferred Shared Contracts, and that certain Shared Contracts will be retained by the Seller, namely the Retained Shared Contracts. In this Agreement, Shared Contracts are Third Party Supply Agreements.
- (b) The Seller represents and warrants to ACI that:
 - (i) the pro-rata allocation of Service Fees to be charged to ACI for each Seller Transition Service hereunder is materially consistent with, or no greater than, what was allocated to ACI, in the ordinary course during the twelve (12) month period prior to the Closing Date; and

- (ii) the pro-rata allocation of Service Fees to be charged to Seller for each ACI Transition Service hereunder is materially consistent with, or no less than, what was allocated to Seller in the ordinary course during the twelve (12) month period prior to the Closing Date,

in respect of each of subsections (b)(i) and (ii) all such allocations were made by the Seller, in its reasonable business judgment and taking into account available information, as being a reasonable allocation relative to use by ACI and Seller and the applicable Seller Affiliates and business divisions. If, during the Transition Periods, it is determined that the foregoing representation and warranty is incorrect with respect to a particular Transition Service then the Parties will, as the affected Party's sole remedy, adjust the applicable Service Fees (including retroactively) to reflect an allocation that is in compliance with such representation and warranty.

- (c) During the Transition Periods and as part of the migration planning work undertaken by the Parties, the Parties will cooperate to determine with respect to such Shared Contracts how to split and/or otherwise replace such Shared Contracts. The Parties agree that they shall each bear their own respective costs in all such activities and Shared Contract replacement (except as otherwise agreed). Without limiting the foregoing or the Parties general migration planning obligations, as part of such migration planning work the Parties will work together with the Third Party Service Providers applicable to the Financial Systems Infrastructure in order to mutually agree on a plan to permanently separate the Financial Systems Infrastructure from Seller. The Parties agree to equally share the FSI Costs and Expenses relating to: (i) the logical separation of the Financial Systems Infrastructure; and (ii) creation, hosting (until go-live) and implementation of duplicate Financial Systems' Infrastructure, where:

"Financial Systems Infrastructure" means the software systems specified in item 51 of Schedule C, and the associated databases and web servers;

"FSI Costs and Expenses" means the costs and expenses incurred (i) in respect of the time and effort of personnel and/or third party consultants engaged by the Parties to effect the logical separation of the Financial Systems' Infrastructure and create the duplicate instance; and (ii) to host with the third party service provider the duplicate instance of the Financial Systems' Infrastructure until go-live.

2.8 DXC Contract

Without limiting the terms of Sections 2.6 and 2.7, the Parties acknowledge and agree that:

- (a) the Services received by the Seller Business and the Business under the DXC Contract are material to the continued operation of each such business;
- (b) the ACI Transition Services include the provision of services under the DXC Contract and in particular that:
 - (i) the Seller will continue to require during the Transition Period the services under the DXC Contract to operate the Seller Business; and
 - (ii) in the event that, during the term of this Agreement, the Seller becomes engaged in selling parts of the Seller Business other than the Business ("**Other Seller Divested Businesses**") the ACI Transition Services will, at the Seller's request, but subject to Section 2.8(d), include the provision of services currently provided to the Other Seller Divested Businesses under the DXC Contract to the buyers of the Other Seller Divested Businesses ("**Third Party Service Recipients**") as

transition services if the Seller is required by the Third Party Service Recipients to provide such services, as transition services, in connection with such sales, and in connection therewith:

- (A) the Seller will directly contract to provide transition services to the Third Party Service Recipients and the relevant DXC Services included in such transition services will be provided through ACI as part of the ACI Transition Services; provided that the Seller, and not ACI, will be primarily responsible to manage the provision of such DXC Services to the Third Party Service Recipients;
 - (B) Seller undertakes to pay any reasonable and incremental out of pocket costs incurred by ACI in connection with the provision of services under the DXC Contract to the Third Party Service Recipients; and
 - (C) as part of the ACI Transition Services ACI will provide all such cooperation and assistance to the Seller which is reasonably required to govern, manage and facilitate the flow-through of the DXC Services to any Third Party Service Recipients.
- (c) For the avoidance of doubt, ACI confirms that the Seller has no obligation to pay any termination charges under the DXC Contract for any reason or in any circumstance whatsoever. provided however Seller agrees to pay either to ACI, or directly to DXC (i.e. no payment duplication) the monthly fees for cross functional and application governance services invoiced by DXC in respect of the USA region as such monthly fees are set out in Schedule 18 to the DXC Contract during the period commencing on the Effective Date and terminating on June 30, 2020 (for a total amount estimated to be **commercially sensitive and confidential information redacted**).
- (d) Seller agrees that a proposed Third Party Service Recipient that is a Person whom Seller would not be permitted to do business with under the Non-Competition Agreement will require the consent of ACI; provided that if ACI does not provide consent Seller shall have no less than one hundred and twenty (120) days from the date on which ACI provides Seller with notice of the refusal to provide consent to migrate the Third Party Service Recipient from the DXC services to an alternate service provider. Seller shall provide notice to ACI of the proposed Third Party Service Recipient as soon as it is permitted to disclose pursuant to the terms of the applicable acquisition agreement.

2.9 Compliance with Laws and Policies and Procedures

- (a) Each Party shall, and shall ensure its Representatives:
 - (i) comply with all applicable Laws in the performance of this Agreement;
 - (ii) obtain and maintain in force all licences, consents, permits and approvals of Governmental Authorities that are necessary in connection with this Agreement.
- (b) Subject to Section 2.9(a), each Party shall promptly notify the other of any material regulatory or compliance issue arising under this Agreement of which it becomes aware, and the Parties shall co-operate in good faith to resolve those issues.
- (c) If a Party is contacted by a Governmental Authority in connection with this Agreement, it shall, if not prohibited by Law and/or the Governmental Authority to do so and where the collaboration of the other Party is reasonably necessary:

- (i) promptly notify the other Party and co-ordinate any interaction with the Governmental Authority as required;
 - (ii) where requested, keep the other Party informed of all discussions and correspondence with the Governmental Authority, unless it reasonably determines that to do so would either result in a breach of Section 2.9 (a) or create a conflict of interest between the Parties.
- (d) Neither Party shall be required to perform any obligation under this Agreement or to allow, take or omit to take any action that it has a reasonable basis to believe would result in the breach of any applicable Law.
- (e) Each Party shall, and shall ensure its Representatives are aware of and comply with the relevant policies and procedures of the other Party as referenced in the Transition Services schedule: (i) to the extent that they do not conflict with the terms and conditions of this Agreement or the requirements of the Migration Plan and (ii) provided such policies and procedures are disclosed in writing to the other Party prior to execution of this Agreement or otherwise agreed prior to the commencement of the Transition Services.

2.10 Access

- (a) **Access to Premises and Personnel** – During the relevant Transition Period each Party shall, subject to the terms hereof, provide the other Party and its applicable Representatives with:
- (i) such access to its (and in the case of Seller providing access, the Seller Affiliates') personnel and premises as may reasonably be required to allow the other Parties and their Representatives to provide the Transition Services; and
 - (ii) such information and materials as may reasonably be requested by the other Parties, or Third Party Service Providers on behalf of the other Parties, in order to provide the Transition Services.
- (b) **Space Use** - Concurrently with the execution of this Agreement, the Parties agree to execute the premises use agreement in the form attached as Schedule F hereto for the provision of the Transition Services specified in Schedule B.
- (c) **Access to Software and Systems** - During the relevant Transition Period each Party shall, subject to the terms hereof, provide the other Party and its applicable Representatives with:
- (i) such access to its (and in the case of Seller providing access, the Seller Affiliates') software and systems solely as may reasonably be required in order to provide or receive the Transition Services; provided that only those Representatives with a *bona fide* need to have such access in connection with the Transition Services will be provided access;
 - (ii) each Party shall limit its, and shall cause its Representatives who are provided access to the software and systems referred to in Section 2.10(c)(i) to limit their access to those portions of the software and systems for which it is authorized access pursuant to Section 2.10 (b)(i);
 - (iii) the Parties shall fully cooperate with each other in the investigation of any apparent unauthorized access of the applicable Party's software or systems or

breach of any policies and procedures, implicating the other Party's, or any of the other Party's Representatives', compliance with the terms of this Agreement. If a Party becomes aware, or reasonably suspects, that there has been any unauthorized access or a breach or potential breach of the security of any systems, that Party shall promptly give written notice to the other Party of that fact or suspicion, together with reasonable details thereof.

- (iv) neither Party shall knowingly introduce any virus or malware into the software or systems of the other Party.
 - (v) access to software and systems may be further conditioned and prescribed in the Migration Plan, or during the Migration planning process.
- (d) To prevent unauthorised access to or use of any data and systems, each Party shall:
- (i) establish and/or maintain adequate security measures and procedures consistent with good industry practice;
 - (ii) co-operate in any reasonable security arrangements that the Parties agree in the Migration Plan (or otherwise in writing) are necessary to prevent access to a system or data in a manner prohibited by this Agreement;
 - (iii) continually assess and, where relevant, report to the other Party any prevalent threats to the systems arising as a result of any access granted under this Agreement; and
 - (iv) ensure that all users of the systems to which it is provided access by the other Party undertake a controlled authorization process before system (including data) access is granted, and remove access privileges in a timely manner once they are redundant.
- (e) Without limiting Section 2.10 (d) above and provided that it can continue to adhere to its obligations hereunder in all material respects, each Party will also have the right to establish any additional security measures, procedures and protocols in order to create logical separation between Seller and ACI's physical and virtual environments. Such security measures and procedures may include limiting facility access, establishing appropriate network firewalls and other mitigating controls.
- (f) If a Party detects a breach of protective measures that will (or is likely to) impact on the Transition Services or the integrity of any data or other Confidential Information on, or the systems of, the other Party, it shall:
- (i) immediately act to prevent or mitigate the effects of the breach;
 - (ii) report the breach to the other Party as soon as reasonably practicable after detection; and
 - (iii) identify and implement steps designed to ensure that the breach does not re-occur and report these steps to the other Party.

2.11 Record Retention and Access – Contract Performance

- (a) Each Party shall during the term of this Agreement maintain and keep (or cause to be maintained and kept) secure accurate records and accounts relating to the existence and adequacy of its internal control environment, in relation to the performance of this

Agreement, the performance of its obligations under this Agreement and the Service Fees and eligible expenses charged by it under this Agreement.

- (b) On the expiration of all Transition Periods, each Party as Service Provider shall deliver up to the other Party as Service Recipient all End of Service Books and Records which are required by the Service Recipient following the completion of the Transition Services in the continued operation of the Business or Seller Business as applicable, including to meet reporting obligations (whether to Tax Authorities or otherwise), tax filings and similar requirements and obligations.
- (c) Each Party shall during the term of this Agreement fulfil any lawful request from a Governmental Authority made in the course of carrying out its regulatory functions or complying with any requirement of Law insofar as it relates to the operation of this Agreement.
- (d) The Parties shall co-operate in good faith to amend this Agreement and to effect changes to the Transition Services, if and to the extent necessary to comply with changes in applicable Law or the requirements of any Governmental Authority.
- (e) If a Party has reasonable grounds for believing that:
 - (i) fraudulent activity has occurred in connection with this Agreement, whether or not as a result of the actions or omissions of either Party; or
 - (ii) an act or omission has occurred in connection with the Transition Services which, whether or not a breach of the other Party's obligations under this Agreement, would constitute a breach of any applicable Law or regulation and which would have a material adverse effect on its business,

then that Party shall immediately notify the other Party of that fraudulent activity or act or omission and without limiting either Party's other rights or remedies, the Parties shall together investigate, mitigate or resolve the matters referred to in (i) or (ii).

- (f) If, as a result of a Party's exercise of its rights under Section 2.12 it finds that the other Party has materially failed to perform its obligations under this Agreement, then without limiting either Party's other rights or remedies:
 - (i) the audited Party shall respond promptly to any issues raised by the auditing Party and set out what actions it proposes to take to remedy its failure; and
 - (ii) the Parties shall meet promptly and use all reasonable endeavours to agree on a remedial plan and a timetable for achievement of the planned actions and/or improvements.

2.12 Audit

- (a) Each Party shall upon request by the other Party:
 - (i) provide (or cause to be provided) the other Party and/or the other Party's internal and third party external auditors with reasonable assistance and reasonable access to all relevant personnel, premises, systems, data (including historical records and data) and other information and records of that Party and its Affiliates that are relevant to: (A) compliance with this Agreement (B) any continuing obligations of a Party in connection with the operation of the Business

or Seller Business, as applicable and (C) any continuing regulatory obligations or requirements of a Governmental Authority; and

- (ii) ensure that the other Party's auditors receive from that Party's applicable Representatives information and explanations that the auditors reasonably consider necessary in connection with the audit and for the performance of their duties as auditors.
- (b) The Party conducting an audit under Section 2.12 (a) shall do so at its own cost and provide reasonable prior written notice. Unless otherwise agreed, access shall only be granted during business hours on Business Days and at a time reasonably acceptable to the Party being audited. The auditing party shall use reasonable efforts to minimize any inconvenience or disturbance to the normal operations of the other Party's business.
- (c) The obligations in this Section 2.12 shall continue and survive for a period of not less than seven (7) years (or such longer period as required under applicable Laws) from the date of termination or expiration of this Agreement. All relevant records and documentation must continue to be available during that period.
- (d) Any inspection or audit, or failure to inspect or audit, under Section 2.11 or 2.12 shall not release any Party from its obligations under this Agreement.
- (e) The Parties will agree in good faith the form of wording that ACI will provide the Seller, and the Seller will provide ACI, to assist each Party in providing their National Instrument 52-109 certifications as applicable to the Transition Services.

2.13 General Obligations

Each Party shall (or shall cause the Service Providers for which it is responsible to):

- (a) provide all customary and necessary instructions to enable the other to perform its obligations under this Agreement;
- (b) promptly notify the other of any omissions or inaccuracies in the information supplied to that Party after becoming aware of them;
- (c) provide all data and information as the other Party may reasonably require in order to perform its obligations under this Agreement or comply with any applicable Laws, including any information specified in the Schedules;
- (d) ensure that all data and information required to be provided to the other Party pursuant to the Agreement shall be provided in a complete, accurate and timely manner so as to enable the other Party to perform its obligations under this Agreement.

2.14 Responsibility for Employees

All personnel (whether employees or contractors) utilized by a Party and its Affiliates in the performance of this Agreement and to provide the Transition Services shall remain the sole and exclusive responsibility and liability of such Party or Affiliate, including all financial, remuneration, pension, worker's compensation, income tax deduction, employment insurance, severance, benefit and vacation matters covering such employees or contractors and all such personnel shall remain subject only to the supervision and management of such Party.

ARTICLE 3 AGREEMENT GOVERNANCE AND DISPUTES

3.1 Project Managers and Transition Project Team

- (a) Each of ACI and the Seller shall appoint a work stream lead to manage and coordinate the performance of the Transition Services and their respective migration and separation performance obligations under this Agreement (each a **"TSA Work Stream Lead"**) for each of the following work streams: (i) finance; (ii) human resources; (iii) information technology; (iv) tax and (v) real estate.
- (b) Each of the Parties has also established, and shall maintain during the term of this Agreement, a transition project team (including TSA Work Stream Leads in respect of each separation area) to oversee the implementation of the Migration Plan.
- (c) Each of ACI and the Seller shall also appoint a project manager to act as the primary contact between them and to manage each transition project team (each a **"TSA Project Manager"**). Each Party's TSA Work Stream Leads will report to that Party's TSA Project Manager.
- (d) The TSA Work Stream Leads and TSA Project Managers shall meet (in person or by telephone) at a frequency to be mutually agreed by the Parties. Each Party's TSA Work Stream Leads and TSA Project Managers shall appoint a suitable alternate and where a TSA Work Stream Lead and TSA Project Manager is absent due to holiday or illness, the relevant TSA Work Stream Lead and TSA Project Manager shall arrange for such alternate to attend such meetings.

3.2 Dispute Resolution

- (a) Save and except where a dispute or resolution mechanism has already been set forth in the SPA and expressly provides for the resolution of a dispute in relation to the subject matter of this Agreement, any controversy or dispute between the Parties arising out of or relating to this Agreement, including its breach, termination, or the rights, duties or obligations of any Party to this Agreement (each a **"Dispute"**) shall be resolved in accordance with this Section 3.2(a):
 - (i) If a Dispute arises among the Parties, then any Party may by notice notify the other Party of such Dispute. Within five (5) Business Days after receipt of the first such notice, the TSA Project Managers shall meet (in person or by telephone) to discuss and use commercially reasonable efforts in good faith to reach a reasonable and equitable resolution of the Dispute. If the TSA Project Managers are unable to resolve the Dispute within five (5) Business Days of the receipt of such notice, each affected Party shall promptly refer the Dispute to the Senior Executives of such Party for resolution.
 - (ii) The Senior Executives referred to in Section 3.2(a)(i) shall meet (in person or by telephone) within five (5) Business Days after the referral of the Dispute to them to discuss and negotiate in good faith to reach a reasonable and equitable resolution of the Dispute. If such Senior Executives are unable to resolve the Dispute within ten (10) Business Days of their meeting or such further time as the Parties might agree, then,
 - (A) the Parties may agree to refer the Dispute to non-binding mediation on terms and conditions of mediation agreed to at such time, with the costs of mediation being shared equally by Seller and ACI and subject to the condition that either the Seller or ACI may terminate the mediation at any time upon giving reasonable notice to the other; or

- (B) if the Parties do not agree to mediation, then either Party shall be entitled, without further notice to or obligation to the other Party, to pursue whatever legal, equitable or other remedies it may be entitled to.
- (iii) To the extent not prohibited by applicable Law, the Parties agree that written or oral statements or offers of settlement made in the course of the Parties' efforts to settle a Dispute pursuant to the foregoing procedure will: (A) be Confidential Information; (B) be on a without prejudice basis and will not be offered into evidence, disclosed or used for any purpose other than resolving the Dispute; and (C) not constitute an admission or waiver of rights.
- (b) **No Suspension** – Each of the Seller and ACI acknowledges that the timely and complete performance of its obligations is critical to the business and operations of the other. Accordingly, in the event of a Dispute, each Party shall continue to perform the Transition Services and its other obligations under this Agreement, unless and until such obligations are terminated or expire in accordance with the provisions of this Agreement. For the avoidance of doubt, in no circumstances is a Party entitled to suspend the performance of its obligations (including the Transition Services) under this Agreement.

3.3 Governing Law and Jurisdiction

- (a) This Agreement shall be governed by and construed in accordance with the Laws of the Province of Quebec and the Laws of Canada applicable therein (excluding any conflict of laws rule or principle, foreign or domestic, which might refer such interpretation to the laws of another jurisdiction).
- (b) Subject to Section 3.2, the Parties hereby irrevocably and unconditionally submit to the exclusive jurisdiction of the courts of the Province of Quebec and elect domicile in the City of Montreal with respect to any matter relating to the execution or construction of this Agreement or the exercise of any right or the enforcement of any obligation arising hereunder (excluding any conflict of forum rule or principle, foreign or domestic, which might refer such matter to the courts of another jurisdiction).

ARTICLE 4 FEES AND PAYMENT

4.1 Transition Service Fees

- (a) ACI shall pay to Seller the fees set out in Schedule B plus applicable Sales Taxes for the Seller Transition Services and the Seller shall pay to ACI the fees set out in Schedule C plus applicable Sales Taxes for the ACI Transition Services (the "**Service Fees**").
- (b) The Parties agree to the following principles in relation to the Service Fees:
 - (i) the Service Fees to be charged by a Service Provider are to be determined on a cost basis without mark-up, margin or administrative charges;
 - (ii) with respect to Third Party Supply Agreements a Service Provider shall pay the full amount of the Third Party Supply Agreement costs invoiced to it by the Third Party Service Provider and shall invoice the Service Recipient its share of such Third Party Supply Agreement costs (net of applicable Sales Taxes): (A) in accordance with the cost allocation principles utilized by the Business, or relevant Seller Business, prior to the Closing Date or where no such allocation exists (B) based (entirely or in part) on the Services Recipient's utilization or consumption of the relevant products and services;

- (iii) with respect to Personnel allocated to provide Transition Services, the corresponding Service Fee will be a percentage of each allocated person's full-compensation based on the estimated time that the allocated person must dedicate to Transition Services (e.g. if an allocated person is estimated to dedicate 50% of his/her time to Transition Services, the corresponding Service Fee is 50% of such allocated person's full-compensation);
 - (iv) to the extent that a cost allocation for a specific Transition Service (or part thereof) is not known on the Effective Date and specified in Schedule B or C, as applicable, the Parties will following the date of this Agreement, in good faith agree on a specific cost (or proportion allocation) for the Transition Service in accordance with the principles described above in this Section;
 - (v) the Service Fees to be charged by a Service Provider to a Service Recipient as its pro-rata share of the rent for use of the facilities in accordance with Schedule B can be adjusted by Service Provider throughout the Term to account for any increases unilaterally imposed by the landlord under the relevant head lease agreement, and such adjustments will be without mark-up, margin or administrative charges; and
 - (vi) where a Service Fee is based on an allocation principle utilized by the Business, or relevant Seller Business, prior to the Closing Date, if during the relevant Transition Period there is an increase of twenty percent (20%) or more of the total aggregate cost for the relevant Transition Services, the Parties agree to cooperate to investigate the cause of the increase and, if one Party's (or its' Affiliates) increased consumption was the source or cause of the increase, to equitably adjust the original allocation accordingly.
- (c) The Service Fees include all costs and expenses of the providing Party to perform the Transition Services except to the extent otherwise expressly identified in Schedule B or Schedule C, as applicable.
 - (d) No Party shall be liable or responsible to pay or reimburse the another Party for any cost or expense that has not been pre-approved by it.
 - (e) All Service Fees under this Agreement are stated exclusive of any applicable Sales Taxes. Where applicable by law, each of Seller and ACI shall be responsible for charging, collecting and remitting the payment of Sales Taxes to the appropriate taxing authority on the supply of the goods and/or services provided to the other Party under this Agreement. For greater certainty, the other Party shall be responsible to pay all Sales Taxes invoiced by Seller or ACI. Seller and ACI shall be responsible to notify each other in writing within ten (10) business days of any changes to its legal name or GST/HST or QST registration number. Seller and ACI shall ensure that its invoices to the other Party meet all requirements imposed by law in order for the other Party to recover or claim a credit or refund for any Sales Taxes payable in relation to this Agreement. Neither Party shall be responsible for the payment of any taxes imposed on the gross or net income and/or gross or net receipts, or taxes which are capital, property, doing business, excess profit, net worth or franchise, or any similar taxes or charges (including any interest and penalties thereon) of the other Party.

Confidential tax registration information redacted

Confidential tax registration information redacted

4.2 Billing and Payment

- (a) The Services Fees plus any applicable Sales Taxes shall be invoiced on a monthly basis in arrears by each Party, except where pursuant to a Third Party Supply Agreement the relevant portion of the Services Fees is required to be invoiced in advance (or on another basis) in which case such amount(s) shall be invoiced in accordance with the terms and requirements of such Third Party Supply Agreement plus any applicable Sales Taxes.
- (b) Within fifteen (15) Business Days following the end of each monthly period (except where pursuant to a Third Party Supply Agreement as contemplated in: (a) in which case the relevant amounts will be invoiced within ten (10) Business Days of receipt of the Third Party Service Provider invoice), the Seller shall issue to ACI, and ACI shall issue to the Seller, an invoice detailing the Service Fees plus any reimbursable expenses for such monthly period. Each invoice shall include a breakdown of the Service Fees plus any reimbursable expenses being invoiced and separately itemize Applicable Taxes and clearly indicate the total amount payable.
- (c) Each Party shall pay all invoiced amounts (other than amounts disputed in accordance with Section 4.2(e)) as soon as practicable but in any event no later than thirty (30) days from the date of receipt of the applicable invoice.
- (d) Notwithstanding the foregoing and Section 4.2(c), in respect of any monthly invoice period in respect of which one Party owes Service Fees to the other Party in an amount that is greater than what the other Party owes it, then upon the agreement of the TSA Project Managers in writing (which may include an exchange of emails) the Parties may agree to net the payments such that only the first Party makes payment to the other Party in an amount which reflects the difference.
- (e) If a Party, acting reasonably and in good faith, disputes any invoiced amount, it shall give notice to the invoicing Party within ten (10) Business Days of receiving the applicable invoice, shall pay all undisputed amounts when due and may withhold from payment the disputed amount and such dispute shall be subject to the dispute resolution provisions set forth in Section 3.2. If it is determined as a result of any such dispute that a Party owes an amount to the other Party, the owing Party shall pay the amount so owed within thirty (30) days following resolution of the dispute.
- (f) All Service Fees and other amounts payable by a Party under this Agreement shall, subject to Section 4.2(e), be paid free and clear of any deductions, withholdings, set-offs or counterclaims, save only as may be required by law.

4.3 Interest on Arrears

Any amount due and unpaid by a paying Party under this Agreement (other than disputed amounts under Section 4.2(e)) shall bear interest at the Prime Rate, beginning on the date such amount first became due.

4.4 Method of Payment

All payments required to be made by a Party shall be made to the payee by wire transfer or EFT of immediately available funds to the account designated by the payee from time to time by notice.

4.5 Expenses

Except as otherwise provided in this Agreement, each of the Parties shall pay their respective legal, accounting, and other professional advisory fees, 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.

ARTICLE 5 TERM AND TERMINATION

5.1 Term

The term of this Agreement shall commence on the Effective Date and shall, unless earlier terminated in accordance with the terms hereof, continue with respect to the specific Transition Services until the expiry of the relevant Transition Period for the applicable Transition Services. This Agreement will, subject to Section 5.2, expire as a whole on the last to expire of the Transition Periods.

5.2 Extension of Service Term

The Service Recipient has the right to extend the Transition Period of any Transition Service by giving written notice at least thirty (30) days (or in the case of the Section 5.2 Contracts, at least six (6) months' notice) before the expiry of the applicable Transition Period to the other Party for a period, or periods, of extension that is determined necessary by the applicable Service Recipient, provided that in any event, unless otherwise agreed to by ACI or Seller on behalf of the applicable Service Provider in writing, the total of all such extension periods for a particular Transition Service shall not exceed a period of time, after the conclusion of the Transition Period of such Transition Service, that is the lesser of: (a) six (6) months; or (b) the amount of time remaining or allowed under a Third Party Supply Agreement if and to the extent, a particular Transition Service is dependent on such agreement.

5.3 Early Termination

The Service Recipient may from time to time, on thirty (30) calendar days' notice to the other, terminate one or more of the Transition Services or a divisible component thereof, or may reduce the scope of such Transition Service. Effective as of the 30th day following delivery of any such notice, Schedule B or C, as applicable, shall be deemed to be amended to delete such Transition Service or divisible component thereof, and the Service Fees deemed to be reduced, to reflect the reduction of the scope of such service (provided that any fixed pre-paid amounts paid to a Third Party Service Provider shall not be refunded unless and to the extent that the Third Party Supply Agreement provides for such).

5.4 Termination of Agreement for Default

- (a) For the purposes of this Agreement, "**Event of Default**" shall mean the occurrence of any one or more of the following events:
 - (i) either Party's failure to pay any amount (other than a disputed amount) due and payable under this Agreement within forty-five (45) calendar days following the day on which such amount first became due and payable which failure remains unremedied thirty (30) calendar days following the paying Party's receipt of notice of such failure from the other Party; or
 - (ii) either Party's breach of any of its material obligations contained in this Agreement, which breach remains unremedied thirty (30) calendar days following the Party's receipt of notice of such breach from the other Party.
- (b) If either Party commits an Event of Default (the "**Defaulting Party**"), the other Party shall, in addition to its right to claim Losses in accordance with Article 8 have the right to terminate this Agreement or the specific Transition Service by delivery of notice to the Defaulting Party, which termination shall be effective on the 30th day following delivery of such notice.

- (c) If there is a change of Control of Seller such that a Canadian airline (or an entity that is Controlled by, or Controls, the Canadian airline) acquires Control of Seller, ACI shall have the right to terminate this Agreement by delivery of notice to the Seller which termination shall be effective one hundred and twenty (120) days following delivery of such notice. Seller shall provide notice to ACI of the change of Control as soon as it is permitted to disclose pursuant to the terms of the applicable acquisition agreement, provided that for the avoidance of doubt, ACI's right of termination shall not be effective in the event that the change of Control does not occur.

5.5 Effect of Termination

In the event of any termination of this Agreement:

- (a) such termination of this Agreement shall not prejudice or affect the rights of either Party against the other in respect of any breach of this Agreement or in respect of any amounts payable by one Party to the other in respect of any period prior to termination;
- (b) Seller shall return to ACI all ACI Data, and not retain any copies thereof (subject to Section 6.4); and
- (c) ACI shall return to the Seller all Seller Data, and not retain any copies thereof (subject to Section 6.4).

5.6 Survival

Notwithstanding any termination of this Agreement, the provisions of Sections 2.8 (c), 2.12 (for the prescribed period), 3.2, 3.3, 5.5, 6.1, 6.2, 6.3, 6.4, Articles 4 (as it relates to payment obligations incurred prior to termination), 6, 8 and 9 and any other terms herein which expressly state that such terms will survive or which by their nature are required to survive to give effect to the surviving terms stated to survive, shall survive the expiration or termination of this Agreement and continue in full force and effect.

ARTICLE 6 CONFIDENTIALITY AND DATA

6.1 Confidential Information

- (a) In the performance of this Agreement, a Party (the "**Disclosing Party**") may directly, or indirectly through its Affiliates or Third Party Service Providers, disclose Confidential Information to the other Party directly, or indirectly to its Affiliates or Third Party Service Providers, (the "**Recipient**" or "**Recipients**").
- (b) A Recipient shall not be prohibited from the disclosure of Confidential Information that it can demonstrate:
 - (i) was already lawfully known to the Recipient without breach of any legal or contractual obligation and without any continuing obligations of confidentiality or restrictions on disclosure;
 - (ii) is, or comes into, in the public domain, other than through the act or omission of the Recipient, or of any other person for whom it is responsible hereunder and to whom Confidential Information is disclosed pursuant to this Agreement;
 - (iii) is information that was lawfully disclosed to the Recipient by a third party without breach of any legal or contractual obligation; or

- (iv) was developed by the Recipient independently of and without access to the Confidential Information of the Disclosing Party and without breach of any legal or contractual obligation to the Disclosing Party.

6.2 Protection and Use

Each Recipient undertakes and agrees with respect to a Disclosing Party's Confidential Information to:

- (a) hold the Confidential Information in confidence and not, except to the extent expressly authorized under this Agreement, to disclose it to any third party, without the prior written consent of the Disclosing Party;
- (b) use the Confidential Information only for the purpose of this Agreement;
- (c) inform the Disclosing Party immediately on becoming aware, or suspecting, that any Confidential Information has become known to a third party, or otherwise has been accessed, used, disclosed or disseminated, in contravention of the terms of this Agreement; and
- (d) protect and secure the Confidential Information from unauthorized access and use, disclosure or dissemination using the same degree of care it exercises with respect to its own Confidential Information of a similar nature (using all reasonable electronic, physical and administrative means), but in any event no less of a standard of care that a reasonable prudent and diligent person would exercise, provided that wherever the Agreement specifies particular standards for particular kinds of Confidential Information (including by way of example, compliance with specified policies for specific kinds of data) those particular standards supersede the foregoing general obligations.

6.3 Permitted Disclosures

- (a) The Recipient may disclose Confidential Information, without the prior written consent of the Disclosing Party, to the following persons:
 - (i) in the case of the Seller, to its Representatives and to those Affiliates and Third Party Service Providers and such Persons' Representatives that need to know such Confidential Information to perform this Agreement and to receive the benefit of ACI Transition Services; and
 - (ii) in the case of ACI, to its Representatives and to those Affiliates and Third Party Service Providers and such Persons' Representatives that need to know such Confidential Information to perform this Agreement and to receive the benefit of the Seller Transition Services.
- (b) The Recipient may disclose Confidential Information to any court of competent jurisdiction or any Governmental Authority, provided that the Recipient shall to the extent not prohibited by Law or Governmental Authority: (i) inform the Disclosing Party, as much in advance of the disclosure as reasonably possible, of the full circumstances of the disclosure and the information that will be disclosed and take all such steps as may be reasonable and practicable in the circumstances to agree on the content of such disclosure with the Disclosing Party before making the disclosure; and (ii) strictly limit such disclosure to the specific information subject to the requirement.
- (c) Each Recipient shall be obliged to ensure that all persons to whom it discloses a Disclosing Party's Confidential Information: (i) are informed of the confidential nature of

the Confidential Information and (ii) comply with the obligations of confidentiality in this Agreement and shall be liable for any breaches of such obligation by any such persons.

6.4 Obligations on Termination

Upon the termination or expiration of the Agreement, each Recipient shall promptly return or, at the Disclosing Party's option, destroy all Confidential Information (whether held by it or other persons for which it is responsible hereunder) which is in a physical form (including all copies) and will, on request, destroy any other records (including, without limitation, those in machine-readable form) containing Confidential Information; provided that the Parties agree that in such circumstances, to the extent that electronic records containing the Confidential Information of the other Party is retained as data or records for the purposes of backup, recovery, contingency planning or business continuity planning, or are otherwise not accessible in the ordinary course of business, such data or records, to the extent not otherwise permanently deleted or overwritten in the ordinary course of business, shall not be accessed by the retaining Party except as required for backup, recovery, contingency planning or business continuity purposes and, if restored or otherwise becoming accessible, will be permanently deleted forthwith, and provided further that any such Confidential Information that is so continued to be held by a Party will remain subject to the confidentiality terms hereof for such period of time as the Confidential Information continues to be held. Each Party may retain, subject to the continuing confidentiality obligations of this Agreement, a copy of such Confidential Information as may be required in order to comply with applicable Law and to demonstrate its compliance with the terms hereof. At the request of the other Party, a Party shall provide an officer's certificate certifying compliance with the obligations set out in this Section.

6.5 SPA Terms Apply

For the avoidance of doubt, the confidentiality terms of the SPA shall apply to Confidential Information (as defined in the SPA) disclosed pursuant to the terms of the SPA.

6.6 Shared Data

- (a) The Parties acknowledge that, as at the Commencement Date, certain of their respective Representatives may have access to shared folders that contain data (including data relating to employees) that is either confidential or proprietary to the ACI Service Recipients or the Seller Service Recipients ("**Shared Data**").
- (b) The Parties shall work together in effecting the migration to ensure that, as soon as reasonably practicable:
 - (i) Shared Data is sorted into folders containing data relating to the Seller's Business on the one hand and folders containing data relating to the Business on the other hand;
 - (ii) the permissions on Shared Data folders are changed such that Seller Representatives and ACI Representatives have access to the other Party's data only to the extent needed to perform the Services; and
 - (iii) the Parties shall comply (and shall procure that their Representatives comply) with all applicable confidentiality and data protection obligations of this Agreement.

6.7 Processing of ACI Data

- (a) Seller shall access, store and process the ACI Data only to the extent necessary for, and for the sole purpose of, the provision of the Seller Transition Services during the Transition Period and otherwise subject to the terms of the SPA. ACI Data shall be

deemed to be the Confidential Information of ACI. All ACI Data shall remain the sole and exclusive property of ACI. Without limiting the foregoing Seller shall:

- (i) only process relevant ACI Data in accordance with documented instructions from ACI;
 - (ii) limit access to ACI Data to those of its employees or Seller Third Party Service Providers who need to access it for the purposes of performing the Seller Transition Services. Before granting such access, Seller shall advise each such employee or Seller Third Party Service Provider of the confidential nature of the ACI Data and the obligation to comply with Privacy Law and applicable provisions of this Agreement;
 - (iii) not disclose ACI Data to any third party other than the Seller Third Party Service Providers engaged for the purposes of providing the Seller Transition Services without the prior written consent of ACI;
 - (iv) upon becoming aware of a breach of any provision of this Section or Privacy Law or any accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access or other unlawful processing of the ACI Data;
 - (A) immediately notify ACI by telephone or otherwise (and shall promptly follow such immediate notice by written notice) with such notification to include any information required for the ACI to comply with Privacy Law (including notification obligations), to the extent Seller has such information;
 - (B) take such steps as may be reasonably necessary, or reasonably requested by ACI, to minimize the impact of the disclosure, access, use, copying, theft, loss or inability to account and any damage resulting therefrom.
 - (v) reasonably cooperate with and assist in the investigation by ACI or any Governmental Authority in relation to any complaint, claim, inquiry, investigation or remedial action, concerning Personal Information or other matters concerning compliance with Privacy Law;
 - (vi) not destroy any ACI Data unless expressly instructed to do so in writing by an authorized representative of ACI; provided that Seller shall provide copies of all ACI Data to ACI, and, as directed by ACI, permanently delete or destroy all copies of ACI Data in the possession or control of Seller; and
 - (vii) without limiting its other confidentiality obligations under this Agreement take reasonable steps to ensure the confidentiality of the ACI Data.
- (b) Seller shall promptly inform ACI of any third party (including Governmental Authorities) requests or orders (including requests for access, correction or removal) pertaining to Personal Information processed hereunder by a Seller Service Provider. If the relevant third party requests or orders Seller to disclose or make available Personal Information, the applicable Seller Service Provider shall, unless and to the extent prohibited by applicable Law, deny such third parties' access to Personal Information until ACI has been able to respond to such request or order directly and in any event shall only make such disclosure or provide access to the extent required by applicable Law.

- (c) Seller shall maintain reasonable and appropriate physical, technical and organisational protection measures against unauthorised or unlawful processing, access to or disclosure of the relevant ACI Data against accidental loss or destruction of, or damage to, the relevant ACI Data (any such event being a “**Seller Data Protection Event**”), which measures shall ensure a level of security appropriate to the risks represented by the processing and the nature of the ACI Data to be protected and the harm that might result from a Seller Data Protection Event and shall be no less protective than the measures in place and utilized by Seller immediately prior to the Closing Date.
- (d) ACI shall have the right to review from time to time the measures adopted by Seller to perform its obligations under this Agreement, including attending at Seller’s premises to review such measures. Seller shall provide its full co-operation in connection with such review.
- (e) Notwithstanding the forgoing, to the extent that a Seller Third Party Service Provider is utilized pursuant to a Third Party Supply Agreement used by the Business and in force prior to the Closing Date:
 - (i) a Seller Service Provider shall not be obligated under this Section 6.7 to implement any technical and organisational protection measures which are different than or incremental to what is in place under the terms of such Third Party Supply Agreement;
 - (ii) the relevant ACI Data shall be stored, processed and otherwise handled in accordance with the terms of such Third Party Supply Agreement and ACI shall be solely responsible to ensure that such storage, processing and handling is in accordance with ACI’s (or the applicable ACI Service Recipient’s) obligations under applicable Law and agreements with relevant third parties.

6.8 Processing of Seller Data

- (a) ACI shall access, store and process the Seller Data only to the extent necessary for, and for the sole purpose of, the provision of the ACI Transition Services during the Transition Period and otherwise subject to the terms of the SPA. Seller Data shall be deemed to be the Confidential Information of the Seller. All Seller Data shall remain the sole and exclusive property of the Seller. Without limiting the foregoing ACI shall:
 - (i) only process relevant Seller Data in accordance with documented instructions from the Seller;
 - (ii) limit access to Seller Data to those of its employees or ACI Third Party Service Providers who need to access it for the purposes of performing the ACI Transition Services; Before granting such access, ACI shall advise each such employee or ACI Third Party Service Provider of the confidential nature of the Seller Data and the obligation to comply with Privacy Law and applicable provisions of this Agreement;
 - (iii) not disclose Seller Data to any third party other than the ACI Third Party Service Providers engaged for the purposes of providing the ACI Transition Services without the prior written consent of the Seller;
 - (iv) upon becoming aware of a breach of any provision of this Section or Privacy Law or any accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access or other unlawful processing of the Seller Data;

- (A) immediately notify Seller by telephone or otherwise (and shall promptly follow such immediate notice by written notice) with such notification to include any information required for Seller to comply with Privacy Law (including notification obligations), to the extent ACI has such information;
 - (B) take such steps as may be reasonably necessary, or reasonably requested by Seller, to minimize the impact of the disclosure, access, use, copying, theft, loss or inability to account and any damage resulting therefrom.
 - (v) reasonably cooperate with and assist in the investigation by the Seller or any Governmental Authority in relation to any complaint, claim, inquiry, investigation, or remedial action concerning Personal Information or other matters concerning compliance with Privacy Law;
 - (vi) not destroy any Seller Data unless expressly instructed to do so in writing by an authorized representative of Seller; provided that ACI shall provide copies of all Seller Data to Seller, and, as directed by Seller, permanently delete or destroy all copies of Seller Data in the possession or control of ACI; and
 - (vii) without limiting its other confidentiality obligations under this Agreement take reasonable steps to ensure the confidentiality of the Seller Data.
- (b) ACI shall promptly inform the Seller of any third party (including Governmental Authorities) requests or orders (including requests for access, correction or removal) pertaining to Personal Information processed hereunder by an ACI Service Provider. If the relevant third party requests or orders ACI to disclose or make available Personal Information, ACI shall, unless and to the extent prohibited by applicable Law, deny such third parties' access to Personal Information until the Seller has been able to respond to such request or order directly and in any event shall only make such disclosure or provide access to the extent required by applicable Law.
- (c) ACI shall maintain reasonable and appropriate physical, technical and organisational protection measures against unauthorised or unlawful processing, access to or disclosure of the relevant Seller Data against accidental loss or destruction of, or damage to, the relevant Seller Data (any such event being an "**ACI Data Protection Event**"), which measures shall ensure a level of security appropriate to the risks represented by the processing and the nature of the Seller Data to be protected and the harm that might result from an ACI Data Protection Event and shall be no less protective than the measures in place and utilized by ACI immediately prior to the Initial Closing Date.
- (d) Seller shall have the right to review from time to time the measures adopted by ACI to perform its obligations under this Agreement, including attending at ACI's premises to review such measures. ACI shall provide its full co-operation in connection with such review.
- (e) Notwithstanding the forgoing, to the extent that an ACI Third Party Service Provider is utilized pursuant to a Third Party Supply Agreement used by the Business and in force prior to the Closing Date:
- (i) the relevant ACI Service Provider shall not be obligated under this Section 6.8 to implement any technical and organisational protection measures which are different than or incremental to what is in place under the terms of such Third Party Supply Agreement;

- (ii) the relevant Seller Data shall be stored, processed and otherwise handled in accordance with the terms of such Third Party Supply Agreement and Seller shall be solely responsible to ensure that such storage, processing and handling is in accordance with the Seller's (or the applicable Seller Service Recipient's) obligations under applicable Law and agreements with relevant third parties.
- (f) Except to the extent necessary to manage the DXC Contract and perform the ACI Transition Services, ACI agrees to implement measures to ensure that only those ACI Representatives which require access to:
 - (i) the Third Party Service Recipient Data shall have access to such Third Party Service Recipient Data; and
 - (ii) any Seller Customer Data.

ARTICLE 7 INTELLECTUAL PROPERTY

7.1 License by ACI

ACI hereby grants , to the Seller Service Recipients a royalty-free, non-exclusive, non-transferable, non-assignable, non-sublicensable licence to use the Intellectual Property rights owned by ACI only to the extent necessary for, and for the sole purpose of, the Seller Service Recipients' receipt of the ACI Transition Services during the relevant Transition Period.

7.2 License by the Seller

The Seller hereby grants, and shall procure that its relevant Affiliates shall grant, to the ACI Service Recipients a royalty-free, non-exclusive, non-transferable, non-assignable, non-sublicensable licence to use the Intellectual Property rights owned by the Seller (and its Affiliates) only to the extent necessary for, and for the sole purpose of, the ACI Service Recipients' receipt of the Seller Transition Services during the relevant Transition Period.

7.3 No Assignment etc.

Except as expressly set out herein neither Party or its Affiliates grant or assign any Intellectual Property rights to the other Party or its Affiliates.

7.4 IP

For the avoidance of doubt all Intellectual Property rights in work product developed:

- (a) by ACI Third Party Service Providers under a Third Party Supply Agreement for the benefit of a Seller Service Recipient shall be owned by the applicable Seller Service Recipient in accordance with the terms of the Third Party Supply Agreement; and
- (b) by Seller Third Party Service Providers under a Third Party Supply Agreement for the benefit of an ACI Service Recipient shall be owned by the applicable ACI Service Recipient in accordance with the terms of the Third Party Supply Agreement.

**ARTICLE 8
RISK MANAGEMENT**

8.1 Warranty

Each Party warrants to the other that:

- (a) it is duly constituted, organised and validly existing under the laws of the jurisdiction of its incorporation;
- (b) it has the legal right and full power and authority to execute and deliver, and to exercise its rights and perform its obligations under, this Agreement (including, subject to Section 2.4, to grant all rights and licenses to the other Party) and all the documents which are to be executed by it as envisaged by this Agreement; and
- (c) the Transition Services to be performed by it or the other Service Providers for whom it is responsible shall be performed with reasonable care and skill but subject to Section 2.2 (b).

8.2 No Other Warranty

Except as expressly set out in this Agreement there are no representations, warranties or conditions of either Party, express or implied, statutory or otherwise regarding any matter, including concerning the Transition Services, provided under this Agreement, including any warranty of merchantability or fitness for any particular purpose.

8.3 Exclusions and Limitations of Liability

- (a) SUBJECT TO SECTIONS 8.3 (B) AND (E) NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR TO ANY THIRD PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND OR NATURE WHATSOEVER (INCLUDING IN RESPECT OF LOST PROFIT OR REVENUE OR OPPORTUNITY, OR ANY OTHER ECONOMIC CONSEQUENTIAL LOSS OR DAMAGE) SUFFERED BY THE OTHER PARTY, ITS AFFILIATES OR ANY OTHER PERSON, EVEN IF SUCH DAMAGES ARE FORESEEABLE OR THE FIRST PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- (b) THE EXCLUSIONS OF LIABILITY IN SECTION 8.3(A) SHALL NOT APPLY TO (I) A BREACH BY EITHER PARTY OF ITS OBLIGATIONS OF CONFIDENTIALITY HEREUNDER OR (II) A BREACH OR MISAPPROPRIATION BY THE OTHER PARTY OF THE INTELLECTUAL PROPERTY RIGHTS OWNED BY OR LICENSED HEREUNDER BY THE OTHER PARTY.
- (c) SUBJECT TO SECTIONS 8.3 (D) AND (E) THE TOTAL LIABILITY AND OBLIGATION OF EACH PARTY AND ITS AFFILIATES TO THE OTHER PARTY AND ITS AFFILIATES IN THE AGGREGATE FOR EACH CLAIM ARISING OUT OF OR IN ANY CONNECTION WITH A TRANSITION SERVICE, WITH RESPECT TO ANY EXPENSE, DAMAGE, LOSS, INJURY, INDEMNITY OR LIABILITY OF ANY KIND, SHALL NOT EXCEED THE TOTAL SERVICE FEES PAID OR PAYABLE BY A PARTY FOR THE TRANSITION SERVICE THAT IS THE SUBJECT OF THE CLAIM DURING THE APPLICABLE TRANSITION PERIOD.
- (d) THE LIMITATIONS OF LIABILITY IN SECTION 8.3(C) SHALL NOT APPLY TO: (I) A BREACH BY EITHER PARTY OF ITS OBLIGATIONS OF CONFIDENTIALITY HEREUNDER; (II) THE FRAUD, INTENTIONAL OR WILLFUL MISCONDUCT OF A PARTY; (III) A PARTY'S ABANDONMENT OF PERFORMANCE OF TRANSITION

SERVICES OR WILLFUL REFUSAL TO PROVIDE TRANSITION SERVICES IN CIRCUMSTANCES NOT PERMITTED OR EXCUSED BY THE TERMS OF THIS AGREEMENT;(IV) A PARTY'S LIABILITY FOR DEATH OR PERSONAL INJURY; (V) A BREACH OR MISAPPROPRIATION BY A PARTY OF THE INTELLECTUAL PROPERTY RIGHTS OWNED BY, OR LICENSED HEREUNDER BY, THE OTHER PARTY; OR (VI) A PARTY'S LIABILITY TO PAY THE SERVICE FEES UNDER THIS AGREEMENT.

- (e) NOTWITHSTANDING THE FOREGOING EXCLUSIONS AND LIMITATIONS OF LIABILITY SET OUT ABOVE IN THIS SECTION 8.3 AND ANY OTHER PROVISION OF THIS AGREEMENT, NOTHING IN THIS AGREEMENT LIMITS OR EXCLUDES THE LIABILITY OF A PARTY TO THE EXTENT IT CANNOT BE LIMITED OR EXCLUDED PURSUANT TO APPLICABLE LAW.
- (f) NOTWITHSTANDING THE FOREGOING EXCLUSIONS AND LIMITATIONS OF LIABILITY SET OUT ABOVE IN THIS SECTION 8.3 AND ANY OTHER PROVISION OF THIS AGREEMENT, THE TERMS OF THE RELEVANT THIRD PARTY SUPPLY AGREEMENT SHALL APPLY TO:
 - (i) THE PROVISION OF THE RELATED TRANSITION SERVICES BY A SERVICE PROVIDER SUCH THAT THE SERVICE PROVIDER SHALL BE LIABLE TO THE SERVICE RECIPIENT, AND THE SERVICE RECIPIENT SHALL HAVE NO LESS RECOURSE AGAINST THE SERVICE PROVIDER THAN, THE SERVICE PROVIDER IS LIABLE TO, AND HAS AGAINST, THE THIRD PARTY SERVICE PROVIDER PROVIDED HOWEVER THAT SERVICE RECIPIENT SHALL ONLY BE ENTITLED TO ITS PRO-RATA SHARE OF LOSSES SUFFERED AND THAT ARE RECEIVED FROM THE THIRD PARTY SERVICE PROVIDER; AND
 - (ii) THE RECEIPT OF THE RELATED TRANSITION SERVICES BY A SERVICE RECIPIENT SUCH THAT THE SERVICE RECIPIENT SHALL BE LIABLE TO THE SERVICE PROVIDER, AND THE SERVICE PROVIDER SHALL HAVE NO LESS RECOURSE AGAINST THE SERVICE RECIPIENT THAN, THE SERVICE PROVIDER IS LIABLE TO, AND HAS AGAINST, THE THIRD PARTY SERVICE PROVIDER.
- (g) The foregoing limitations and exclusions of liability shall apply regardless of the form of action or theory of liability (including for breach of contract, rescission, tort, negligence, strict liability, by statute or otherwise) and shall survive a fundamental breach or breaches or the failure of the essential purpose of this Agreement or of any remedy contained herein. Each Party agrees that the limitations and exclusions contained in this section are reasonable based upon the commercial circumstances, including the consideration paid, of this Agreement, and no Party would have entered into this Agreement but for such limitations and exclusions contained herein.

8.4 Indemnification

- (a) Each Party (the "**Indemnifier**") shall indemnify, defend and save harmless the other Party and the other Party's Representatives (collectively the "**Indemnified Party**"), from and against any and all Loss suffered by, imposed upon, asserted against, or incurred by the Indemnified Party as a result of or arising in connection with:
 - (i) any inaccuracy, misrepresentation or breach of any representation or warranty made or given by a Party in this Agreement;

- (ii) any failure by a Party to observe, fulfill or perform any covenant or obligation contained in this Agreement; and
 - (iii) any Third Party Claim.
- (b) Sections 9.5 to 9.13 (excluding Section 9.10) of the SPA shall apply *mutatis mutandis* to any Third Party Claim made pursuant to this Section 8.4.
 - (c) For certainty, indemnities covered under the SPA will be governed in accordance with the terms and conditions of the SPA.

ARTICLE 9 GENERAL

9.1 Notices

- (a) Any demand, notice or other communication to be given in connection with this Agreement shall be given in writing and will be given by personal delivery, by registered mail, by courier services or e-mail or by facsimile addressed to each Party as set forth in Schedule D. or to other coordinates that have been designated by notice by any recipient Party to the others, to such other coordinates.
- (b) Any demand, notice or other communication given by personal delivery or courier services shall be conclusively deemed to have been given on the day of actual delivery thereof and, if given by registered mail, on the third (3rd) Business Day following the deposit thereof in the mail and, if given by e-mail or facsimile, on the day of transmittal thereof if given during the normal business hours of the recipient on a Business Day and on the next Business Day if not given during such hours. If the Party giving any demand, notice or other communication knows or ought reasonably to know of any difficulties with the postal system that might affect the delivery of mail, any such demand, notice or other communication may not be mailed but must be given by personal delivery or by e-mail (followed by receipt by registered mail or courier services within two (2) Business Days).

9.2 Amendments and Waivers

No amendment to this Agreement shall be valid or binding unless set forth in writing and duly executed by all Parties. No waiver of any breach of any provision of this Agreement or any waiver or consent to depart from the requirements of this Agreement shall be effective or binding unless made in writing and signed by the Party purporting to give the same.

9.3 Force Majeure

Neither Party will be held responsible or deemed to be in default of this Agreement for its delay, failure or inability to meet any of its obligations under this Agreement to the extent caused by or arising from any cause which is beyond the reasonable control of the Party affected thereby and which delays or prevents the performance by such Party of any of its obligations under this Agreement and is not caused by its default or negligence and is not avoidable by the exercise of reasonable care, including due to war, warlike operations, terrorism, riot, insurrection, orders of Government, strikes, lockouts, disturbances or any other act of God which frustrates the performance of this Agreement (each such event or circumstance, a "**Force Majeure Event**"). Force Majeure Events do not include third party non-performance except to the extent such non-performance is due to a Force Majeure Event. If a Force Majeure Event is not capable of being cured or is not cured within sixty (60) days, the non-affected Party may, but is under no obligation to, terminate this Agreement or the affected Transition Service. If either Party is affected by a Force Majeure Event, it will promptly notify the other Party of its nature and extent.

9.4 Successors, Assigns and Assignment

- (a) This Agreement will enure to the benefit of and be binding upon the respective successors (including any successor by reason of the amalgamation or statutory arrangement of any Party) and permitted assigns of the Parties.
- (b) This Agreement may not be assigned by any Party without the prior written consent of the other Party and provided that any consented assignment shall be at no additional cost or charge (including, without limitation, any additional tax-related costs) to the non-assigning Party.

9.5 Subcontracting

A Party shall remain responsible and liable hereunder for all Persons to whom it delegates its rights and obligations, including all such Persons' compliance with the terms of this Agreement.

9.6 No Waiver

No waiver of any breach of any provision of this Agreement or any waiver or consent to depart from the requirements of this Agreement shall be effective or binding unless made in writing and signed by the Party purporting to give the same.

9.7 Independent Parties

The Parties are and shall at all times remain independent contractors and are not and shall not represent themselves to be the agent, joint venturer, co-employer, fiduciary, trustee, franchisee, partner or employee of the other, or to be related to the other Party other than as its independent contractor. No Party shall make any representations or take any acts which could establish any apparent or actual fiduciary relationship or any relationship of agency, trust, franchise, joint venture, co-employer, partnership, dependent contractor or employment, and no Party shall be bound in any manner whatsoever by any agreements, warranties, representations or undertakings made by the other Party to any other Person nor with respect to any other action of it. No acts of control or any assistance given by any Party to another Party shall be construed so as to alter this relationship.

9.8 Remedies

The rights and remedies provided in this Agreement are cumulative and, except as otherwise specifically provided in this Agreement, are not exclusive of any rights or remedies which either Party may otherwise have at law or in equity.

9.9 Further Assurances

Each Party shall to the fullest of its ability cooperate with and assist each other and take (or cause to be taken) such action, including to execute (or cause to be executed) all such further documents as are reasonably required to implement and give full effect to the rights provided and the transactions contemplated by this Agreement.

9.10 No Third Party Beneficiaries

Other than in the case of an assignment referred to in Section 9.6, this Agreement will not create any third party beneficiary rights.

9.11 Counterparts

This Agreement may be executed in one or more counterparts, each of which shall conclusively be deemed to be an original but all of which taken together shall be deemed to constitute one and the same agreement and shall become effective, when one or more counterparts have been signed by each of the Parties and delivered to the other Parties. A facsimile, PDF or other electronic transmission of this Agreement bearing a signature on behalf of a party shall be legal, valid and binding on such party and have the same force and effect as a manually signed original.

The next page is the signature page.

IN WITNESS WHEREOF the Parties have executed this Agreement on the date first above written.

AIMIA INC.

Per: _____

Name: ●

Title: ●

AIMIA CANADA INC.

Per: _____

Name: ●

Title: ●

[*Transition Services Agreement signature page*]

SCHEDULE A

DEFINITIONS

“**ACI**” has the meaning given in the preamble.

“**ACI Data**” means all data and information supplied or provided or made available directly or indirectly to the Seller Service Providers in any connection with the Agreement and the Transition Services, including: (a) Personal Information; and (b) the result of the processing of any such data and information, or data that is generated or derived or collected in any connection with the provision of the Seller Transition Services.

“**ACI Data Protection Event**” has the meaning given in Section 6.8(c).

“**ACI Indemnitees**” means ACI and its Affiliates, and such Persons’ Representatives and successors and assigns.

“**ACI Service Providers**” means ACI, ACI Affiliates and ACI Third Party Service Providers.

“**ACI Service Recipients**” means ACI.

“**ACI Third Party Service Providers**” means DXC and other third parties with which ACI, or an ACI Affiliate has contracted to provide products, technology or services to ACI or ACI Affiliate.

“**ACI Transition Period**” means, in respect of each of the specific ACI Transition Services, the period commencing on the Closing Date and lasting for the period specified in Schedule B.

“**ACI Transition Services**” means the transition services to be provided by ACI or an ACI Third Party Service Provider as described in Schedule B of this Agreement.

“**Affiliate**” means with respect to any Person, any Person which Controls, is Controlled by, or is under common Control with, directly or indirectly, such Person.

“**Agreement**” means this transition services agreement, including all attached schedules and all amendments and restatements, as permitted, and references to an “**Article**” and “**Section**” in this Agreement mean the specified Article or Section of this Agreement.

“**Authorizations**” means consents, approvals or permissions required to be obtained for the use of a Third Party Supply Agreement.

“**Authorization Expenses**” has the meaning given in Section 2.6(a).

“**Business**” has the meaning given in the Recitals.

“**Business Day**” means any day on which Canadian chartered banks are generally open for business in Montréal (Quebec) and Toronto (Ontario) other than a Saturday or a Sunday.

“**Claims**” means claims, notices, demands, requests, complaints, proceedings, actions, applications, arbitrations, suits, causes of action, appeals, audits, hearings, investigations, inquiries, assessments or reassessments, charges, judgments, grievances, or hearings.

“**Closing**” has the meaning given in the SPA.

“**Closing Date**” has the meaning given in the SPA.

“Commencement Date” means the first Business Day following the Closing Date.

“Commercially Reasonable Efforts” means the good faith efforts that a reasonable and prudent person who desires to achieve a business result would use in similar circumstances to ensure that such result is achieved as expeditiously as possible in the context of a commercial transaction; provided, however that this obligation does not require a Person to take extraordinary measures, including the payment of amounts in excess of normal or usual filing or processing fees, if any, or any other payments that are disproportionate to the relative benefits in the applicable context.

“Confidential Information” means all data and information in any form whatsoever howsoever disclosed or received by the Seller and its Affiliates on the one hand, and ACI and its Affiliates on the other hand, in connection with the performance of this Agreement, including information that: (a) is stamped, marked or labelled confidential or proprietary or in a similar manner; (b) is disclosed verbally if the recipient is advised of the confidential nature of the information; (c) a reasonable person would consider to be confidential given the nature of the information and the circumstances of disclosure; and (d) is developed by reference to or use of a disclosing party’s information, and in the case of the Seller and its Affiliates, Confidential Information shall be deemed to include: (i) the Seller Data; (ii) all information relating to the business, technology, personnel and other affairs of the Seller and its Affiliates and their respective suppliers, subcontractors, agents and customers; and in the case of ACI and its Affiliates Confidential Information shall be deemed to include (i) the ACI Data and (ii) all information relating to the business, technology, personnel and other affairs of ACI and its Affiliates and their respective suppliers, subcontractors, agents and customers.

“Control” (including **“Controlled”** or any variation thereof) means (a) in respect of a corporation, a company or a similar entity, the ownership, directly or indirectly through other Controlled entities, of shares, units or other equity interests of such corporation or company carrying more than 50% of the voting rights ordinarily exercisable at meetings of shareholders or members of such corporation or company, and (b) in respect of a partnership, joint venture or other entity that is not a corporation, a company or a similar entity, the ownership, directly or indirectly through other Controlled entities, of more than 50% of the voting and ownership interests of such partnership, joint venture or other entity or the right to direct, or cause the direction, of the senior management and policies of any such entity (including as a trustee or general partner).

“Defaulting Party” has the meaning given in Section 5.4(b).

“Disclosing Party” has the meaning given in Section 6.1(b)

“Dispute” has the meaning given in Section 3.2 (a).

“DXC” means ESIT Canada Enterprise Services Co., a company incorporated under the laws of Nova Scotia whose registered head office is 5150 Spectrum Way, Mississauga, Ontario, L4W 5G1, Canada.

“DXC Contract” means the Master Services Agreement between Aimia Canada Inc. and ESIT Canada Enterprise Services Co. dated May 13, 2015, as amended.

“DXC Services” means the services provided by DXC under the DXC Contract.

“End of Service Books and Records” means any books, records and accounts of ACI or the Seller produced by or received by a Service Provider in the performance of Transition Services which are designated as a finance processing services in Schedule B or C, as applicable, which books, records and accounts may include invoices, financial records, personnel records, Tax Returns, correspondence with Tax Authorities and notices of assessment and reassessment, and any analyses, presentations or other documentation pertaining to financial information.

“Effective Date” has the meaning first given above.

“Event of Default” has the meaning given in Section 5.4(a).

“Force Majeure Event” has the meaning given in Section 9.3.

“Governmental Authority” means any (a) multinational, federal, provincial, state, regional, municipal, local, governmental or public department, ministry, central bank, court, tribunal, arbitral body, commission, commissioner, agency board or bureau, domestic or foreign, (b) any subdivision, board or authority of any of the foregoing, (c) any quasi-governmental or private body exercising any regulatory, administrative, expropriation or Tax Authority (as defined in the SPA) under or for the account of any of the foregoing, (d) any judiciary or quasi-judiciary tribunal, court or body; (e) any self-regulatory authority (including the Toronto Stock Exchange; and (f) any securities regulator.

“IFRS” means generally accepted accounting principles in Canada as set out in the CPA Canada Handbook – Accounting which incorporates the International Financial Reporting Standards applied on a basis consistent with previous years.

“Indemnifier” has the meaning given in Section 8.4(a).

“Indemnified Party” has the meaning given in Section 8.4(a).

“Intellectual Property” means any and all intellectual property rights whether registered or not, including those rights arising out of or related to: (i) all domestic and foreign patents and applications therefor and all re-examinations, reissues, divisions, renewals, extensions, provisionals, continuations and continuations-in-part thereof; (ii) all trade-marks, trade names, service marks, service names, certification marks, brands, logos, trade dresses, domain names and social media identifiers, together with the goodwill associated therewith; (iii) all copyrights and works protected by copyright (including computer software, documentation, designs, schematics, specifications or records), data rights, integrated circuit topographies and protected plant varieties; (iv) all industrial designs and CAD designs; (v) all inventions (whether or not patentable); and (vi) all proprietary and confidential business and technical information including technical data, trade secrets, ideas, formulae, algorithms, methods, techniques, processes, research and development and technology know-how, databases, data compilations and collections and technical data; including, in the case of each of clauses (i) through (v), inclusively, whether such rights are registered or not and, in the case of each of clauses (i) through (vi), exclusively, any and all registrations, applications, recordings, common-law rights, and all moral rights however denominated, throughout the world and in all media now known, and all rights to sue at law or in equity for any past infringement or other impairment of any and all of the foregoing, including the right to receive all proceeds and damages therefrom, where applicable at Law.

“Laws” means all laws (including common law, civil law and equity), statutes, codes, ordinances, decrees, rules, regulations, by-laws, statutory rules, published policies and guidelines, bulletins and enforcement advisories, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions or rulings and terms and conditions of any grant of approval, permission, authority or Permit, in all cases, having the force of law, of any Governmental Authority, self-regulatory authority or statutory body, 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 or claiming to exercise legal jurisdiction over the Person or Persons or its or their business, undertaking, property or securities.

“Losses” means any and all loss, liability, damage, interest, cost or expense resulting from or arising out of any Claim, including the costs and expenses of any action, suit, proceeding, demand, assessment, reassessment, judgment, settlement or compromise relating thereto and all interest, punitive damages, fines and penalties and reasonable legal fees and expenses incurred in connection therewith, but excluding, except to the extent awarded by a Governmental Authority pursuant to a Third Party Claim, any incidental, indirect, special, exemplary, punitive or consequential damage or loss of profits (including loss of revenue, income or profits, diminution of value or loss of business reputation or opportunity or goodwill).

“Other Seller Divested Businesses” has the meaning given in Section 2.8(b)(ii).

“Migration Plan” means the mutually agreed plan to achieve a timely and efficient separation of the operational processes, technology and communications systems and services of the Business and Seller Business, and any remaining Shared Contracts.

“Non-Competition Agreement” has the meaning given in the SPA.

“Parties” means the Seller and ACI and **“Party”** means either the Seller and ACI as the context may require.

“Person” includes any individual, trust, trustee, executor, administrator, legal personal representative, estate, firm, partnership, joint venture, venture capital fund, joint stock company, association, body corporate, corporation, unincorporated association or organization, Governmental Authority, syndicate or other entity, whether or not having legal status.

“Personal Information” has the meaning given in the SPA.

“Personnel” has the meaning given in Section 2.5(a)(i).

“Prime Rate” means the annual rate of interest announced from time to time by the Royal Bank of Canada as being its reference rate then in effect for determining interest rates on commercial loans in Canadian dollars made in Canada to its most credit worthy borrowers by such bank plus three (3)%.

“Purchaser” means Air Canada.

“Recipient” has the meaning given in Section 6.1(a).

“Representatives” means the directors, officers, employees (including individuals that are independent contractors engaged to supplement the work force), and professional advisors of a Party, its Affiliates or its Third Party Service Providers engaged to advise it, or assist it, in respect of the matters governed by this Agreement.

“Sales Taxes” means any sales and use taxes, goods and services tax, harmonized sales tax, Quebec sales tax, value-added tax or any other similar taxes imposed by any Governmental Authority but excluding any taxes imposed on the gross or net income and/or gross or net receipts, or taxes which are capital, property, doing business, excess profit, net worth or franchise, or any similar taxes or charges (including any interest and penalties thereon).

“Retained Shared Contracts” has the meaning given in the SPA.

“Section 5.2 Contracts” means **commercially sensitive and confidential information redacted**

“Seller Data” means all data and information supplied or provided or made available directly or indirectly to the ACI Service Providers in any connection with the Agreement and the Transition Services, including: (a) Personal Information; and (b) the result of the processing of any such data and information, or data that is generated or derived or collected in any connection with the provision of ACI Transition Services, and includes Seller Customer Data.

“Seller” has the meaning given in the preamble.

“Seller Business” means the businesses of Seller and its Affiliates carried on after Closing following the sale of ACI and the Business to Purchaser.

“Seller Customer Data” means all data and information of a customer of the Seller or a Seller Affiliate supplied or provided or made available directly or indirectly to ACI and ACI Affiliates in any connection with the DXC Contract, including: (a) Personal Information; and (b) the result of the processing of any such data and information, or data that is generated or derived or collected in any connection with the performance of the DXC Contract.

“Seller Data Protection Event” has the meaning given in Section 6.7(c).

“Seller Service Providers” means Seller, Seller Affiliates and Seller Third Party Service Providers.

“Seller Service Recipients” means the Seller, the applicable Seller Affiliates and the applicable Third Party Service Recipients.

“Seller Third Party Service Providers” means any third party with which Seller or a Seller Affiliate has contracted to provide products, technology or services to Seller or Seller Affiliate.

“Seller Transition Period” means, in respect of each of the specific Seller Transition Service, the period commencing on the Closing Date and lasting for the period specified in Schedule C.

“Seller Transition Services” means the transition services to be provided by the Seller or a Seller Third Party Service Provider as described in Schedule C of this Agreement.

“Senior Executive” means the Chief Financial Officer in the case of the Seller, and VP, E-Commerce and Loyalty, Air Canada in the case of ACI.

“Service Fees” has the meaning given in Section 4.1(a).

“Service Providers” means the ACI Service Providers and the Seller Service Providers.

“Service Recipients” means the Seller Service Recipients and the ACI Service Recipients.

“Shared Contracts” has the meaning given in the SPA.

“Shared Data” has the meaning given in Section 6.6 (a).

“SPA” has the meaning given in the Recitals.

“Tax Authority” or **“Tax Authorities”** has the meaning given in the SPA.

“Tax Returns” has the meaning given in the SPA.

“Third Party Claim” means any Claim asserted against an Indemnified Party that is paid or payable to, or claimed by, any Person who is not a Party or an Affiliate of a Party.

“Third Party Service Providers” means the Seller Third Party Service Providers and the ACI Third Party Service Providers.

“Third Party Service Recipients” means the third party recipients of DXC Services provided by the Seller, or Seller Affiliate(s), pursuant to separate transition services agreements.

“Third Party Service Recipient Data” means all data and information of a Third Party Service Recipient supplied or provided or made available directly or indirectly to ACI and ACI Affiliates in any connection

with the DXC Contract, including: (a) Personal Information; and (b) the result of the processing of any such data and information, or data that is generated or derived or collected in any connection with the performance of the DXC Contract and transition services supplied to the Third Party Service Recipients.

“Third Party Supply Agreements” means:

- (a) in the case of the Seller, the agreements entered into by the Seller and its Affiliates with Seller Third Party Service Providers pursuant to which such Third Party Service Providers provide products, technology (including software) and/or services and will be required for the purposes of Seller Transition Services; and
- (b) in the case of ACI, the agreements entered into by ACI and its Affiliates (or transferred to ACI or an Affiliate of the Purchaser by operation of the SPA) with ACI Third Party Service Providers pursuant to which such Third Party Service Providers provide products, technology (including software) and/or services and will be required for the purposes of ACI Transition Services.

“Transferred Shared Contracts” has the meaning given in the SPA.

“Transition Periods” means each of the ACI Transition Periods or the Seller Transition Periods, as applicable.

“Transition Services” means collectively the Seller Transition Services and the ACI Transition Services.

“TSA Project Managers” means the project managers appointed under the SPA to act as the primary contact between the Parties and to manage the provision of the Transition Services under the Agreement.

“TSA Work Stream Lead” has the meaning given in Section 3.1(a).

SCHEDULE B

ACI TRANSITION SERVICES

Commercially sensitive and confidential information redacted.

SCHEDULE C

SELLER TRANSITION SERVICES

Commercially sensitive and confidential information redacted.

SCHEDULE D

NOTICES

Addressed to	With a copy to
<p>Aimia Canada Inc. 7373 Côte Vertu Boulevard West Saint-Laurent (Québec) H4S 1Z3</p> <p>Attention: <i>*Confidential Contact Details Redacted*</i></p> <p>E-mail: <i>*Confidential Contact Details Redacted*</i></p>	<p>Fasken Martineau DuMoulin LLP 800 Square Victoria, Suite 3700 Montreal (Quebec) H4Z 1E9</p> <p>Attention: Neil Kravitz; Claude Jodoin; Constantinos Ragas</p> <p>Email: nkravitz@fasken.com; cjodoin@fasken.com; cragas@fasken.com</p>
<p>Aimia Inc. 525 Viger Avenue West, Tour Aimia, Suite 1000 Montreal (Quebec) H2Z 0B2</p> <p>Attention: <i>*Confidential Contact Details Redacted*</i></p> <p>E-mail: <i>*Confidential Contact Details Redacted*</i></p>	<p>Norton Rose Fulbright Canada LLP 1 Place Ville Marie, Suite #2500 Montreal (Quebec) H3B 1R1</p> <p>Attention: Robert Percival; Elliot Shapiro</p> <p>E-mail: robert.percival@nortonrosefulbright.com; elliott.shapiro@nortonrosefulbright.com</p>

SCHEDULE E
MIGRATION PLAN

SCHEDULE F

FORM OF PREMISES USE AGREEMENT

Commercially sensitive and confidential information redacted.

APPENDIX 1 TO SCHEDULES B AND C

SERVICE FEES

Commercially sensitive and confidential information redacted.

SCHEDULE 3.1
REPRESENTATIONS AND WARRANTIES IN RESPECT OF THE VENDOR

3.1.1 *Organization.* The Vendor: (i) has been duly incorporated under all applicable Laws, is organized and validly subsisting and is in good standing under the Laws of its jurisdiction of incorporation; and (ii) has full power and authority to own its assets as currently owned and carry on its business. No resolution has been adopted providing for the dissolution or winding up of the Vendor. There has been no formal request for the winding up or the dissolution of the Vendor, or for the appointment of a receiver or trustee or any similar person or entity to manage its affairs, nor has any petition been filed with any competent authority requesting the initiation of any restructuring or liquidation procedures with respect to the Vendor. The Vendor has not been declared unable to meet its debts as they become due, and there is no valid basis currently existing upon which it could be reasonably expected that a third party require the dissolution or winding up of the Vendor.

3.1.2 *Authority.*

- (a) Subject to the Transaction Resolution Approval, the Vendor has all necessary power, capacity and authority to execute and deliver the Agreement and each Closing Document to which it is a party and to perform its obligations hereunder and thereunder.
- (b) The board of directors of the Vendor has received the Fairness Opinion, and after consultation with legal and financial advisors, has unanimously:
 - (i) determined that the Transactions are fair and in the best interests of the Vendor;
 - (ii) approved this Agreement and the consummation of the Transactions contemplated hereby (subject only to the Transaction Resolution Approval);
 - (iii) resolved to recommend that Shareholders vote in favour of the Transaction Resolution; and
 - (iv) authorized the inclusion of a statement in the Circular as to the number and percentage of Common Shares and Preferred Shares held by Shareholders who have (subject to the terms of the Support Agreements) committed to vote in favour of the Transaction Resolution pursuant to the terms of the Support Agreements.
- (c) The execution of this Agreement and the execution of the Closing Documents by, and, subject to the Transaction Resolution Approval, the consummation of the Transactions contemplated thereby, have been duly authorized by the board of directors of the Vendor.

- (d) This Agreement has been and each of the Closing Documents to which the Vendor is a party will on Closing have been duly executed by the Vendor and this Agreement constitutes and each Closing Document to which the Vendor is a party will, at Closing, constitute a legal, valid and binding obligation, enforceable against the Vendor in accordance with their respective terms, subject to bankruptcy, insolvency and other similar Laws affecting creditors' rights generally.
- 3.1.3 *No Violation.* Except for Third Party Consents, the approval of this Agreement and each of the Closing Documents to which the Vendor is a party, the execution by the Vendor of this Agreement and of each of the Closing Documents to which it is a party and the performance by it of its obligations hereunder and thereunder and the completion of the Transactions do not and will not result in:
- (a) a violation of, default under or breach of, require any consent to be obtained under or give rise to any termination rights by a third party or rights of a third party the exercise of which would result in any breach or default under any provision of or the acceleration of any obligation under: (i) any Constating Records of the Vendor, (ii) any Contract, or Permit to which the Vendor is party or by which the Vendor is bound, or to which the Vendor is subject or of which the Vendor is the beneficiary, (iii) any shareholders' agreement, or (iv) any applicable Laws; or
 - (b) the creation or imposition of any Encumbrance upon the Purchased Shares.
- 3.1.4 *Approvals and Consents.* Except for Third Party Consents, the Transaction Resolution Approval and the Regulatory Approvals, no consent, approval, notice, Order, authorization, registration, declaration, filing, submission of information, waiver, sanction, license, exemption or Permit is necessary, is a condition to, or is otherwise required to be obtained by the Vendor from any Governmental Authority or Person or pursuant to any Law, or pursuant to any Employee Plan, in connection with the execution of this Agreement or any Closing Document to which the Vendor, the Corporation or the Subsidiary is a party or the consummation by the Vendor of the Transactions.
- 3.1.5 *Title to Purchased Shares.* Except as set forth in Section 3.1.5 of the Disclosure Letter, the Vendor is, and will be at Closing, the sole registered and beneficial owner of, and has, and will have at Closing, good and marketable title to all of the Purchased Shares, free and clear of all Encumbrances.
- 3.1.6 *Residency.* The Vendor is not a "non-resident" of Canada within the meaning of the Tax Act.
- 3.1.7 *No Broker.* The Vendor has no liability of any kind to any broker, intermediary, agent or any similar Person for or on account of the Transactions for which the Corporation, the Subsidiary or the Purchaser is or may become liable.
- 3.1.8 *Financial Capacity.* At Closing, the Vendor will have sufficient liquid financial resources to exercise the Defeasance Option in accordance with the Trust Indenture.

- 3.1.9 *Legal Proceedings.* There is no Claim, Order or investigation pending or, to the knowledge of the Vendor, Threatened against the Vendor, or affecting any of the securities or any permits, assets or business practices of the Vendor before any Governmental Authority, nor is the Vendor aware of any facts which should, or could, form the basis of any such Claim, Order, investigation, which in any case would reasonably be expected to result in a Material Adverse Change or impede or prevent the consummation of the Transactions at Closing in accordance herewith.
- 3.1.10 *Competing Transactions.* Since the date of the Agreement in Principle, neither the Vendor nor any of its Affiliates has received any inquiry or proposal from, discussed or negotiated with, provided any information to or considered any inquiries or proposals from any Person with respect to any Competing Transaction.

SCHEDULE 3.2
REPRESENTATIONS AND WARRANTIES IN RESPECT OF THE CORPORATION
AND THE SUBSIDIARY

- 3.2.1 *Organization.* Each of the Corporation and the Subsidiary has been duly incorporated, is validly organized and subsisting and is in good standing under the Laws of its jurisdiction of incorporation. Each of the Corporation and the Subsidiary has full power and authority to own and lease its assets and carry on its businesses as currently owned and carried on. Each of the Corporation and the Subsidiary is duly registered, licensed or qualified to carry on business in each jurisdiction in which the nature of the business now being carried on or the property owned or leased by it makes such registration, licensing or qualification necessary, all of which are set forth in Section 3.2.4 of the Disclosure Letter. No resolution has been adopted providing for the dissolution or winding up of the Corporation or the Subsidiary. There has been no formal request for the winding up or the dissolution of the Corporation or the Subsidiary, or for the appointment of a receiver or trustee or any similar person or entity to manage any of their affairs, nor has any petition been filed with any competent authority requesting the initiation of any restructuring or liquidation procedures with respect to the Corporation or the Subsidiary. Neither the Corporation nor the Subsidiary has been declared unable to meet its debts as they fall due, and there is no valid basis currently existing upon which it could be reasonably expected that a third party could require the dissolution or winding up of the Corporation or the Subsidiary.
- 3.2.2 *Authority.* The Corporation has all necessary power, capacity and authority to execute and deliver this Agreement and each Closing Document to which it is a party and to perform its obligations hereunder and thereunder. The execution of this Agreement and the execution of the Closing Documents, and the consummation of the Transactions (including the transfer of the Purchased Shares to the Purchaser hereunder), have been duly authorized by the board of directors of the Corporation. This Agreement has been and each of the Closing Documents to which the Corporation is a party will on Closing have been duly executed by the Corporation, and this Agreement constitutes and each Closing Document to which the Corporation is a party will, at Closing, constitute a legal, valid and binding obligation, enforceable against the Corporation in accordance with their respective terms, subject to bankruptcy, insolvency and other similar Laws affecting creditors' rights generally.
- 3.2.3 *No Violation.* Except for Third Party Consents, the completion of the Transactions do not and will not result in:
- (a) a violation of, default under or breach of, conflict with, require any consent to be obtained under or give rise to any termination rights by a third party, payment obligation by the Corporation or the Subsidiary, or rights of a third party the exercise of which would result in any breach or default under any provision of or the acceleration of any obligation under: (i) any Constating Records of the Corporation or the Subsidiary, (ii) any Contract, or Permit to which the Corporation or the Subsidiary is party or by which the Corporation or the

Subsidiary is bound, or by which the Corporation or the Subsidiary is subject or is the beneficiary, (iii) any shareholders' agreement, or (iv) any applicable Laws; or

- (b) the creation or imposition of any Encumbrance upon the Purchased Shares.

3.2.4 *Capitalization.*

- (a) Section 3.2.4 of the Disclosure Letter contains a complete and accurate list showing: (i) the legal name, trade names and jurisdiction of incorporation of the Corporation and the Subsidiary, as well as the jurisdictions in which they are authorized to do business, (ii) the Corporation's and the Subsidiary's authorized as well as issued and outstanding share capital, securities or other ownership interests (together with the holders thereof), and (iii) the directors and officers of the Corporation and the Subsidiary. The Corporation does not hold any direct or indirect interest in any Person other than the Subsidiary. The Subsidiary does not hold any direct or indirect interest in any Person.
- (b) All of the outstanding share capital, securities and other ownership interests of the Corporation and of the Subsidiary are set forth in Section 3.2.4 of the Disclosure Letter and all have been duly authorized, are validly issued, fully paid and non-assessable and except as disclosed in Section 3.2.4 of the Disclosure Letter, all such share capital, securities and other ownership interests are owned directly by the Vendor (or the Corporation, in the case of the securities of the Subsidiary), free and clear of all Encumbrances.
- (c) Other than as set forth in Section 3.2.4 of the Disclosure Letter, there is no:
 - (i) outstanding security held by any Person which is convertible or exchangeable into shares, securities or rights in the capital of the Corporation or the Subsidiary;
 - (ii) outstanding subscription, option, warrant, call, pre-emptive right, commitment or agreement of any nature whatsoever, written or oral (other than this Agreement) obligating the Corporation or the Subsidiary to issue, sell, redeem, purchase or transfer shares or securities which in any way relate to the authorized or issued capital of the Corporation or the Subsidiary;
 - (iii) agreement, commitment or understanding of any nature whatsoever, written or oral (other than the Agreement) which grants to any Person the right to purchase or otherwise acquire or have a Claim against issued and outstanding shares or securities of the Corporation or the Subsidiary;
 - (iv) shareholders' agreement, voting trust, voting agreement, pooling agreement or proxy with respect to any shares, securities or other ownership interests of the Corporation or the Subsidiary; or

- (v) partnership, trust, joint venture, association or similar jointly owned business undertaking of whatsoever nature involving the Corporation or the Subsidiary.
 - (d) Neither the Vendor, nor any Shareholder or other securityholder has any Claim against the Corporation or the Subsidiary with respect to the declaration or payment of any dividends or distributions.
- 3.2.5 *Constating Records.* The Constating Records of the Corporation and the Subsidiary are complete and accurate in all material respects, and are maintained in accordance with all applicable Laws and contain copies of all Constating Records and resolutions passed by the shareholders and directors of the Corporation and the Subsidiary since the date of their incorporation (including with respect to any dividends authorized or paid by the Corporation or the Subsidiary). Complete and accurate copies of the Constating Records of the Corporation and the Subsidiary which reflect all amendments made thereto have been delivered to the Purchaser. Neither the Corporation nor the Subsidiary is in default under, or in violation of, any provision of its Constating Records. All actions and corporate proceedings reflected in the Constating Records have been conducted or taken in compliance with applicable Laws in all material respects.
- 3.2.6 *Private Issuer Status.* Each of the Corporation and the Subsidiary is a “private issuer” within the meaning of NI 45-106.
- 3.2.7 *Compliance with Laws.* Except as set forth in Section 3.2.7 of the Disclosure Letter, each of the Corporation and the Subsidiary complies and has complied in all material respects with, and is not, and has at no time been, in material violation of any applicable Laws or received at any time any notice, written or oral, of any actual or alleged violation under or non-compliance with any applicable Law and, to the knowledge of the Vendor, there is no basis therefor. Except as set forth in Section 3.2.7 of the Disclosure Letter, there is no investigation, request for information, or other proceeding by any Governmental Authority pending or, to the knowledge of the Vendor, Threatened against the Corporation or the Subsidiary. Without limiting the generality of the foregoing, all securities of the Corporation or the Subsidiary have been issued in compliance with all applicable securities Laws.
- 3.2.8 *Absence of Questionable Payments.* Neither the Corporation, the Subsidiary, nor, to the knowledge of the Vendor, any of their respective directors or officers, employees, agents, sales representatives, distributors or other Persons acting at the direction and on behalf of the Corporation or the Subsidiary, has used the Corporation’s funds or made unlawful contributions, unlawful payments or unlawful gifts or made unlawful expenditures relating to domestic or foreign government officials or others; to the knowledge of the Vendor, no current or former director, officer, employee, agent, sales representative, distributor or other Person acting at the direction and on behalf of the Corporation or the Subsidiary has accepted or received any unlawful contributions, unlawful payments or unlawful gifts or unlawful expenditures. Each of the Corporation and the Subsidiary has at all times complied in all material respects with and is in compliance in all material respects with all applicable provisions of the *Corruption of Foreign Public Officials Act*

and applicable Laws relating to prevention of corrupt practices in similar matters under the *Criminal Code of Canada* and any similar legislation in foreign jurisdictions.

- 3.2.9 *Permits.* All Permits that the Corporation or the Subsidiary is required to obtain that are related to the Business or the ownership or operation of its properties and assets have been obtained, are listed in Section 3.2.9 of the Disclosure Letter and are currently valid, in full force and effect and in good standing. Other than as set forth in Section 3.2.9 of the Disclosure Letter, there is no Permit required to carry on the Business as presently carried on. Neither the Corporation nor the Subsidiary has violated the terms or conditions of any such Permits and, to the knowledge of the Vendor, there is no reason why any of the Permits should be suspended, cancelled, revoked or not renewed on the same terms.
- 3.2.10 *Restrictions on Business Activities.* Except as disclosed in Section 3.2.10 of the Disclosure Letter, there is no Contract or Order binding upon the Corporation or the Subsidiary that has or would reasonably be expected to have the effect of prohibiting, granting exclusivity, restricting or impairing any acquisition of property by the Corporation or the Subsidiary, or the conduct of the Business as currently conducted.
- 3.2.11 *Absence of Certain Changes or Events.* Except as disclosed in Section 3.2.11 of the Disclosure Letter or as set forth in the Restructuring Memorandum, since December 31, 2017, there has been no Material Adverse Change, the Business has been conducted in the Ordinary Course and, without limiting the generality of the foregoing, the Corporation and the Subsidiary have not:
- (a) suffered any extraordinary damage, destruction or loss to their assets, whether covered by insurance or not;
 - (b) permitted, caused, or undertaken any redemption, repurchase or other acquisition of shares or securities by the Corporation or the Subsidiary or any declaration or payment of any dividend or other distribution;
 - (c) (i) materially increased or modified any Employee Plan (excluding any Employee Plan that is a Security-Based Compensation Plan of the Vendor) or any compensation paid or payable to any of their directors, officers or Employees outside of the Ordinary Course, or (ii) removed any directors or terminated any officers;
 - (d) made or incurred any acquisition, lease, sale, Encumbrance or other disposition of property or assets other than in the Ordinary Course;
 - (e) failed to pay or otherwise satisfy any Accounts Payable, liabilities or obligations when due and payable, or altered any of the practices and policies relating to the payment and collection of Accounts Payable and/or Accounts Receivable;
 - (f) (i) incurred, created, assumed or guaranteed any new debt for borrowed money or of any Encumbrance on any asset, (ii) issued or sold any securities convertible into or exchangeable for debt securities of the Corporation or the Subsidiary, or

- (iii) issued or sold any options or other rights to acquire from the Corporation or the Subsidiary debt securities or any securities convertible into or exchangeable for any such debt securities;
- (g) entered into, amended or terminated any Material Contract or been notified of termination or non-renewal of a Material Contract by the counterparty thereto;
- (h) waived or released any Claim or Accounts Receivable other than in the Ordinary Course;
- (i) experienced any labour or employment dispute or charge of unfair labour practice involving the Corporation or the Subsidiary or terminated or closed any facility, business or operation, nor, to the knowledge of the Vendor, any events which may form the basis for a grievance or civil court proceeding wherein damages claimed may constitute a material amount;
- (j) changed any material accounting methods, principles or practices of the Corporation or the Subsidiary, including with respect to the accounting of deferred revenues and the Breakage rate and methodology used by the Vendor and the Corporation in connection with the Redemption Liabilities (which shall be determined using the same Breakage rate (being eleven percent (11%)) and methodology used by the Vendor and the Corporation in the calculation of the disclosures included in the Vendor's Management's Discussion & Analysis of Financial Condition and Results of Operations for the years ended December 31, 2017 and 2016 and filed on SEDAR);
- (k) split, combined or reclassified any of the outstanding shares or securities of the Corporation or the Subsidiary;
- (l) written up or written down any of the assets of the Corporation or the Subsidiary except on account of normal depreciation or amortization in the Ordinary Course;
- (m) settled any material Claim relating to the Business; or
- (n) authorized, agreed or committed, whether or not in writing, to do any of the foregoing.

3.2.12 *Material Contracts*

- (a) Section 3.2.12 of the Disclosure Letter sets forth a list of the Material Contracts. Complete and accurate copies of the Material Contracts (and written summaries setting forth the terms and conditions of each undocumented Material Contract, if any) have been disclosed to the Purchaser in the Data Room.
- (b) Each Loyalty Partnership Agreement is terminable on or prior to the Closing, the whole without any cost, penalty or obligation to the Corporation, the Subsidiary or the Purchaser, whether or not related to the termination of such Loyalty Partnership Agreement. No Loyalty Partnership Agreement contains any

continuing obligations on the part of the Corporation or the Subsidiary which survive the Closing, nor any obligations on the part of the Purchaser.

- (c) Each Material Contract is a legal, valid and binding obligation of each Person party thereto, enforceable by or against the Corporation or the Subsidiary, as applicable, and, to the knowledge of the Vendor, the counter-party thereto, in accordance with its terms, and is in full force and effect, subject to bankruptcy, insolvency and other similar Laws affecting creditors' rights generally.
- (d) All material obligations of the Corporation and the Subsidiary under each of the Material Contracts have been performed, and there are no allegations of defaults, events of default or violations (or which with or without notice, lapse of time or both, would be reasonably expected to, individually or in the aggregate, result in a default, event of default or violation) under any of the Material Contracts on the part of the Corporation, the Subsidiary, or, to the knowledge of the Vendor, on the part of the other party (or parties) to such Contract. Neither the Corporation, the Subsidiary, nor any other party (or parties) to any Contract has repudiated any Material Contract.
- (e) No notice of termination of a Material Contract has been received or served by the Corporation or the Subsidiary and, to the knowledge of the Vendor, there are no grounds for termination, rescission, avoidance or repudiation of any such contract.

3.2.13 *Major Suppliers and Customers.* Section 3.2.13 of the Disclosure Letter contains a complete and accurate list, as of the date hereof, of the ten (10) most important suppliers (the "**Top 10 Suppliers**") to the Corporation and the Subsidiary and of the ten (10) most important customers (the "**Top 10 Customers**") of the Corporation and the Subsidiary, in each case on a combined basis based on the value and consideration paid thereunder in a twelve-month period for the last 12 months. Except as set forth in Section 3.2.13 of the Disclosure Letter, the relationships of the Corporation and the Subsidiary with the Top 10 Suppliers and the Top 10 Customers are good commercial working relationships and otherwise in good standing. Since December 31, 2017 and except as set forth in Section 3.2.13 of the Disclosure Letter, no Top 10 Supplier or Top 10 Customer has notified the Corporation or the Subsidiary of its intention to change its relationship or the terms upon which it conducts business with them (including, in the case of the Top 10 Suppliers, the payment and credit terms extended to the Corporation or the Subsidiary and, in the case of the Top 10 Customers, the rate or amount of sales or purchases or the non-renewal or cancellation of any Contract set to expire) and, to the knowledge of the Vendor, there is no basis for such change. Except as set forth in Section 3.2.13 of the Disclosure Letter, neither the Vendor nor the Corporation has any reason to believe that any Top 10 Supplier or Top 10 Customer would change the terms upon which it conducts business with the Corporation or the Subsidiary (including the payment and credit terms extended to them or the non-renewal or cancellation of any Contract set to expire) as a result of the consummation of the Transactions or otherwise.

- 3.2.14 *Financial Statements.* Except as set forth in Section 3.2.14 of the Disclosure Letter, the Financial Statements of the Corporation have been prepared in accordance with IFRS. Such Financial Statements fully, fairly and accurately reflect the financial condition, results of operations of the Corporation and the Subsidiary as of the date and for the periods presented therein. Each of the Corporation and the Subsidiary has been subject to and has complied with the internal accounting controls and information systems devised by the Vendor that are sufficient to provide reasonable assurances that the financial reporting and the preparation of financial statements for external purposes in accordance with IFRS is reliable as they apply to the Corporation and the Subsidiary.
- 3.2.15 *Absence of Undisclosed Liabilities.* Except as disclosed in Section 3.2.15 of the Disclosure Letter, neither the Corporation nor the Subsidiary has any obligations or liabilities of any nature, whether direct or indirect, accrued or unaccrued, asserted or unasserted, fixed or contingent, liquidated or unliquidated, mature or inchoate, due or to become due, known or unknown other than those set forth and adequately provided for or reserved against in the most recent balance sheet included in the Financial Statements or those incurred in the Ordinary Course since December 31, 2017 and consistent with past practice, and no such obligations or liabilities are unrelated to the Aeroplan Loyalty Program.
- 3.2.16 *Redemption Liabilities.* The Vendor has designed a structure of internal controls in order to rely on the system used to track the Aeroplan Miles. These internal controls are subject to tests in connection with the annual National Instrument 52-109 certification. The model used as part of the process to support Breakage uses data which is sourced from the system used to track Aeroplan Miles. The output of such model (which is subject to the inherent limitations related to the calculation of predictive estimates) used to support the Breakage is reviewed for reasonableness in comparison to actual observed data and other evidence related to the Aeroplan Loyalty Program to support the estimate. To the knowledge of the Vendor, there have been no significant issues identified in the internal controls, processes and systems outlined in this Section 3.2.16.
- 3.2.17 *Transaction Expenses.* Neither the Corporation nor the Subsidiary will have any unpaid Transaction Expenses as of the Closing Time.
- 3.2.18 *Capital Expenditures.* Except as disclosed in Section 3.2.18 of the Disclosure Letter, since December 31, 2017, each of the Corporation and the Subsidiary has made capital expenditures only in the Ordinary Course and to the extent reasonably necessary to operate and maintain the Business and has not delayed or cancelled any previously scheduled capital expenditures.
- 3.2.19 *Grants and Subsidies.* Neither the Corporation nor the Subsidiary has applied for or received any material grant, subsidy, payment or allowance from any Governmental Authority (other than SR&ED tax credits to the extent same could be considered a grant, subsidy, payment or allowance from a Governmental Authority), or has any present indebtedness, obligation or liability of whatsoever nature and kind resulting from any subsidy agreement, contribution agreement or similar agreement between the Corporation or the Subsidiary, and any Governmental Authority.

- 3.2.20 *Bank Accounts and Related Powers of Attorney.* Section 3.2.20 of the Disclosure Letter sets forth (i) the name of each Person with whom the Corporation or the Subsidiary maintains a bank account or 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 the Corporation or the Subsidiary for banking purposes and a summary of the terms thereof.
- 3.2.21 *Accounts Receivable.* Except for inter-company receivables or debts, all of which will be settled or extinguished or transferred out of the Corporation's or the Subsidiary's balance sheet on or prior to Closing, Accounts Receivable of the Corporation and the Subsidiary have arisen only from *bona fide* transactions in the Ordinary Course. There is no fact or circumstance generally (other than general economic conditions) which is expected to result in any increase in the non-collectability of the Accounts Receivable as a class in excess of the allowance for doubtful accounts therefor (if any) set forth in the Financial Statements. All Accounts Receivable are fully and validly due and owing to the Corporation and are good and fully collectible within one hundred and eighty (180) days of the date of their issuance, subject to the allowance for doubtful accounts recorded in the Books and Records. The Accounts Receivable constitute, and will constitute at Closing, only valid, undisputed Claims of the Corporation or the Subsidiary not subject to valid Claims of setoff or other defences or counterclaims other than normal cash discounts accrued in the Ordinary Course.
- 3.2.22 *Sufficiency of Assets.* With the exception of assets covered by the Transition Services Agreement, the assets of the Corporation and the Subsidiary are adequate and sufficient to operate the Business immediately following the Closing in substantially the same manner as currently carried on. Following the completion of the Restructuring Transactions, the Corporation and the Subsidiary will: (i) own or have lawful right to all or substantially all of the assets of the Business (including the Member Data); and (ii) not own any assets which are unrelated to the Business. For avoidance of doubt, following the completion of the Restructuring Transactions the Vendor will not own, or retain any copy of, the Member Data.
- 3.2.23 *Title to Assets.*
- (a) Except as set forth in Section 3.2.23 of the Disclosure Letter, the Corporation is the legal and beneficial owner of, and has good and marketable title to, or (in the case of property held under a lease) an enforceable lease with respect to, or (in the case of property held under another Contract) an enforceable interest in or right to use, all the assets used by the Corporation free and clear of all Encumbrances other than Permitted Encumbrances. Except as set forth in Section 3.2.23 of the Disclosure Letter, the Subsidiary is the legal and beneficial owner of, and has good and marketable title to, or (in the case of property held under a lease) an enforceable lease with respect to, or (in the case of property held under another Contract) an enforceable interest in or right to use, all the assets used by the Subsidiary free and clear of all Encumbrances other than Permitted Encumbrances.

- (b) Each of the Corporation and the Subsidiary owns and is in possession of each of the assets shown or reflected on the applicable Financial Statements or otherwise on the books of the Corporation or the Subsidiary (except only those assets which have been disposed of in the Ordinary Course since the dates thereof and those assets which will be transferred out of the Corporation and the Subsidiary as part of the Restructuring Transactions) and all other assets acquired since the balance sheet dates of such Financial Statements with good and marketable title, free and clear of all Encumbrances other than Permitted Encumbrances. Neither the Corporation nor the Subsidiary has received in respect of its assets any notice of conflict with the asserted rights of any other Person.

3.2.24 *Condition of Assets.* Except as disclosed in Section 3.2.24 of the Disclosure Letter, the assets of the Corporation and the Subsidiary (including, without limitation, the Fixed Assets) are in good condition, repair and (where applicable) proper working order, subject to normal wear and tear and having regard to their use and age and such assets have been and are properly and regularly maintained and are adequate and suitable for their present and intended uses to conduct the Business as currently conducted.

3.2.25 *Books and Records.* The Books and Records of the Corporation and the Subsidiary (i) have been fully, properly and accurately maintained and compiled in accordance with applicable Laws in all material respects and good business practices on a basis consistent with prior years, (ii) are stated in reasonable detail and accurately and fairly reflect the transactions and dispositions of the assets of the Corporation and the Subsidiary, and (iii) accurately and fairly reflect the basis for the Financial Statements.

3.2.26 *Litigation.* Except as set forth in Section 3.2.26 of the Disclosure Letter, there is no Claim, Order or investigation pending or, to the knowledge of the Vendor, Threatened against the Corporation or the Subsidiary, before any Governmental Authority, nor is the Vendor aware of any facts which should or would form the basis of any such Claim, Order, investigation.

3.2.27 *Tax Matters.*

Except as disclosed in Section 3.2.27 of the Disclosure Letter,

- (a) The Corporation has duly and timely made or prepared or caused to be made or prepared and filed all Tax Returns required to be filed by it prior to the Closing Date with the appropriate Governmental Authorities and has duly, completely and correctly reported to such appropriate Governmental Authorities all income and all other amounts and information required to be reported thereon and all such Tax Returns continue to be true, correct and complete in all material respects.
- (b) The Corporation has duly and timely paid all Taxes, including all instalments on account of Taxes for the current year, that are due and payable by it whether or not assessed by the appropriate Governmental Authority and there are no Taxes that would be due if asserted by any Governmental Authority. The Corporation has established provisions that are reflected on its Books and Records and on the

Financial Statements that are adequate for the payment by the Corporation of all Taxes that are not yet due and payable (and that will not be due and payable by the Closing Date) and that relate to periods ending on or prior to the Closing Date or after the Closing Date, but only, in this latter situation, for such period up to the Closing Date, and such provisions are, and shall be, at least equal to their respective liability for Taxes. Except to the extent provided for in the Financial Statements, the Corporation is not liable for any Tax at the date hereof, no deficiencies for any Taxes have been assessed or asserted (whether orally or in writing) against the Corporation which remain unpaid, except for deficiencies which are being contested in good faith and for which adequate provision has been made in the Financial Statements.

- (c) With respect to any period for which Tax Returns are not yet required to be filed or for which Taxes are not yet due and payable, the Corporation has not: (i) incurred liabilities for Taxes outside the Ordinary Course, (ii) changed a method of accounting, (iii) entered into any agreement with any Governmental Authority with respect to Taxes, (iv) surrendered any right to a Tax Refund, or (v) made, change or revoked any election with respect to Taxes except as otherwise permitted in this Agreement.
- (d) Further to any audits that might have been conducted on the Corporation, the Tax Authorities have not challenged its respective residency for Tax purposes.
- (e) No Tax Authority has challenged the provincial income allocation of the Corporation.
- (f) The Corporation is not required to include in income for a Post-Closing Tax Period any amount as a reserve under any one or more of subparagraph 40(1)(a)(iii), paragraph 20(1)(m) or 20(1)(n) of the Tax Act if any such amount could be included in the income of the Corporation for a Post-Closing Tax Period, except to the extent that the Corporation has claimed an equivalent reserve for accounting purposes that is reflected in the non-consolidated financial statements of the Corporation as of the Closing Date, prepared in accordance with IFRS (except for such derogations from IFRS consistent with the disclosures in respect of the Financial Statements set out in Section 3.2.14 of the Disclosure Letter), applied using the same accounting methods, practices, principles, policies and procedures, with consistent classifications, judgment and valuation and estimation methodologies that were used in preparation of the Vendor's audited consolidated financial statements for the financial year ended December 31, 2017 as if such non-consolidated financial statements of the Corporation were being prepared and audited as of a financial year end, but at all times taking into account all current relevant facts and circumstances at the time of the preparation of the non-consolidated financial statements of the Corporation.
- (g) The Corporation has not requested or entered into any agreement or other arrangement or executed any waiver providing for any extension of time within which (i) to file any Tax Return covering any Taxes for which the Corporation is

or may be liable; (ii) to file any elections, designations or similar filings relating to Taxes for which the Corporation is or may be liable; (iii) the Corporation is required to pay or remit any Taxes or amounts on account of Taxes; or (iv) any Governmental Authority may assess or collect Taxes for which the Corporation is or may be liable, except as otherwise permitted in this Agreement.

- (h) No power of attorney with respect to any Taxes has been executed or filed with any Governmental Authority by or on behalf of the Corporation and which will be in effect immediately after the Closing Date.
- (i) There are no reassessments of Taxes that have been issued and are outstanding. There are no Claims now pending or, to the knowledge of the Vendor, Threatened against the Corporation in respect of any Tax Return or of any Taxes and there are no matters under discussion, audit, objection or appeal with any Governmental Authority relating to Taxes. More specifically, but without limiting the generality of the foregoing, no Tax Authority is now asserting or, to the knowledge of the Vendor, threatening to assert against the Corporation any deficiency or Claim for additional Taxes and there are no such deficiencies or potential Claims for additional Taxes and there are no requests for information currently outstanding that could affect the Taxes of the Corporation.
- (j) The Corporation has duly and timely withheld from any amount paid or credited, or deemed paid or credited, by it to or for the account or benefit of any Person, including any Employees, officers or directors and any non-resident Person, the amount of all Taxes and other deductions required by any Laws to be withheld from any such amount and has duly and timely remitted the same to the appropriate Governmental Authorities. The Corporation has remitted all Canada Pension Plan and Quebec Pension Plan contributions, employment insurance premiums, employer health Taxes and other Taxes payable by each of them in respect of their Employees and have remitted such amounts to the proper Governmental Authorities within the time required by applicable Laws.
- (k) For all transactions between the Corporation and any non-resident Person with whom the Corporation was not dealing at arm's length during a taxation year ending on or before the Closing Date, the Corporation has respected the contemporaneous documentation requirements imposed by Law and made or obtained records or documents that meet the requirements of paragraphs 247(4)(a) to (c) of the *Tax Act*.
- (l) The Corporation is duly registered under the *Excise Tax Act* (Canada) with respect to the GST or the HST and any applicable provincial or other jurisdictions' valued-added or sales tax Law. The Corporation's registration numbers are set forth in Section 3.2.27 of the Disclosure Letter. The Corporation has timely collected paid and remitted to the appropriate Governmental Authorities when required by Law to do so, all amounts required to be collected, deemed to have been collected by it or that should have been collected or paid on account of all

Taxes under Part IX of the *Excise Tax Act* (Canada), and, where applicable, under any provincial or other jurisdictions' value-added or sales tax Law.

- (m) There are no circumstances existing which could result in the application to the Corporation of section 69 of the Tax Act, section 160 of the Tax Act, section 155 of the *Excise Tax Act* (Canada), section 325 of the *Excise Tax Act* (Canada) or any equivalent provisions in any other Laws relating to Taxes.
- (n) There are no circumstances which exist and would result in, or which have existed and resulted in, any of sections 78, 79, 79.1 or 80 to 80.04 of the Tax Act applying to the Corporation.
- (o) The Corporation has not, nor had, any obligation to file on or prior to the Closing Date any Tax Return required to be made, prepared or filed under the applicable Law of any jurisdiction other than Canada or to pay Tax in a jurisdiction other than Canada, and the Corporation has no outstanding liability on account of any failure to comply with any such obligation.
- (p) Since January 1, 2017, the Corporation does not own, and has not owned, directly or indirectly any foreign affiliates as defined under the Tax Act.
- (q) The Corporation has not filed any request for loss determination with any Tax Authority.
- (r) The Purchaser has received copies of all Books and Records pertaining to Taxes for years beginning on or after January 1, 2013 paid or payable by the Corporation or the Subsidiary, including any material correspondence with Tax Authorities and notices of assessment and reassessment.
- (s) The representations and warranties in this Section 3.2.27 which refer to the Tax Act or any provision thereof are true and correct with respect to the same or equivalent provisions, if any, of any other provincial or other jurisdiction's applicable Laws relating to Taxes.
- (t) Notwithstanding anything to the contrary contained in the Agreement, the Vendor makes no representations and provides no warranties with respect to this Section 3.2.27 in application to any Post-Closing Tax Periods, other than those contained in Section 3.2.27(f).
- (u) The representations and warranties in this Section 3.2.27 apply *mutatis mutandis* to the Subsidiary.

3.2.28 *Related Party Transactions*. Section 3.2.28 of the Disclosure Letter sets forth a complete and accurate list (including the name of the parties) of all Contracts between the Corporation or the Subsidiary, and any Related Party that will not be terminated at or prior to Closing. Copies (or a detailed summary in the case of any oral agreement) of each such Contract have been disclosed in the Data Room (or delivered to the Purchaser).

3.2.29 *Employee Matters.*

- (a) Section 3.2.29 of the Disclosure Letter contains a complete and accurate list of:
 - (i) all Employees with their names redacted, as well as all consultants, sales representatives, agents or directors employed or engaged by the Corporation or the Subsidiary showing, for each such Person, the employee number, the employer, his/her start date, his/her title, any annual vacation entitlements, his/her status (unionized or non-unionized, employee or contractor, as applicable), current annual remuneration and any other entitlement or benefit, and
 - (ii) all Persons to whom an offer of employment or engagement under an employment, consultancy or service agreement has been made by the Corporation or the Subsidiary that has not yet been accepted, or which has been accepted but where the employment or engagement has not yet started.

- (b) Section 3.2.29 of the Disclosure Letter also contains, separately, a complete and accurate list of all written individual employment, consulting or agency Contracts, any written employee or human resources personnel policies, handbooks or manuals of the Corporation and the Subsidiary, any change of control agreement, indemnity agreement, agreement as to the length of notice of termination of employment, and any severance, retention or separation Contracts. Except as disclosed in Section 3.2.29 of the Disclosure Letter, complete and accurate copies of such Contracts have been delivered to the Purchaser and complete and accurate copies of policies, handbooks or manuals have been made available to the Purchaser.

- (c) Section 3.2.29 of the Disclosure Letter also contains, separately, the employee numbers of all non-active Employees, the reason they are non-active Employees, whether they are expected to return to work and, if so, when, and the nature of any benefits to which such non-active Employees are entitled from the Corporation or the Subsidiary. Complete and accurate copies of any employment Contracts with any non-active Employees have been delivered to the Purchaser.

- (d) Except as set forth in Section 3.2.29 of the Disclosure Letter, neither the Corporation nor the Subsidiary is bound to any employment or service contract (whether written or oral) with any Employee, consultant or other Person which is not terminable on the giving of reasonable notice in accordance with applicable Law, nor are there any management agreements, retention bonuses or employment contracts providing for cash or other compensation or benefits upon the consummation of the transaction contemplated by this Agreement.

- (e) To the knowledge of the Vendor, all independent contractors are properly characterized and treated as such.

- (f) Except as disclosed in Section 3.2.29 of the Disclosure Letter, neither the Corporation nor the Subsidiary is a party, either directly or indirectly by operation of Law, to any Collective Agreement. Copies of all Collective Agreements have been disclosed in the Data Room (or delivered to the Purchaser). Except as

disclosed in Section 3.2.29 of the Disclosure Letter, no trade union, council of trade unions, employee bargaining agency or affiliated bargaining agent holds bargaining rights with respect to any of the Employees by way of certification, interim certification, voluntary recognition, related employer or successor employer rights, or has applied or threatened to apply to be certified as the bargaining agent of any of the Employees. To the knowledge of the Vendor, there have been no actual or Threatened and there are no pending union organizing activities involving the Employees and the Vendor is not aware of any circumstances which would reasonably be expected to lead to an interruption of operations of the Business. Except as set forth in Section 3.2.29 of the Disclosure Letter, there are no outstanding arbitration awards, labour grievances, arbitration proceedings or other proceedings under any Collective Agreement. Neither the Corporation nor the Subsidiary has committed any breaches of any Collective Agreement, the Vendor is not aware of any grievances or arbitration proceedings under any Collective Agreement and there are no written or oral agreements or courses of conduct which modify any Collective Agreement.

- (g) Except as set forth in Section 3.2.29 of the Disclosure Letter, each of the Corporation and the Subsidiary has complied in all material respects with all applicable employment Contracts, written employee or human resources personnel policies (to the extent they contain enforceable obligations), handbooks or manuals relating to the Corporation or the Subsidiary (to the extent they contain enforceable obligations), any severance or separation Contracts, Collective Agreements, codes of conduct or practice, customs and practices and all applicable Laws relating to employment matters, including any provision thereof relating to wages, salary or other compensation, pension provisions, the payment of employee benefits including any bonus under the relevant bonus scheme, hours of work or other employment standards, immigration, data protection, occupational health and safety, workers' compensation, labour relations, collective bargaining, human rights, unfair labour practices, employee privacy, pay equity or provisions relating to termination of employment, and there are no payments due thereunder which have not been paid.
- (h) All accruals for unpaid vacation pay or other paid leaves or benefits, premiums for employment insurance, Canada Pension Plan and Quebec Pension Plan premiums (and premiums under similar legislation in the other applicable jurisdictions), accrued wages, salaries, bonuses, incentive payments, lieu-time and commissions and employee benefit plan payments have been reflected in the Financial Statements, and there is no fact that indicates that such accruals reflected in the Financial Statements are understated. There is no commitment or agreement to increase wages or to modify the terms and conditions of employment of any Employee.
- (i) The Vendor has not received any specific notice from any Person, whether oral or written, that the consummation of the Transactions will result in a labour disruption or a change in current labour relations. There is no strike or lock-out occurring or, to the knowledge of the Vendor, Threatened. Neither the

Corporation nor the Subsidiary has suffered any strike, lock-out, work stoppage, or other labour dispute during the past thirty-six (36) months.

- (j) There are no Orders by a Government Authority in respect of the breach of any contract of service or for services or for compensation for wrongful or unfair dismissal or discrimination or for failing to comply with any Order for the reinstatement or re-engagement of any employee or for failure to comply with a tribunal or court Order, decision or determination relating to an employee or former employee in the 12 months prior to the date of this Agreement. No payment in excess of any director's or Employee's reasonable legal entitlements has been made or promised by the Corporation or the Subsidiary in connection with the termination or proposed termination of the employment of any present or former director or employee. There is no person previously employed by the Corporation or the Subsidiary who now has or may have a right to return to work or a right to be re-instated or be re-engaged by the Corporation or the Subsidiary.
- (k) Except as set forth in Section 3.2.29 of the Disclosure Letter, in the 12 months prior to the date of this Agreement, neither the Corporation nor the Subsidiary have received written notice of any employment-related Claims filed by any of its Employees or former Employees against the Corporation, the Subsidiary, or any current or former director or officer thereof. To the Vendor's Knowledge, except as set forth in Section 3.2.29 of the Disclosure Letter, no employment-related Claims are threatened or pending, nor has the Corporation or the Subsidiary received written notice, in the 12 months prior to the date of this Agreement, of any employment-related Claims involving the Business or any of the Employees before any Governmental Authority.

3.2.30 *Employee Plans.*

- (a) Section 3.2.30 of the Disclosure Letter lists the Employee Plans. All material reports, returns and similar documents with respect to any Employee Plan (other than Employee Plans that are Security-Based Compensation Plans of the Vendor) required to be filed with any Governmental Authority or communicated to any participant Employee have been duly filed or communicated in a timely manner.
- (b) Complete and accurate copies of the following documents have been delivered or made available to the Purchaser: (i) the current text of each of the Employee Plans (other than Employee Plans that are Security-Based Compensation Plans of the Vendor) (where no text exists, a complete and accurate written summary of all material terms and conditions has been provided) and any related trust agreements, insurance contracts and other documents governing or relating to the functioning of such plan, including all administration, service, investment management and related agreements, and all amendments or proposed amendments up to the date hereof; and (ii) all booklets, summaries or manuals circulated to Employees or former employees or other participants or eligible Persons in respect of the Employee Plans, including all amendments or proposed amendments up to the date hereof.

- (c) No improvement, increase or change to the benefits provided under the Employee Plans (other than Employee Plans that are Security-Based Compensation Plans of the Vendor) has been promised to any Person; there is no and there has been no pattern of ad hoc benefit increases with respect to any employee benefit or similar benefit; no promise or commitment, contingent or otherwise, has been made by the Vendor, the Corporation or the Subsidiary or by any Person acting on behalf of the Corporation or the Subsidiary to any Employee or to any other Person who provides services to the Corporation or the Subsidiary with respect to the type or level of compensation or benefits that may be provided following the Transactions; and the Employee Plans (other than Employee Plans that are Security-Based Compensation Plans of the Vendor) do not provide for benefit increases or the acceleration of funding obligations that are contingent upon or will be triggered by the entering into of this Agreement.
- (d) With respect to each of the Employee Plans that is a Pension Plan, and without limiting the deliveries contemplated by (b) above, the Vendor has also delivered or made available to the Purchaser true and complete copies of each of the following documents: (i) the annual information return filed in respect of the Pension Plan with any applicable Governmental Authority for each of the last two calendar years; and (ii) the most recent actuarial valuations filed in respect of the Pension Plan with any Governmental Authority.
- (e) Except as disclosed in Section 3.2.30 of the Disclosure Letter, the Employee Plans do not provide benefits upon attaining a certain age or beyond retirement or other termination of service to any Employee or former employee of, or any current or former consultant or other independent contractor of the Corporation or the Subsidiary or to the beneficiary or dependant of any such Employee or former employee or current or former consultant or independent contractor.
- (f) Each Employee Plan (other than Employee Plans that are Security-Based Compensation Plans of the Vendor) is, and has since its establishment been, duly registered (where required), under applicable Law and has been administered and its assets invested in compliance in all material respects with its terms and all applicable Laws.
- (g) Except as disclosed in Section 3.2.30 of the Disclosure Letter, neither the Corporation nor the Subsidiary is party to multi-employer pension plans (as defined in applicable pension benefits standards Laws) or defined benefit pension plans in which the Employees participate.
- (h) Each Employee Plan (other than Employee Plans that are Security-Based Compensation Plans of the Vendor) is funded in accordance with its terms and with all applicable Laws and all employer or employee payments, contributions and premiums required to be remitted or paid to or in respect of each Employee Plan (other than Employee Plans that are Security-Based Compensation Plans of the Vendor) have been paid or remitted in a timely fashion in accordance with its terms and with all applicable Laws, and no Taxes, penalties or fees are owing or

exigible by or with respect to any Person under or with respect to any Employee Plan (other than Employee Plans that are Security-Based Compensation Plans of the Vendor).

3.2.31 *Occupational Health and Safety.* There are no inspection reports under any occupational health and safety Laws relating to the Corporation and the Subsidiary. Except as disclosed in Section 3.2.31 of the Disclosure Letter, there are no outstanding inspection Orders nor any pending or, to the knowledge of the Vendor, Threatened, charges made under any occupational health and safety Laws relating to the Corporation, the Subsidiary or the Business. There have been no fatal or critical accidents within the last three (3) years which might lead to charges involving the Corporation under occupational health and safety Laws. Each of the Corporation and the Subsidiary has complied in all material respects with any Orders issued under occupational health and safety Laws. There are no appeals of any Orders under occupational health and safety Laws relating to the Corporation or the Subsidiary which are currently outstanding.

3.2.32 *Workers' Compensation.* Except as disclosed in Section 3.2.32 of the Disclosure Letter, in the past three (3) years, there are no notices of assessment, provisional assessment, reassessment, supplementary assessment, penalty assessment or increased assessment (collectively, "Assessments") or any other communications related thereto which the Corporation or the Subsidiary has received from any workers' compensation or workplace safety and insurance board or similar authorities in any jurisdictions where the Business is carried on. There are no Assessments which have not been paid in full and there are no facts or circumstances which would result in an increase in liability to the Corporation or the Subsidiary from any applicable workers' compensation or workplace safety and insurance legislation, regulations or rules after the Closing. The Corporation's and the Subsidiary's accident cost experience relating to the Business is such that there are no pending or possible Assessments and there are no Claims or potential Claims which may adversely affect the Corporation's or the Subsidiary's accident cost experience.

3.2.33 *Data Protection and Anti-Spam Laws.*

- (a) Except as set forth in Section 3.2.33 of the Disclosure Letter, each of the Corporation and the Subsidiary has complied in all material respects with the requirements of all applicable Privacy Laws. All Personal Information held by the Corporation or the Subsidiary was collected and is used and disclosed by the Corporation or the Subsidiary in accordance with applicable Privacy Law and the Corporation's or the Subsidiary's privacy policies. Neither the Corporation nor the Subsidiary are or have been, at any time, required by a Governmental Authority to enter into an information protection agreement pursuant to any applicable Privacy Law.
- (b) Except as disclosed in Section 3.2.33 of the Disclosure Letter:
 - (i) there are no current or unresolved requests for access to Personal Information by an individual that are outstanding for more than thirty (30)

calendar days, unless otherwise exempted or a longer time is permitted under any Privacy Law, nor, to the knowledge of the Vendor, is the Corporation or the Subsidiary the subject of a complaint, audit, review, investigation or inquiry or similar proceeding by a Governmental Authority, or a complaint or inquiry by an individual, made under any Privacy Law;

- (ii) no Order has been issued, nor any recommendations made, by any Privacy commissioner or other data protection Governmental Authority, in respect of the Corporation or the Subsidiary or their authorized agents, in respect of Personal Information held by or on behalf of the Corporation or the Subsidiary or of any privacy practices or procedures of the Corporation or the Subsidiary;
 - (iii) neither the Corporation nor the Subsidiary has been charged with or convicted of an offence for non-compliance with or breach of any Privacy Law nor has the Corporation or the Subsidiary been fined or otherwise sentenced for non-compliance with or breach of any Privacy Law nor has the Corporation or the Subsidiary settled any prosecution short of conviction for non-compliance with or breach of any Privacy Law;
 - (iv) neither the Corporation nor the Subsidiary has received any notice of any Order or commencement of proceedings of any nature, or experienced any search and seizure related to, any breach or alleged breach of or non-compliance with any Privacy Law; and
 - (v) to the knowledge of the Vendor, there are no facts or circumstances that would be reasonably likely to give rise to breach or alleged breach of, or non-compliance with, any Privacy Law (it being understood that any such breaches or non-compliance are indemnifiable by the Vendor pursuant to Section 9.1.1(d)(ii) and this representation and warranty is without duplication to such indemnity).
- (c) The Corporation has a privacy policy regarding the collection, use, processing and disclosure of Personal Information in connection with the operation of the Business and is and has been in compliance with such privacy policy in all material respects. True and complete copies of privacy policies that are currently in effect and used by the Corporation or the Subsidiary are disclosed in Section 3.2.33 of the Disclosure Letter. The Corporation has posted a privacy policy on all websites and any mobile applications owned or operated by or for the Corporation.
- (d) The Corporation has established and implemented policies, programs and procedures that are in compliance with applicable Privacy Laws, including administrative, technical and physical safeguards, to protect the confidentiality, integrity and security of Personal Information in its possession, custody or control against unauthorized access, use, modification, disclosure or other misuse.

- (e) To the knowledge of the Vendor and except as disclosed in Section 3.2.33 of the Disclosure Letter, neither the Corporation nor the Subsidiary has experienced any loss, or unauthorized access, disclosure, use or breach of security safeguards of any Personal Information in the Corporation's or the Subsidiary's possession, custody or control, or otherwise held or processed on its behalf. Complete and accurate copies of all security audits and penetration test results conducted by or on behalf of the Corporation or the Subsidiary since January 1, 2017 have been delivered to the Purchaser.

- (f) Except as disclosed in Section 3.2.33 of the Disclosure Letter, each of the Corporation and the Subsidiary:
 - (i) is in compliance, in all material respects, with applicable Anti-Spam Laws;
 - (ii) has a valid express consent, that complies with the consent requirements under applicable Anti-Spam Laws, to install or cause to be installed any computer program on another person's computer system;
 - (iii) has an express or implied consent that complies with the consent requirements under applicable Anti-Spam Laws, or is otherwise permitted under applicable Anti-Spam Laws, to send Commercial Electronic Messages to each Electronic Address in its marketing and advertising database, including customers, prior customers, prospective customers and other third party contacts; and
 - (iv) has in place appropriate processes and practices to:
 - (A) send Commercial Electronic Messages for each Electronic Address added to its marketing and advertising database in compliance with applicable Anti-Spam Laws, including customers, prior customers, prospective customers and other third party contacts;
 - (B) ensure that Commercial Electronic Messages are sent only to the Electronic Addresses referenced in parts (iii) and (iv)(A) of this paragraph and ensure Commercial Electronic Messages are not sent to customers, prior customers, prospective customers and other third party contacts that have previously unsubscribed or whose consent has been revoked or expired; and
 - (C) ensure compliance with the additional requirements of applicable Anti-Spam Laws for each Commercial Electronic Message sent or caused or permitted to be sent by the Corporation or the Subsidiary, including:
 - (i) complying with the form and content requirements of Anti-Spam Laws for installing or causing to be installed any computer program on another person's computer system, and the sending of Commercial Electronic Messages;
 - (ii) processing, recording and giving effect to requests from recipients of Commercial Electronic Messages who inform the Corporation or the Subsidiary that they wish to unsubscribe from receiving Commercial Electronic Messages;
 - (iii) retaining a record of the processes in which Electronic Addresses were added to its marketing and advertising database; and
 - (iv) retaining a record of all Commercial Electronic Messages sent or caused or permitted to be sent.

3.2.34 *Real Property Leases.*

- (a) Section 3.2.34 of the Disclosure Letter contains a complete and accurate list of all of the Real Property Leases setting out, in respect of each Real Property Lease, the identity of the lessor and of the lessee, a description of the Leased Real Property (by municipal address). Complete and accurate copies of the Real Property Leases including all amendments, modifications, notices or memoranda of lease, all estoppel certificates or subordinations, non-disturbance and attornment agreements, if any, and other documents related thereto have been delivered to the Purchaser.
- (b) All rent to be paid and other payments required to be made by the Corporation or the Subsidiary pursuant to the Real Property Leases have been duly paid or made to date, and the Corporation and the Subsidiary are otherwise not in material default in meeting their obligations under any of the Real Property Leases. Except as set out in Section 3.2.34 of the Disclosure Letter, neither the Corporation nor the Subsidiary is party to any lease or sub-lease as lessor or sub-lessor. To the knowledge of the Vendor, none of the lessors under any of the Real Property Leases is in default in meeting any of its obligations under any of the Real Property Leases. Except as set out in Section 3.2.34 of the Disclosure Letter, none of the other parties to the Real Property Leases is in default in meeting any of its obligations under its respective Real Property Leases. No situation exists which, by reason of the passage of time or the giving of notice, or both, would constitute a default by any party to any of the Real Property Leases and no party to any Real Property Lease is claiming any such default or taking any action purportedly based upon such default.
- (c) Following the Closing, Real Property Leases pursuant to which the Corporation or the Subsidiary is a lessee will continue to entitle the Corporation or the Subsidiary, as applicable, to the use, occupancy and possession of the Leased Real Property specified in the Real Property Lease for the purposes for which such property is currently used.
- (d) Neither the Corporation nor the Subsidiary has waived, or omitted to take any action in respect of, any of its rights under any Real Property Lease.
- (e) Except as disclosed in Section 3.2.34 of the Disclosure Letter, the Vendor is not aware of any non-disturbance agreements, lessor forbearance agreements, lessor waiver agreements or similar agreements affecting any of the Real Property Leases.
- (f) Except as disclosed in Section 3.2.34 of the Disclosure Letter, neither the Corporation nor the Subsidiary own, nor have either the Corporation or the Subsidiary ever owned, any real property, and the Leased Real Properties constitute all of the real and immovable property interests held for use, or used, by the Corporation and the Subsidiary.

- (g) Except as disclosed in Section 3.2.34 of the Disclosure Letter, neither the Corporation nor the Subsidiary has entered into any Contracts to sell, transfer, encumber, or otherwise dispose of or impair the Corporation's or the Subsidiary's right, title and interest in and to its Leased Real Properties and there is no other Person in possession of all or any portion of the Leased Real Properties.
- (h) To the knowledge of the Vendor, each facility currently existing on any of the Leased Real Properties is supplied with utilities necessary for the operation of such facility as the same is currently operated.
- (i) To the knowledge of the Vendor, there is no Threatened eminent domain taking, expropriation, condemnation or similar proceeding affecting any of the Leased Real Properties.
- (j) Except as disclosed in Section 3.2.34 of the Disclosure Letter, no business or operations are conducted at or on any of the Leased Real Properties other than those of the Corporation or the Subsidiary. Neither the Corporation nor the Subsidiary has any outstanding application for a re-zoning of any of the Leased Real Properties and the Vendor is not aware of any proposed pending change to any zoning affecting the Leased Real Properties. The use by the Corporation and the Subsidiary of the Leased Real Properties is, and has at all times been, in compliance with all applicable Laws in all material respects.
- (k) There are no work orders or deficiency notices outstanding against the Leased Real Properties relating to matters directly attributable to the Corporation's use of the Leased Real Properties and neither the Corporation nor the Subsidiary has received a deficiency notice, request or written advice of any breach of any applicable Law in respect of the foregoing which could, if not corrected, become a work order or could require performance of work or expenditure of money to correct.
- (l) Neither the Corporation nor the Subsidiary has, and to their knowledge has never been, subject to any charge, conviction, ticket, notice of defect or non-compliance, work order, pollution abatement order, pollution prevention order, remediation order, or any other order or proceeding related to the Real Property Leases under any applicable environmental Laws.
- (m) The Corporation and Subsidiary, as the case may be, are in compliance with all applicable environmental Laws and no adverse environmental occurrences have taken place at the Leased Real Properties or on any other part of the Leased Real Properties as a result of the Corporation's or the Subsidiary's action or failure to act on the Real Property Leases.
- (n) To the extent applicable, the Corporation and the Subsidiary, as the case may be, have met their LEED Certification Requirements at the Real Property Leases.

3.2.35 *Intellectual Property Rights.*

- (a) Section 3.2.35 of the Disclosure Letter contains a complete and accurate list of: (i) all registered Intellectual Property of the Corporation or the Subsidiary; (ii) all pending applications for Intellectual Property; (iii) all domain names and social media identifiers that are registered in connection with the Business; (iv) all trade-marks and trade names used and owned by the Corporation or the Subsidiary that have not been registered or applied for (indicating for each trade-mark or trade name the relevant products, services and activities); and (v) any other Intellectual Property that is material to the conduct of the Business as at the date hereof and as at the Closing Date, including for avoidance of doubt all Intellectual Property relating to the Aeroplan Loyalty Program (hereinafter collectively the “**Key Intellectual Property**”). Except as set out in Section 3.2.35 of the Disclosure Letter, each of the Corporation or the Subsidiary is either (A) the exclusive owner of each item of Key Intellectual Property identified as “Owned Intellectual Property” and set forth opposite its name in Section 3.2.35 of the Disclosure Letter, free and clear of all Encumbrances (other than Permitted Encumbrances) (the “**Owned Intellectual Property**”) or (B) prior to Closing was, and following Closing shall be, licensed or authorized by a third party to use the Key Intellectual Property identified as “Licensed Intellectual Property” and set forth opposite its name in Section 3.2.35 of the Disclosure Letter. Complete and accurate copies of all the aforesaid registrations and applications, in each case as amended or otherwise modified and in effect, and third party licenses in respect of the Key Intellectual Property, have been delivered to the Purchaser.
- (b) To the knowledge of the Vendor, each item of registered or applied for Owned Intellectual Property listed in Section 3.2.35 of the Disclosure Letter (i) is validly existing, subsisting and in full force and effect, is not subject to cancellation for failure to use or unauthorized use by third parties, (ii) was validly registered or issued or, in the case of an application, was applied for in compliance with applicable legislation, (iii) was renewed or extended to the full extent permitted by applicable law in the Ordinary Course, will be valid, subsisting and in full force and effect on identical terms immediately following Closing, and (iv) is not subject to any maintenance fees or Taxes or actions falling due within ninety (90) days following the Closing, save as specifically set forth in Section 3.2.35 of the Disclosure Letter. To the knowledge of the Vendor, nothing has been done or omitted to have been done as a result of which any Owned Intellectual Property has ceased or might cease to be valid, subsisting and in full force and effect in the Ordinary Course.
- (c) There are no written Claims of, and, to the knowledge of the Vendor, there is no basis for any Claims of adverse ownership, invalidity, absence of a right to register or apply for or other opposition to or conflict with any of the Owned Intellectual Property.
- (d) To the knowledge of the Vendor, no third party (i) infringes, nor has infringed in the three (3) year period prior to Closing, any Owned Intellectual Property or

- (ii) is committing, nor has committed in the three (3) year period prior to Closing, any misappropriation, passing off or actionable illegal acts in connection with the Owned Intellectual Property of the Corporation or the Subsidiary.
- (e) To the knowledge of the Vendor, the Owned Intellectual Property: (i) has not infringed, do not infringe and is not likely to infringe the Intellectual Property of any third party; (ii) has not constituted, do not constitute and are not likely to constitute any breach of confidence, passing off or actionable act of unfair competition or other illegal acts in connection with the Intellectual Property of a third party; and (iii) has not given and do not give rise to any obligation to pay any royalty, fee, compensation or any other sum whatsoever in connection with the Intellectual Property of a third party, except as disclosed in Section 3.2.35 of the Disclosure Letter.
- (f) Except as indicated in Section 3.2.23 of the Disclosure Letter, (i) no other Person has the right to use any Owned Intellectual Property, save license agreements granted in the Ordinary Course, and (ii) neither the Corporation nor the Subsidiary has granted any license or other rights to any other Person with respect to its Owned Intellectual Property other than in the Ordinary Course. Copies of all material agreements (in paper or electronic form) whereby any rights in any such Owned Intellectual Property have been granted or licensed by or to the Corporation or the Subsidiary, or by any other Person have been provided to the Purchaser.
- (g) Each of the Corporation and the Subsidiary has taken commercially reasonable steps (including measures to protect secrecy and confidentiality) in the Ordinary Course to protect its respective right, title and interest in its Owned Intellectual Property, including, without limitation, by registering Intellectual Property, by contractual means, by physical means and by electronic means. All Employees and Representatives of the Corporation or the Subsidiary who have had access to confidential or proprietary information relating to the Business have a legal obligation of confidentiality to the Corporation or the Subsidiary with respect to such information. There has been no unauthorized disclosure of any such material Owned Intellectual Property made in a manner that would prevent the Corporation or the Subsidiary or a successor in interest from obtaining a right in respect of any such Intellectual Property that it would otherwise be susceptible to obtain.
- (h) All of the Owned Intellectual Property developed by the Corporation or the Subsidiary or on its behalf has been developed by Employees or independent contractors of the Corporation or the Subsidiary during the time they were employed or engaged by the Corporation or the Subsidiary, in each case without, to the knowledge of the Vendor, violation or contravention of any rights of any former employer or customer. Each current and former Employee and independent contractor of the Corporation and the Subsidiary who has participated in the creation of any Owned Intellectual Property has, with respect to the Owned Intellectual Property, assigned in writing (in the case of independent

contractors) and by operation of law (in the case of Employees) to the Corporation or the Subsidiary all Intellectual Property conceived or reduced to practice during the course of such Employee's and independent contractor's employment or engagement with the Corporation or the Subsidiary. The Corporation or the Subsidiary, as the case may be, has obtained waivers of all non-assignable rights (including moral) rights with respect to all Owned Intellectual Property. Subject to and in compliance with applicable Laws, no current or former officer, Employee or independent contractor of the Corporation or the Subsidiary owns or has claimed an interest in any of the Owned Intellectual Property of the Corporation or the Subsidiary, nor has any right to a royalty or other consideration as a result of its marketing, licensing or assignment.

- (i) No Governmental Authority has funded or contributed to the development of Owned Intellectual Property of the Corporation or the Subsidiary so as to grant such Governmental Authority a right of ownership or a property interest in such Owned Intellectual Property or a right to control, limit or require any payment in connection with the exercise of the activities of the Corporation or the Subsidiary or the assignment of the Owned Intellectual Property of the Corporation or the Subsidiary.

3.2.36 *Computer Systems and Software.* The computer systems and software of the Corporation and the Subsidiary or made available to the Corporation or the Subsidiary by means of cloud computing, including servers, personal computers and special purpose systems, websites, databases, telecommunications equipment and facilities and other information technology systems, are operational in all material respects and are adequate for the current needs of the Corporation and the Subsidiary. The Corporation and the Subsidiary may access at no cost at all times the documentation required for the operation of the Aeroplan web platform and Aeroplan mobile software platform provided that the Purchaser acknowledges that the development of such software applications have been pursuant to both waterfall and agile software development methodology and consists of software developed by the Corporation or the Subsidiary and third party service providers and integrates 3rd party solutions, software documentation may take different forms including, but not limited to the following: technical specifications, users guides or user manuals detailed design comments embedded within the source code, design specifications/information contained within agile tools and training material for new developers. Each of the Corporation and the Subsidiary has obtained and has held at all times all necessary rights from third parties (which third party may be the Vendor or an Affiliate of the Vendor under a Shared Contract) to enable it to make use of the computer system and software. The Member Data on computer systems of the Corporation represents all of the Member Data with respect to each member of the Aeroplan Loyalty Program. The Member Data accurately reflects in all material respects the status of the Accounts. All disputes raised by members of the Aeroplan Loyalty Program in respect of the Accounts are accurately reflected in the Member Data, and recorded in the Corporation's computer systems in the Ordinary Course.

3.2.37 *Absence of Open Source Code.* Except as set forth in Section 3.2.37 of the Disclosure Letter, the software in commercial use by its customers that has been developed by or on

behalf of the Corporation or the Subsidiary does not contain, nor integrate any code, software or software component governed by open source licenses or similar licenses, including in particular any GPL or LGPL licenses. Each of the Corporation and the Subsidiary is in compliance in all material respects with all terms and conditions stipulated by the licenses governing the code, software or software components listed in Section 3.2.37 of the Disclosure Letter.

3.2.38 *Insurance.*

- (a) Each of the Corporation and the Subsidiary maintains such policies of insurance, issued by reputable insurers, as is appropriate adequate and sufficient for the conduct of business, in such amounts and covering such risks and with such deductibles as are generally maintained by like businesses.
- (b) Section 3.2.38 of the Disclosure Letter contains a complete and accurate list of all fidelity bonds and insurance policies currently maintained by or for the Corporation or the Subsidiary, as well as all self-insurance arrangements (including reserves established thereunder) and includes a brief description of each such policy or arrangement, including details of the aggregate coverage amount, type of insurance (including whether such coverage is on a per occurrence or claims-made basis, where applicable), annual premium amount, expiration date and applicable deductibles under each such policy or arrangement. Such policies and arrangements, including the coverage thereunder: (i) are in full force and effect; and (ii) are sufficient for compliance with all requirements of Law and all agreements to which the Corporation or the Subsidiary is a party,. Complete and accurate copies of all such policies and arrangements have been delivered to the Purchaser.
- (c) Neither the Corporation nor the Subsidiary is in default under any provision of any such policy or arrangement and has not received notice of cancellation or non-renewal of any such policy or arrangement, and no misstatement or misrepresentation has been made by the Corporation or the Subsidiary in any application for any policy of insurance. There is no Claim by the Corporation or the Subsidiary pending under any of such policies or arrangements as to which coverage has been questioned, denied or disputed by the underwriters or carriers of such policies and, to the knowledge of the Vendor, there is no basis for denial of any Claim under any such policy. All Claims, occurrences, litigation and circumstances that could lead to a Claim that would be covered by insurance policies of the Corporation and the Subsidiary have been properly reported to and accepted by the applicable insurer.
- (d) The Vendor has no knowledge of any state of facts, or of the occurrence of any event, which the Vendor knows or has reason to believe might reasonably result in a material increase in insurance premiums of the Corporation or the Subsidiary. Section 3.2.38 of the Disclosure Letter sets forth any amendments of a material nature to the coverage provided by the insurance policies of the Corporation or the Subsidiary during the past five (5) years. Neither the Corporation nor the

Subsidiary has received any notice from or on behalf of any insurance carrier issuing such policies that any policy will be amended or that any modification of any of the methods of doing business by the Corporation, the Subsidiary, or any of their assets, will be required or suggested.

3.2.39 *No Broker.* Neither the Corporation nor the Subsidiary has any liability of any kind to any broker, intermediary, agent or any similar Person for or on account of the Transactions.

SCHEDULE 3.3
REPRESENTATIONS AND WARRANTIES OF PURCHASER

- 3.3.1 *Organization.* The Purchaser has been duly incorporated or otherwise formed, is organized and validly subsisting and in good standing under the Laws of its jurisdiction of incorporation.
- 3.3.2 *Authority and No Violation.*
- (a) The Purchaser has all necessary power, capacity and authority to execute this Agreement and each Closing Document to which it is a party and to perform its obligations hereunder and thereunder. The execution of this Agreement by the Purchaser and of each Closing Document to which it is a party and the consummation by it of the Transactions have been duly authorized by the Governing Body of the Purchaser.
 - (b) This Agreement and each Closing Document to which it is a party have been duly executed by the Purchaser and constitutes valid and binding obligations, enforceable against it in accordance with their terms, subject to bankruptcy, insolvency and other similar Laws affecting creditors' rights generally.
 - (c) The approval of this Agreement and each Closing Document to which it is a party, the execution by the Purchaser of this Agreement and each Closing Document to which it is a party, and subject to obtaining the Third Party Consents, the performance by the Purchaser of its obligations hereunder and thereunder and the completion of the Transactions contemplated thereby, will not result in a violation of, default under or breach of, require any consent to be obtained under or give rise to any termination rights by a third party (with or without the giving of notice or lapse of time or both), payment obligation or rights of a third party under any provision of or the acceleration of any obligation under:
 - (i) its Constating Records, or
 - (ii) any Laws.
- 3.3.3 *Approvals and Consents.* Subject to obtaining the Regulatory Approvals, no consent, approval, notice, Order, authorization registration, declaration, filing, submission of information, waiver, sanction, license, exemption or Permit is required to be obtained by the Purchaser from any Governmental Authority or Person or pursuant to any Law in connection with the execution and delivery of this Agreement or any Closing Documents to which it is a party or the consummation by the Purchaser of the Transactions.
- 3.3.4 *Accredited Investor Status.* The Purchaser is an “accredited investor” within the meaning of NI 45-106.

3.3.5 *Financing.* The Purchaser has or will have, on the Closing Date, sufficient available funds to pay the Purchase Price and all other necessary fees, expenses and other amounts in connection with the consummation of the Transactions.

SCHEDULE 4.9
REGULATORY APPROVALS

1. Competition Approval
2. CTA Approval

**SCHEDULE 11.10
ADDRESSES**

Addressed to	With a copy to
<p>Air Canada and/or Aimia Canada Inc. (post-Closing) 7373 Côte Vertu Boulevard West Saint-Laurent (Québec) H4S 1Z3</p> <p>Attention: <i>*Confidential Contact Details Redacted*</i> E-mail: <i>*Confidential Contact Details Redacted*</i></p>	<p>Fasken Martineau DuMoulin LLP 800 Square Victoria, Suite 3700 Montreal (Quebec) H4Z 1E9</p> <p>Attention: Neil Kravitz; Claude Jodoin; Constantinos Ragas Email: nkravitz@fasken.com; cjodoin@fasken.com; cragas@fasken.com</p>
<p>Aimia Inc. and/or Aimia Canada Inc. (prior to Closing) 525 Viger Avenue West, Tour Aimia, Suite 1000 Montreal (Quebec) H2Z 0B2</p> <p>Attention: <i>*Confidential Contact Details Redacted*</i> E-mail: <i>*Confidential Contact Details Redacted*</i></p>	<p>Norton Rose Fulbright Canada LLP 1 Place Ville Marie, Suite 2500 Montreal (Quebec) H3B 1R1</p> <p>Attention: Stephen J. Kelly; Elliot Shapiro E-mail: stephen.kelly@nortonrosefulbright.com; elliot.shapiro@nortonrosefulbright.com</p>

APPENDIX A
ILLUSTRATIVE PRESENTATION OF THE SPECIAL PURPOSE CLOSING
STATEMENT

(See attached document)

Commercially sensitive and confidential information redacted.

APPENDIX B
SPECIFIED AUDIT PROCEDURES

(See attached document)

Commercially sensitive and confidential information redacted.

APPENDIX C
ILLUSTRATIVE CALCULATION OF REDEMPTION LIABILITY

(See attached document)

Commercially sensitive and confidential information redacted.

APPENDIX 2.6.1
ILLUSTRATIVE EXAMPLE OF POSITIVE ADJUSTMENT

(See attached document)

Commercially sensitive and confidential information redacted.

APPENDIX 2.6.2
ILLUSTRATIVE EXAMPLE OF NEGATIVE ADJUSTMENT

(See attached document)

Commercially sensitive and confidential information redacted.