

## ASSET PURCHASE AGREEMENT

THIS AGREEMENT is made as of March 31, 2025

### BETWEEN:

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

- and -

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

### RECITALS

#### WHEREAS:

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

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

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

## **Article 1      - INTERPRETATION**

### **1.01 Definitions**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“**Closing**” means the successful completion of the Transaction.

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

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

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

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

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

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

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

Bankruptcy Court.

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

“**Excluded Liabilities**” means any liabilities and obligations of Vendor other than the Assumed Liabilities, including for greater certainty any liabilities relating to the Cora Transaction.

“**Final Order**” means with respect to any order or judgment of the Bankruptcy Court, or any other court of competent jurisdiction, that such order or judgment has not been vacated, set aside, reversed, stayed, modified or amended, and as to which the applicable periods to appeal, or seek certiorari or move for a new trial, reargument, or rehearing has expired and no appeal, leave to appeal, or petition for certiorari or other proceedings for a new trial, reargument, or rehearing has been timely taken or filed, or as to which any appeal has been taken or any petition for certiorari or leave to appeal that has been timely filed has been withdrawn or resolved in a manner acceptable to Vendor and Purchaser, each acting reasonably, by the highest court to which the order or judgment was appealed or from which leave to appeal or certiorari was sought or the new trial, reargument, or rehearing shall have been denied, resulted in no modification of such order or has otherwise been dismissed with prejudice.

“**General Conveyance**” has the meaning set out in Section 6.01(3).

“**Governmental Authority**” means any domestic, foreign or multi-national, national, state, provincial, territorial or local government, any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, department, bureau or entity, or any arbitrator with authority to bind a Party at law.

“**Initial Agreement**” has the meaning set forth in the preamble.

“**Intellectual Property**” means any and all intellectual property or proprietary rights of every kind and description anywhere in the world, whether registered or unregistered, including the following (a) patents, patent applications, patent disclosures, invention disclosures and inventions (whether or not patentable and whether or not reduced to practice) and any reissue, continuation, continuation-in-part, divisional, revision, extension or reexamination thereof, (b) industrial designs, industrial design applications, industrial design disclosures, and any reissue, continuation-in-part, divisional, revision, extension or reexamination thereof, (b) Internet domain names, internet protocol addresses, trademarks, service marks, trade dress, logos, slogans, company names, trade names, corporate names, social media handles and phone numbers containing any of the foregoing, (and all translations, adaptations, derivations and combinations of the foregoing), and registrations, applications for registration and renewals thereof together with all of the goodwill associated therewith, (d) copyrights (registered or unregistered) and copyrightable works, moral rights (and other similar rights) and registrations, applications for registration and renewals thereof, (e) rights in Software (in both source code and object code form) and documentation thereof, (f) rights in technology and documentation thereof, and (g) trade secrets and other information of a confidential nature (including ideas, formulas, recipes, compositions, know-how, manufacturing and production processes and techniques, research and development information, drawings, specifications, designs, plans, proposals, data and databases, algorithms, information, financial and marketing plans and customer and supplier/vendor lists and information).

“**knowledge**” means the actual knowledge after reviewing all relevant records and making reasonable inquiries regarding the relevant matter, including consulting with appropriate Persons responsible for the relevant subject matter.

“**Kognitiv Solutions**” has the meaning set forth in the preamble.

“**Laws**” means all laws, statutes, codes, ordinances, decrees, rules, standards, orders-in-council, regulations, by-laws, statutory rules, principles of law, published policies and guidelines (whether or not having the force of law), judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings or awards, including general principles of common and civil law, and terms and conditions of any grant of approval, permission, authority or license of any Governmental Authority, statutory body, or self-regulatory authority (including stock exchanges or markets), and the term “**applicable**” with respect to such Laws and in the context that refers to one or more Persons, means that such Laws apply to such Person or Persons or its or their business, undertaking, property or securities and emanate from a Person having jurisdiction over the Person or Persons or its or their business, undertaking, property or securities.

“**Liens**” means any claim, encumbrance, right or interest against or in the Purchased Assets, their related business operations or any other related assets of any kind whatsoever and includes a security interest, mortgage, lien, hypothec, pledge, assignment, charge, title retention agreement, non-disposal undertaking, option, trust or deemed trust (whether contractual, statutory or otherwise arising), licence and any covenant or other agreement, restriction or limitation (including any covenants contained in the asset purchase agreement for the Cora Transaction) relating to the Purchased Assets, their related business operations, or other related assets or the transfer of the Purchased Assets to Purchaser pursuant to this Agreement.

“**Loyalty PSA**” has the meaning set forth in the preamble.

“**Loyalty Solutions**” has the meaning set forth in the preamble.

“**Made Available**” means available in the *Firmex* virtual data room titled “Project Coppola” organized by the BDO or otherwise provided in writing to Purchaser by the Parent.

“**Material Adverse Effect**” means any result, fact, change, occurrence, event or development that, individually or in the aggregate, materially and adversely affects, or could reasonably be expected to (a) materially and adversely affect, the ability of Vendor to consummate the Transaction in a timely manner or to perform their respective obligations hereunder, or (b) have a material adverse effect on the business, properties, assets, results of operations or financial condition of Vendor. Notwithstanding the foregoing, solely for the purposes of the foregoing clause (b), none of the following, either alone or in combination, shall be deemed to constitute, or be taken into account in determining whether there has been, such a material adverse effect: any change, occurrence, event or development: (i) arising from general economic, political, financial, banking, credit or securities market conditions, including any disruption thereof and any interest or exchange rate fluctuations; (ii) arising from the announcement or performance of, or compliance with, or the public or industry knowledge of, this Agreement or the Transaction; (iii)(A) arising from any changes or changes in interpretation of accounting rules or (B) arising out of, resulting from or attributable to any action required to be taken under any Applicable Law; (iv) arising from natural disasters, acts of terrorism or war (whether or not declared) or epidemics or pandemics or orders relating thereto; provided, however, that any change, occurrence, event or development referred to in clauses (i), (iii) or (iv) immediately above shall be taken into account in determining whether a Material Adverse Effect has occurred or could reasonably be expected to occur to the extent and only to the extent that such change, occurrence, event or development has a disproportionate effect on Vendor compared to other participants in the industries in which Vendor conducts its Business.

“**Material Contracts**” has the meaning set out in Section 3.01(6).

“**Non-Solicitation Agreement**” means the Non-Solicitation and Non-Circumvention Agreement entered

into between the Parent and the Purchaser on February 25, 2025, as amended March 31, 2025.

“**Offered Employees**” means those individuals set out in Schedule 1.02 hereto.

“**Order**” means any order, judgment, writ, injunction, stipulation, award or decree.

“**Outside Date**” means May 31, 2025 or such later date agreed to by each of Vendor and Purchaser in writing.

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

“**Person**” means any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, limited liability company, trust, trustee, executor, administrator or other legal personal representative, Governmental Authority or entity however designated or constituted.

“**Personal Information**” means information in the possession or under the control of Vendor about an identifiable individual.

“**Pre-Closing Assumed Liabilities**” means all accounts payable arising out of the Purchased Assets outstanding as at Closing, other than those accounts payable arising out of or relating to the Excluded Assets.

“**Pre-Closing Period**” has the meaning set forth in Section 5.01(2).

“**Proposal Proceedings**” has the meaning set forth in the preamble.

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

“**Purchase Price**” has the meaning set out in Section 2.04.

“**Purchased Assets**” means all rights, title and interest in and to all of the assets, property and undertaking of Vendor including the following assets but excluding the Excluded Assets:

- (a) all accounts receivable, trade accounts receivable, notes receivable, book debts and other debts owing, due or accruing due to Vendor in connection with the Purchased Contracts (the “**Acquired Accounts Receivable**”) and the full benefit of all security for the Acquired Accounts Receivable;
- (b) all books (other than minute books), ledgers, files, lists, reports, logs, deeds, surveys, correspondence, operating records, marketing plans, and other data and information, including all data and information stored on computer-related or other electronic media maintained in connection with the Business;
- (c) the Purchased Contracts;
- (d) Avoidance Actions; and
- (e) all office equipment and computer equipment of, and used by, the Transferred Employees that is owned by Vendor.

“**Purchased Contracts**” means those Contracts set out in Schedule 1.03 hereto.

“**Rejected Contracts**” means those Contracts set out in Schedule 1.03 hereto.

“**Remedies Exception**” means such limitations as may be imposed by applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors’ rights generally, and by laws related to the availability of specific performance, injunctive relief or other equitable remedies.

“**Sale Order**” means an order issued by the Bankruptcy Court in a form approved in writing by the Purchaser (acting reasonably) authorizing (i) the sale, transfer, assignment, conveyance and delivery of the Purchased Assets to Purchaser (or its nominee, successors or permitted assigns) free and clear of all Liens, (ii) the assumption and assignment to Purchaser of the Purchased Contracts; (iii) the assumption by Purchaser of the Assumed Liabilities; and (iv) the rejection of the Rejected Contracts. The Sale Order shall contain, among others, the following provisions:

- (a) Vendor is authorized to proceed with the Transaction pursuant to section 363(b), (f), and (m) of the Bankruptcy Code;
- (b) Any objections with respect to this Transaction are withdrawn, waived or overruled;
- (c) The Purchase Price represents the fair value of the Purchased Assets and Purchased Contracts;
- (d) The Sale is in the best interests of Vendor's estate and its creditors;
- (e) A finding that the Purchaser has acted in good faith and is entitled to the protections afforded by section 363(m) of the Bankruptcy Code;
- (f) The Bankruptcy Court shall retain jurisdiction for the purpose of enforcing the provisions of the Sale Order and to determine disputes thereunder;
- (g) The Purchased Contracts shall be assumed and assigned to Purchaser in accordance with section 365 of the Bankruptcy Code effective as of the Closing Date and Vendor shall be responsible to pay all Cure Costs pursuant to section 365(b) of the Bankruptcy Code to counterparties to the Purchased Contracts;
- (h) the Rejected Contracts shall be rejected in accordance with section 365 of the Bankruptcy Code upon entry of the Sale Order;
- (i) a finding that none of the Parent, Vendor or Purchaser have engaged in any conduct that would cause or permit the Purchase Agreement to be avoided or costs and damages to be imposed under section 363(n) of the Bankruptcy Code
- (j) Vendor and Purchaser shall be authorized to close this transaction immediately upon entry of the Sale Order;
- (k) The sale to Purchaser of the Purchased Assets shall be free and clear of any and all Liens and related claims;
- (l) That all persons holding Liens of any kind or nature whatsoever in, to or against the Purchased Assets or Purchased Contracts or the operation of the Purchased Assets or Purchased Contracts shall be forever barred, estopped, and permanently enjoined from asserting against the Purchaser,

its business operations and employees or any of its successors, assigns or property (including the Purchased Assets), any Liens or rights existing, accrued or arising prior to the Closing

- (m) A finding that Purchaser is not a successor in interest to or continuation of the Parent, Vendor, their affiliates or their respective estates and shall have no successor liability under any theory for the obligations of any Parent, Vendor or their affiliates.
- (n) Provide for the waiver of the requirements under the Federal Rules of Bankruptcy Procedure 6004(h) and 6006(d);
- (o) Proper and adequate notice and an opportunity to be heard in accordance with all applicable law were given to all necessary parties in the Chapter 11 Case; and
- (p) The Transaction does not include personally identifiable information under section 363(b)(1)(B) and, thus, the appointment of a consumer privacy ombudsman is not required under Bankruptcy Rule 6004(g).

**“Software”** means software, including all versions thereof, whether installed locally, on a local area network or delivered through the internet, and all related documentation, manuals, source code and object code, program files, data files, computer related data, field and data definitions and relationships, data definition specifications, data models, program and system logic, interfaces, program modules, routines, sub-routines, algorithms, program architecture, design concepts, system designs, program structure, sequence and organization, screen displays and report layouts, including any and all modifications, changes, release, versions, upgrades, updates or patches of any of the foregoing, and all other material related to such software.

**“Statutory Plans”** means benefit plans that Vendor is required by domestic or foreign statutes to participate in or contribute to in respect of an employee, director or officer or any beneficiary or dependent thereof, including plans administered pursuant to applicable health, tax, workplace safety insurance, federal or provincial pension plan, workers’ compensation and employment insurance legislation.

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

**“Tax Returns”** means all returns, declarations, designations, forms, schedules, reports, elections, notices, filings, statements (including withholding tax returns and reports, and information tax returns and reports) and other documents of every nature whatsoever filed or required to be filed with any Taxing Authority with respect to any Taxes, together with all amendments and supplements thereto.

**“Taxes”** means taxes, duties, fees, premiums, assessments, imposts, levies and other charges of any kind whatsoever (including withholding on amounts paid to or by any Person) imposed by any Taxing Authority, including all interest, penalties, fines, additions to tax or other additional amounts in respect thereof, and including those levied on, or measured by, or referred to as, income, gross receipts, profits, capital, transfer, land transfer, value added, consumption, sales, use, excise, stamp, withholding, business, franchising, property, development, occupancy, employer health, payroll, employment, health, disability, severance, unemployment, social services, education and social security taxes, all surtaxes, all customs duties and import and export taxes, countervail and anti-dumping, all license, franchise and registration fees and all employment insurance, health insurance and other government pension plan premiums or contributions, and **“Tax”** means any one of the Taxes.

**“Taxing Authorities”** means any Governmental Authorities responsible for the administration, imposition or collection of any Tax, and **“Taxing Authority”** means any one of the Taxing Authorities.

“**Transaction**” means the sale of the Purchased Assets by Vendor to Purchaser, including the assumption and assignment of the Purchased Contracts to Purchaser, the assumption of the Assumed Liabilities by Purchaser, and Vendor’s rejection of the Rejected Contracts.

“**Transfer Taxes**” has the meaning set forth in Section 2.05.

“**Transferred Employees**” means those Offered Employees who accept the offer of employment or engagement made by Purchaser effective on or before the Closing Date.

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

## **1.02 Headings, etc.**

The division of this Agreement into Articles and Sections is for convenience of reference only and does not affect the construction or interpretation of this Agreement. The terms “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles, Sections and Schedules are to Articles, Sections and Schedules to this Agreement.

## **1.03 Extended Meanings**

In this Agreement, words importing the singular include the plural and vice versa and words importing gender include all genders. The term “including” means “including, without limitation,” and such terms as “includes” have similar meanings and the term “third party” means any other person other than Vendor or Purchaser, or any Affiliates thereof.

## **1.04 Statutory References**

In this Agreement, unless something in the subject matter or context is inconsistent therewith or unless otherwise herein provided, a reference to any statute is to that statute as now enacted or as the same may from time to time be amended, re-enacted or replaced and includes any regulations made thereunder.

## **1.05 Currency**

All references to currency herein are to lawful money of Canada unless otherwise expressly provided.

## **1.06 Schedules**

All Schedules shall form part of this Agreement.

## **1.07 Non-Business Days**

Whenever payments are to be made or an action is to be taken on a day which is not a Business Day, such payment will be made or such action will be taken on or not later than the next succeeding Business Day.

## **1.08 Time Periods**

Unless otherwise specified, time periods shall be calculated by excluding the day on which the period commences and including the day on which the period ends.

## **1.09 Invalidity of Provisions**

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof so long as the economic or legal substance of the Transaction is not affected in any manner materially adverse to any Party. Upon such a determination of invalidity or unenforceability, the Parties shall negotiate to modify this Agreement in good faith so as to affect the original intent of the Parties as closely as possible in an acceptable manner so that the Transaction be consummated as originally contemplated to the fullest extent possible.

## **Article 2      – PURCHASE AND SALE**

### **2.01 Purchase and Sale**

Subject to the terms and conditions of this Agreement, Vendor hereby agrees to sell, assign and transfer to Purchaser, and Purchaser hereby agrees to purchase from Vendor on the Closing Date, effective as of the Closing Time, the Purchased Assets, free and clear of all Liens pursuant to the Sale Order.

### **2.02 Assumed Liabilities**

Subject to the terms and conditions of this Agreement, at Closing, effective as of the Closing Time, Purchaser shall assume the Assumed Liabilities.

### **2.03 Excluded Assets & Liabilities**

The Parties acknowledge and agree that Purchaser is not acquiring the right or benefit to the Excluded Assets and hereby expressly disclaims any interest therein. Accordingly, and notwithstanding any representation or warranty in this Agreement to the contrary, Purchaser acknowledges and agrees that:

- (1) Purchaser shall use best efforts in co-operation with Vendor or its nominee, to take all necessary action and do all such things as are necessary in order to pay, deliver, or otherwise convey to Vendor all right, title and interest in and to the Excluded Assets; and
- (2) pending the effective transfer of the Excluded Assets, Purchaser shall hold all rights or entitlements that Purchaser has in those Excluded Assets in trust for the exclusive benefit of Vendor.

Purchaser does not assume any of the Excluded Liabilities and, as between the Parties, the Excluded Liabilities will remain the sole responsibility of Vendor and will not form part of the Assumed Liabilities.

### **2.04 Purchase Price**

On the Closing Date, the purchase price payable by Purchaser to Vendor for the Purchased Assets shall be an amount equal to \$17,280,000 (the “**Purchase Price**”), as may be adjusted by the Vendor and the Purchaser in writing.

### **2.05 Transfer Taxes**

The Purchase Price is inclusive of any applicable sales, value-added, use, transfer, land transfer or other similar Taxes (“**Transfer Taxes**”). Vendor shall be responsible for paying any Transfer Taxes applicable to the purchase and sale of the Purchased Assets under this Agreement.

### **2.06 Closing**

The Closing shall take place on the Closing Date, effective as of the Closing Time electronically by exchange of executed pdf documents.

### **Article 3      - REPRESENTATIONS AND WARRANTIES**

#### **3.01 Representations and Warranties of Vendor**

Vendor represents and warrants to Purchaser and acknowledges that Purchaser is relying upon the following representations and warranties in connection with the Transaction:

- (1) *Organization* – Vendor is a limited liability company duly organized, validly existing and in good standing under the laws of Delaware.
- (2) *Due Authorization and Enforceability* – Subject to the issuance of the Sale Order: (i) Vendor has the power, authority and right to enter into and deliver this Agreement and to perform its obligations hereunder; (ii) the execution, delivery and performance by Vendor of its obligations under this Agreement, and the consummation by Vendor of the Transaction, has been duly authorized and approved by all required action on the part of Vendor; and (iii) this Agreement constitutes a valid and legally binding obligation of Vendor, enforceable against it in accordance with its terms.
- (3) *Title to Purchased Assets* - Subject to the Sale Order, Vendor has good and valid title to the Purchased Assets. None of the Purchased Assets are leased or licensed from any Person.
- (4) *No Conflict* - The execution by Vendor of this Agreement and the consummation of the Transaction:
  - (i) does not and will not (or would not with the giving of notice, the lapse of time or both, or the happening of any other event or condition) constitute or result in a violation or breach of, or conflict with, or allow any Person to exercise any rights under, any of the terms or provisions of the organizational documents of Vendor;
  - (ii) does not and will not (or would not with the giving of notice, the lapse of time or both, or the happening of any other event or condition) constitute or result in a breach or violation of, or conflict with, or allow any Person to exercise any rights under, or give any Person a basis for accelerated or increased rights of termination or non-performance under, any Purchased Contract;
  - (iii) does not and will not result in the violation of any Law or Order;
  - (iv) does not and will not result in a breach of, or cause the termination or revocation of, any permit forming part of the Purchased Assets; and
  - (v) does not and will not result in the creation or imposition of any Liens upon the Purchased Assets.
- (5) *Recitals* - The recitals set forth at the beginning of this Agreement are accurate and complete in all material respects as of the date of this Agreement and fairly describe the facts and circumstances leading to the execution of this Agreement.
- (6) *Contracts* - Vendor has Made Available to Purchaser true and correct copies of the

Purchased Contracts (the “**Material Contracts**”). Each of the Material Contracts (1) sets forth the entire agreement and understanding between Vendor and the other parties thereto, (2) subject to requisite Bankruptcy Court approvals, and assumption by Purchaser of the applicable Purchased Contract in accordance with Applicable Law (including satisfaction of any applicable Cure Costs) and except as a result of the commencement of the Chapter 11 Case, is valid, binding, and in full force and effect, subject to the Remedies Exception, enforceable in accordance with its terms. Except for the Chapter 11 Case, there is no event or condition that occurred or exists that constitutes or that, with or without notice, the happening of any event and/or the passage of time, would reasonably be expected to constitute a material default or breach under any such Purchased Contract by Vendor, or could cause the acceleration of any obligation or loss of any rights of any party thereto or give rise to any right of termination or cancellation thereof, and, no written allegation of any such event or condition has been made to Vendor. Vendor has not waived any material rights under any Material Contract. No Material Contracts contain any restrictive covenants.

(7) *Labour and Employment Matters*

- (i) Vendor has Made Available to Purchaser a true, correct and complete list of the names, salaries, wage rates, commissions, bonus arrangements, benefits, positions, status as full-time or part-time employees, location of employment, cumulative length of service with Vendor of the Offered Employees. Vendor has Made Available to Purchaser all information regarding the Offered Employees’ annual vacation entitlement and their accrued and unused vacation days, including end-of-service and defined benefit obligations that have accrued to the Offered Employees through the Closing Date in connection with their employment prior to Closing pursuant to Statutory Plans. Vendor has Made Available to Purchaser all current employment agreements in respect of the Offered Employees.
- (ii) To the knowledge of Vendor, no Offered Employee is in violation of any term of any employment contract, contract of engagement, services agreement, proprietary information agreement or any other agreement relating to the right of that individual to be employed, engaged or retained by Purchaser, and, to the knowledge of Vendor, the continued employment or engagement of the Transferred Employees will not result in any violation and Vendor has not received any notice alleging that any such violation has occurred.

(8) *No Intellectual Property* – The Vendor does not own, purport to own or license any Intellectual Property, other than Intellectual Property licensed from Loyalty Solutions.

(9) *No Authorizations* – The Vendor does not own and has not been issued any Authorizations in connection with the Business.

(10) *Disclosure* – To the knowledge of Vendor, no information, representation, warranty or statement by Vendor in this Agreement or in any statement or certificate furnished to Purchaser pursuant to this Agreement and the due diligence, or in any document provided by Vendor, the Parent or any of their respective Affiliates contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements made herein, in light of the circumstances under which they were made and with respect to the date as of which they are made, not misleading.

### 3.02 Representations and Warranties of Purchaser

Purchaser represents and warrants to Vendor and acknowledges that Vendor is relying upon the following representations and warranties in connection with the Transaction:

- (1) *Organization* – Purchaser is a limited liability company duly organized, validly existing and in good standing under the laws of Delaware.
- (2) *Due Authorization and Enforceability of Obligations* – (i) Purchaser has the power, authority and right to enter into and deliver this Agreement and to perform its obligations hereunder; (ii) the execution, delivery and performance by Purchaser of its obligations under this Agreement, and the consummation by Purchaser of the Transaction, has been duly authorized and approved by all required action on the part of Purchaser; and (iii) this Agreement constitutes a valid and legally binding obligation of Purchaser, enforceable against it in accordance with its terms.
- (3) *Consents* – No consent, approval, order or authorization of, or declaration or filing with, any Governmental Authority or any other Person is required to be obtained by Purchaser in connection with the execution and delivery of this Agreement by Purchaser or the consummation by Purchaser of the Transaction, other than those consents, approvals, orders, authorizations, declarations or filings which would not reasonably be expected to materially impede or delay the consummation by Purchaser of the Transaction.
- (4) *Finder's Fees* – No broker, finder or investment banker is entitled to any fee or commission from Purchaser for services rendered on behalf of Purchaser in connection with the Transaction for which Vendor may be liable.

### 3.03 “As Is, where Is”

PURCHASER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF VENDOR EXPRESSLY AND SPECIFICALLY SET FORTH IN SECTION 3.01: (A) PURCHASER IS ACQUIRING THE PURCHASED ASSETS ON AN “AS IS, WHERE IS” BASIS AS THEY EXIST ON THE CLOSING DATE; AND (B) NONE OF THE VENDOR OR ANY OTHER PERSON (INCLUDING ANY REPRESENTATIVE OF VENDOR, WHETHER IN ANY INDIVIDUAL, CORPORATE OR ANY OTHER CAPACITY) IS MAKING, AND PURCHASER IS NOT RELYING ON, ANY REPRESENTATIONS, WARRANTIES, CONDITIONS OR OTHER STATEMENTS OF ANY KIND WHATSOEVER, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, AS TO ANY MATTER CONCERNING THE PURCHASED ASSETS, THIS AGREEMENT OR THE TRANSACTION, OR THE ACCURACY OR COMPLETENESS OF ANY INFORMATION PROVIDED TO (OR OTHERWISE ACQUIRED BY) PURCHASER, ITS AFFILIATES OR ANY OF THEIR RESPECTIVE REPRESENTATIVES, INCLUDING WITH RESPECT TO MERCHANTABILITY, PHYSICAL OR FINANCIAL CONDITION, DESCRIPTION, FITNESS FOR A PARTICULAR PURPOSE, OR IN RESPECT OF ANY OTHER MATTER OR THING WHATSOEVER, INCLUDING ANY AND ALL CONDITIONS, WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, PURSUANT TO ANY APPLICABLE LAWS IN ANY JURISDICTION, WHICH PURCHASER CONFIRMS DO NOT APPLY TO THIS AGREEMENT, AND ARE HEREBY WAIVED IN THEIR ENTIRETY BY PURCHASER.

Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to Title 6 of the Delaware Code or similar legislation do not apply hereto and have been waived by Purchaser.

This Section 3.03 shall not merge on Closing and is deemed incorporated by reference in all closing documents and deliveries.

### **3.04 Purchaser's Acknowledgement**

Purchaser acknowledges and agrees that it has conducted to its satisfaction an independent investigation and verification of the Business and the Purchased Assets and has consulted with and been advised by its own financial, legal and other advisors before entering into this Agreement, has read same and knows the contents thereof, and has determined to proceed with the Transaction. Purchaser has relied solely on the results of its own independent investigation and verification and, except for the representations and warranties of Vendor expressly set forth in Sections 3.01, Purchaser understands, acknowledges and agrees that all other representations, warranties, conditions and statements of any kind or nature, expressed or implied (including any relating to the future or historical financial condition, results of operations, prospects, assets or liabilities of Vendor or the Business) are specifically disclaimed by Vendor, and its financial and/or legal advisors.

## **Article 4      - CONDITIONS**

### **4.01 Conditions for the Benefit of Purchaser and Vendor**

The respective obligations of Purchaser and Vendor to consummate the Transaction are subject to the satisfaction of, or compliance with, at or prior to the Closing Time, each of the following conditions:

- (1) *No Law* – No provision of any Applicable Law and no judgment, injunction or Order shall have been enacted, announced, issued or entered by any Governmental Authority of competent jurisdiction that prevents, restrains, enjoins, renders illegal or otherwise prohibits the consummation of the Transaction; and
- (2) *Sale Order* – The Sale Order shall have been issued and entered by the Bankruptcy Court.

The Parties acknowledge that the foregoing conditions are for the mutual benefit of Purchaser and Vendor.

### **4.02 Conditions for the Benefit of Purchaser**

The obligation of Purchaser to consummate the Transaction is subject to the satisfaction of, or compliance with, or waiver by Purchaser of, at or prior to the Closing Time, each of the following conditions (each of which is acknowledged to be for the exclusive benefit of Purchaser):

- (1) *Performance of Covenants* – The covenants contained in this Agreement required to be performed or complied with by Vendor at or prior to the Closing Time shall have been performed or complied with in all material respects as at the Closing Time;
- (2) *Truth of Representations and Warranties* – The representations and warranties of Vendor contained in Section 3.01 shall be true and correct in all material respects as of the date hereof and as of the Closing Date, as if made at and as of such date;
- (3) *Vendor's Deliverables* – Vendor shall have delivered to Purchaser all of the deliverables contained in Section 6.01 in form and substance reasonably satisfactory to Purchaser;
- (4) *No Material Adverse Effect* - From the date of this Agreement until the Closing Time, there shall not have occurred any Material Adverse Effect, nor shall any event or events have

occurred that, individually or in the aggregate, with or without the lapse of time, could reasonably be expected to result in a Material Adverse Effect;

- (5) *Claims* – Except with respect to the Cora Transaction, there is no pending or threatened Claim against Vendor that has had or that may be reasonably expected to have a Material Adverse Effect;
- (6) *No Orders, Decisions, Etc.* No final and non-appealable order, decision or ruling of any court, tribunal or regulatory authority having jurisdiction shall have been made or proceeding commenced that would specifically prohibit the Transaction;
- (7) *Permits* - No Governmental Authority has communicated to any Party that it intends to revoke, suspend or adversely change any permit of Vendor generally or specifically as a result of the Transaction, the revocation, suspension or change of which may be reasonably expected to have, a Material Adverse Effect; and
- (8) *Sale Order* – the entry of the Sale Order, that is in a form approved in writing by the Purchaser (acting reasonably).

#### **4.03 Conditions for the Benefit of Vendor**

The obligation of Vendor to consummate the Transaction is subject to the satisfaction of, or compliance with, or waiver by Vendor of, at or prior to the Closing Time, each of the following conditions (each of which is acknowledged to be for the exclusive benefit of Vendor):

- (1) *Performance of Covenants* – The covenants contained in this Agreement required to be performed or complied with by Purchaser at or prior to the Closing Time shall have been performed or complied with in all material respects as at the Closing Time; and
- (2) *Truth of Representations and Warranties* – The representations and warranties of Purchaser contained in Section 3.02 shall be true and correct in all material respects as of the date hereof and as of the Closing Date, as if made at and as of such date.

#### **4.04 Waiver of Conditions**

Any condition in Sections 4.01, 4.02 and 4.03 may be waived by Purchaser or Vendor, as applicable, in whole or in part, without prejudice to any of their respective rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver shall be binding on Purchaser or Vendor, as applicable, only if made in writing.

#### **4.05 Non-Completion of Conditions Precedent**

Upon either Party becoming aware that any condition precedent set forth in this Article 4 will be or is likely to be delayed in fulfilment or has become incapable of fulfilment, such Party shall immediately notify the other Party of the same and shall provide an explanation in reasonable detail along with supporting documents.

## Article 5      - COVENANTS

### **5.01 Covenants of Vendor**

- (1) Upon payment of the Purchase Price by Purchaser at the Closing Time, and subject to the terms of this Agreement, Vendor will transfer and assign to Purchaser all of Vendor's right, title and interest in and to the Purchased Assets, free and clear of all Liens, in accordance with the terms of this Agreement and the Sale Order.
- (2) From the date of this Agreement until the earlier to occur of the valid termination of this Agreement under Section 7.01 and the Closing Time (such period, the "**Pre-Closing Period**"), Vendor will remain in possession of the Purchased Assets and Purchaser will take possession of the Purchased Assets at the Closing Time.
- (3) Subject to the terms of this Agreement, Vendor shall use all commercially reasonable efforts to take or cause to be taken all other actions and do or cause to be done all other things, reasonably necessary or appropriate to consummate the Transaction.

### **5.02 Covenants of Purchaser**

- (1) At Closing, subject to the terms of this Agreement, Purchaser shall assume and thereafter perform all obligations and liabilities arising from and in connection with the Purchased Assets that accrue from and after the Closing.
- (2) Subject to the terms of this Agreement, Purchaser shall use all commercially reasonable efforts to take or cause to be taken all other actions and do or cause to be done all other things, reasonably necessary or appropriate to consummate the Transaction.

### **5.03 Offer of Employment**

- (1) A minimum of ten (10) days prior to Closing, Purchaser will make offers of employment to the Offered Employees prior to the Closing Date, on terms satisfactory to the Purchaser, at its sole discretion, with such offers becoming effective, subject to acceptance by such Offered Employees, at the Closing Time.
- (2) Vendor will render all reasonable assistance to encourage Offered Employees to accept the offers of employment or engagement in accordance with their terms and conditions.
- (3) Purchaser will not be obligated to any Offered Employee who refuses Purchaser's offer, regardless of the reason for refusal, or who does not sign and return Purchaser's offer of employment prior to the Closing Date.
- (4) This Section 5.03 is not intended to, and does not, confer any rights or remedies on any Person other than the Parties (and their respective successors).

### **5.04 Confidential Information**

After the Closing Time, Vendor shall and shall cause its Affiliates to maintain the confidentiality of all Confidential Information, except any disclosure of such information and records as may be required by Applicable Law or permitted by Purchaser in writing. If Vendor, its Affiliate, or any of their respective representatives, becomes legally compelled by deposition, interrogatory, request for documents, subpoena,

civil investigative demand, or similar judicial or administrative process, to disclose any such information, such party shall provide Purchaser with reasonably prompt prior oral or written notice of such requirement (including any report, statement, testimony or other submission to such Governmental Authority) to the extent legally permissible and reasonably practicable, and cooperate with Purchaser, at Purchaser's expense, to obtain a protective order or similar remedy to cause such information not to be disclosed; provided that in the event that such protective order or other similar remedy is not obtained, Vendor shall, or shall cause its Affiliate or representative to, furnish only that portion of such information that has been legally compelled, and shall, or shall cause such Affiliate or representative to, exercise its commercially reasonable efforts to obtain assurance that confidential treatment will be accorded such disclosed information. Vendor shall instruct its Affiliates and representatives having access to such information of such obligation of confidentiality and shall be responsible for any breach of the terms of this Section 7.03 by any of its Affiliate or representatives. At Closing Time, Vendor shall handover all Confidential Information to Purchaser or destroy such Confidential Information in its possession at Purchaser's request. Vendor shall not make or retain copies or excerpts of or from the Confidential Information or in any way re-create the substance or contents of the Confidential Information at any time on or after Closing.

### **5.05 Personal Information**

Purchaser shall at all times comply with all Applicable Laws governing the protection of Personal Information with respect to Personal Information disclosed or otherwise provided to Purchaser by Vendor under this Agreement. Purchaser shall only collect, use or disclose such Personal Information for the purposes of investigating the Business as contemplated by this Agreement and completing the Transaction. Purchaser shall safeguard all Personal Information collected from Vendor in a manner consistent with the degree of sensitivity of the Personal Information and maintain at all times the security and integrity of the Personal Information. Purchaser shall not make copies or excerpts of or from the Personal Information or in any way re-create the substance or contents of the Personal Information if the Transaction is not completed for any reason and shall return all Personal Information to Vendor or destroy such Personal Information at Vendor's request.

### **5.06 Bankruptcy Court Matters**

- (1) The Parties acknowledge that this Agreement and the sale of the Purchased Assets are subject to Bankruptcy Court approval. The Parties acknowledge that they are aware of the relevant legal requirements and will proceed in good faith to satisfy such requirements.
- (2) Vendor shall (i) provide Purchaser with drafts of any and all other pleadings and proposed orders to be filed or submitted in connection with this Agreement and the Transactions at least three (3) Business Days prior to filing or submitting such pleadings and proposed orders, and such pleadings and proposed orders shall be in form and substance reasonably acceptable to Purchaser and (ii) make best efforts to consult and cooperate with Purchaser regarding any discovery taken in connection with seeking entry of the Sale Order (including any depositions).
- (3) Vendor shall use its commercially reasonable efforts to: (i) obtain entry by the Bankruptcy Court of the Sale Order as soon as reasonably practicable under Fed. R. Bank. P. 2002 and any applicable Local Bankruptcy Rules but in no event later than April 30, 2025, subject to the availability of the Bankruptcy Court to conduct a hearing to consider the entry of the Sale Order, and (ii) subject to the satisfaction of the conditions precedent contained in this Agreement, consummate the Closing as soon as reasonably practicable after the entry by the Bankruptcy Court of the Sale Order.

- (4) The Sale Order, including any exhibits thereto and any notices or other materials in connection therewith, must be in form and substance satisfactory to Purchaser.
- (5) In the event that the entry of a Sale Order is appealed or a stay pending appeal is sought, Sellers shall use their reasonable best efforts to defend such appeal or the stay pending appeal (including a petition for certiorari, motion for rehearing, re-argument, reconsideration or revocation).
- (6) During the Bankruptcy Case, Vendor shall not commence, assign, convey or abandon any Avoidance Actions against any of Vendor's ordinary course vendors, contract counterparties, contractors and other suppliers of services related to the Business without the prior written consent of Purchaser, which shall not be unreasonably withheld, conditioned, or delayed.

#### **5.07 Covenants Relating to this Agreement**

- (1) The Parties acknowledge and agree that Schedule 1.03 hereto includes a complete and accurate list of all Purchased Contracts with clients of the Vendor, but does not include a complete and accurate list of the Purchased Contracts with suppliers and vendors of the Vendor. During the Pre-Closing Period, the Parties will cooperate on a best efforts basis in order to finalize a complete and accurate list of Purchased Contracts with suppliers and vendors of the Vendor.
- (2) Each of the Parties shall perform all obligations required to be performed by the applicable Party under this Agreement, co-operate with the other Party in connection therewith and do all such other acts and things as may be necessary or desirable in order to consummate and make effective, as soon as reasonably practicable and prior to the Outside Date, the Transaction and, without limiting the generality of the foregoing, from the date hereof until the Closing Time, each Party shall and, where appropriate, shall cause each of its Affiliates to:
  - (i) negotiate in good faith and use its commercially reasonable efforts to take or cause to be taken all actions and to do, or cause to be done, all things necessary, proper or advisable to satisfy the conditions precedent to the obligations of such Party hereunder, and to cause the fulfillment at the earliest practicable date of all of the conditions precedent to the other Party's obligations to consummate the Transaction; and
  - (ii) not take any action, or refrain from taking any action, or permit any action to be taken or not taken, which would reasonably be expected to prevent, materially delay or otherwise impede the consummation of the Transaction.
- (3) From the date hereof until the Closing Date, subject to Applicable Laws, each Party hereby agrees, and hereby agrees to cause its representatives to, keep the other Party informed on a reasonably current basis, and as reasonably requested by the other Party as to such Party's progress in terms of the satisfaction of the conditions precedent contained herein.
- (4) Each Party agrees to execute and deliver such other documents, certificates, agreements and other writings, and to take such other actions to consummate or implement the Transaction, as soon as reasonably practicable and in accordance with the terms of this Agreement.

## **5.08 Further Assurances**

After the Closing, the Parties will execute such further documents, and perform such further acts, as may be necessary or reasonably required to transfer and convey the Purchased Assets and the Assumed Liabilities to Purchaser, on the terms set forth herein, and to otherwise comply with this Agreement and consummate the Transaction.

## **Article 6 - CLOSING DELIVERIES**

### **6.01 Closing Deliveries of Vendor**

At Closing, Vendor will deliver, or cause to be delivered, to Purchaser the following, in each case, in form and substance satisfactory to Purchaser, acting reasonably:

- (1) a true copy of the Sale Order;
- (2) a certificate effective as of the Closing Date, duly executed by Vendor, confirming that the conditions set forth in Sections 4.02(1) and 4.02(2) have been satisfied;
- (3) a general conveyance and assumption agreement respecting the Purchased Assets, duly executed by Vendor (the “**General Conveyance**”);
- (4) such other documents, certificates or instruments as Purchaser may reasonably request in order to affect the Transaction or to vest in Purchaser good and valid title to the Purchased Assets.

### **6.02 Closing Deliveries of Purchaser**

- (1) At Closing, Purchaser will deliver, or cause to be delivered, the Purchase Price to Vendor.
- (2) At Closing, Purchaser will deliver, or cause to be delivered, to Vendor the following, in each case, in form and substance satisfactory to Vendor, acting reasonably:
  - (i) a certificate effective as of the Closing Date, duly executed by Purchaser, confirming that the conditions set forth in Sections 4.03(1) and 4.03(2) have been satisfied; and
  - (ii) the General Conveyance, duly executed by Purchaser.

## **Article 7 - TERMINATION**

### **7.01 Termination**

This Agreement may be terminated at any time prior to Closing as follows:

- (1) automatically, upon due termination of the Loyalty PSA in accordance with its terms;
- (2) by mutual written consent of each of Vendor and Purchaser;
- (3) by Purchaser or Vendor, if Closing has not occurred on or before the Outside Date, provided that the terminating Party has not breached of any representation, warranty, covenant or other agreement in this Agreement which prevent the satisfaction of the conditions in Article 4 or the completion of

Closing by the Outside Date;

- (4) by Vendor, upon denial of the Sale Order (or if such order is stayed, vacated or varied without the consent of Vendor);
- (5) by Purchaser, upon denial of the Sale Order;
- (6) by Purchaser or Vendor, if a court of competent jurisdiction, including the Bankruptcy Court or other Governmental Authority, has issued an Order or taken any other action to restrain, enjoin or otherwise prohibit the consummation of Closing and such Order or action has become a Final Order.

The Party desiring to terminate this Agreement pursuant to this Section 7.01 (other than pursuant to Section 7.01(1)) shall give written notice of such termination to the other Party specifying in reasonable detail the basis for such Party's exercise of its termination rights.

## **7.02 Effect of Termination**

Each Party's right of termination under Article 7 is in addition to any other rights it may have under this Agreement or otherwise, and the exercise of a right of termination will not be an election of remedies. Nothing in this Article 7 limits or affects any other rights or causes of action any Party may have with respect to the representations, warranties, covenants and indemnities in its favour contained in this Agreement. If a Party waives compliance with any of the conditions, obligations or covenants contained in this Agreement, the waiver will be without prejudice to any of its rights of termination in the event of non-fulfillment, non-observance or non-performance of any other condition, obligation or covenant in whole or in part.

## **Article 8      - GENERAL**

### **8.01 Survival**

The representations and warranties and covenants of the Parties contained in this Agreement to be performed after the Closing or termination of this Agreement shall survive Closing or termination, as applicable, and remain in full force and effect.

### **8.02 Specific Performance**

Each Party acknowledges that the Parties will be irreparably harmed and that there will be no adequate remedy at law for any violation by any Party of any of the covenants or agreements contained in this Agreement. It is accordingly agreed that, in addition to any other remedies which may be available upon the breach of any such covenants or agreements, each Party shall be entitled to equitable relief, without proof of actual damages, including an injunction or injunctions or Orders for specific performance to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement, in addition to any other remedy to which they are entitled at Law or in equity as a remedy for any such breach or threatened breach. Each Party further agrees that no other Party or any other Person shall be required to obtain, furnish or post any bond or similar instrument in connection with or as a condition to obtaining any remedy referred to in this Section 8.02, and each Party irrevocably waives any right it may have to require the obtaining, furnishing or posting of any such bond or similar instrument. Each Party further agrees that the only permitted objection that it may raise in response to any action for equitable relief is that it contests the existence of a breach or threatened breach of this Agreement.

### **8.03 Further Assurances**

Each Party will from time to time execute and deliver all such further documents and instruments and do all acts and things as the other Parties may, either before or after the Closing Date, reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement.

### **8.04 Time of the Essence**

Time is of the essence of this Agreement.

### **8.05 Fees and Commissions**

Each Party will pay its respective legal and accounting costs and expenses incurred in connection with the preparation, execution and delivery of this Agreement and all documents and instruments executed pursuant to this Agreement and any other costs and expenses whatsoever and howsoever incurred.

### **8.06 Benefit of the Agreement**

This Agreement will inure to the benefit of and be binding upon the respective heirs, executors, administrators, other legal representatives, successors and permitted assigns of the Parties.

### **8.07 Public Announcements**

During the Pre-Closing Period, no public announcement or press release concerning any of the Transaction shall be made by any Party, or any of their respective Affiliates, without the prior consent of the other Party (such consent not to be unreasonably withheld, conditioned or delayed); provided, however, that subject to the last sentence of this Section 8.07, any Party may, without such consent, make such disclosure if the same is required by Applicable Law (including the Proposal Proceedings) or by any stock exchange on which any of the securities of such Party or any of its Affiliates are listed, or by any insolvency or other court or securities commission, or other similar Governmental Authority having jurisdiction over such Party or any of its Affiliates, and, if such disclosure is required, the Party making such disclosure shall use commercially reasonable efforts to give prior oral or written notice to the other Party to the extent legally permissible and reasonably practicable, and if such prior notice is not legally permissible or reasonably practicable, to give such notice reasonably promptly following the making of such disclosure. Nothing in this Section 8.07 will be deemed to prohibit Purchaser or any of their Affiliates from making disclosures to their respective, or their Affiliates' respective, officers, employees, directors, managers, shareholders, investors or lenders or prospective investors or lenders, on a need-to-know and confidential basis. Notwithstanding the foregoing: (a) this Agreement may be filed by Vendor with the Bankruptcy Court; and (b) the Transaction may be disclosed by Vendor to the Bankruptcy Court. The Parties further agree that:

- (1) Vendor may prepare and file reports and other documents with the Bankruptcy Court containing references to the Transaction and the terms of the Transaction; and
- (2) Vendor, Purchaser and their respective professional advisors may prepare and file such reports and other documents with the Bankruptcy Court containing references to the Transaction and the terms of such Transaction as may reasonably be necessary to complete the Transaction or to comply with their obligations in connection therewith.

The Parties shall be afforded an opportunity to review and comment on such materials prior to their filing.

### **8.08 Entire Agreement**

This Agreement and the Non-Solicitation Agreement constitute the entire agreement between the Parties with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements between the Parties with respect thereto, including the offer for the purchase of the Purchased Assets submitted by Purchaser on February 14, 2025, and the Bidding Procedures prepared by the BDO. Without limiting the foregoing sentence, there are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the Parties other than as expressly set forth in this Agreement.

#### **8.09 Paramountcy**

In the event of any conflict or inconsistency between the provisions of this Agreement, and any other agreement, document or instrument executed or delivered in connection with this Transaction or this Agreement, the provisions of this Agreement shall prevail to the extent of such conflict or inconsistency.

#### **8.10 Amendments and Waivers**

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

#### **8.11 Independent Legal Advice**

The Parties acknowledge having obtained independent legal advice from their respective solicitors, or having been given the opportunity to obtain independent legal advice, with respect to the terms of this Agreement prior to its execution, and each of the Parties further acknowledges and agrees that it understands the terms, and its rights and obligations under this Agreement.

#### **8.12 Assignment**

This Agreement may not be assigned by any Party without the written consent of the other Party, which consent may be arbitrarily withheld, provided that Purchaser may designate one or more nominees to take title in and to the Purchased Assets, or any part thereof, by giving Vendor written notice of such assignment at least two (2) Business Days prior to the date of the hearing of the application for the Sale Order.

#### **8.13 Notices**

Any notice or other communication required or permitted to be given or made under this Agreement shall be in writing and shall be effectively given and made if: (i) delivered personally; (ii) sent by prepaid courier service; or (iii) sent by email or other similar means of electronic communication, in each case to the applicable address set out below:

- (a) in the case of Vendor as follows:

Kognitiv Corporation  
161 Bay St., Suite 2700  
Toronto, ON M5J 2S1

Attention: Grant McLeod  
Email: [grant.mcleod@kognitiv.com](mailto:grant.mcleod@kognitiv.com)

*with a copy to Vendor's counsel at:*

Faegre Drinker Biddle & Reath LLP  
1177 Avenue of the Americas, 41st Floor  
New York, New York 10036, USA

Attention: Richard Bernard  
Email: richard.bernard@faegredrinker.com

And to:

Aird & Berlis LLP  
Brookfield Place,  
181 Bay Street, Suite 1800  
Toronto, Canada M5J 2T9

Attention: Kyle Plunkett and Marek Lorenc  
Email: [kplunkett@airdberlis.com](mailto:kplunkett@airdberlis.com) and [mlorenc@airdberlis.com](mailto:mlorenc@airdberlis.com)

(b) in the case of Purchaser, as follows:

Capillary Technologies  
#360, bearing PID No:101/360,  
15th Cross Rd, Sector 4,  
HSR Layout, Bengaluru,  
Karnataka-560102

Attention: Aneesh Reddy Boddu  
Email: [aneesh@capillarytech.com](mailto:aneesh@capillarytech.com)

*with a copy to Purchaser's counsel at:*

Borden Ladner Gervais LLP  
Bay Adelaide Centre, East Tower  
22 Adelaide Street West, Suite 3400  
Toronto, Ontario M5H 4E3

Attention: Stefan Timms and Sam Babe  
Email: [stimms@blg.com](mailto:stimms@blg.com) and [sbabe@blg.com](mailto:sbabe@blg.com)

or to such other street address, individual or electronic communication number or address as may be designated by notice given by the applicable Party to the other Party. Any demand, notice or other communication given by personal delivery will be conclusively deemed to have been given on the day of actual delivery thereof and, if given by electronic communication, on the day of transmittal thereof if given during the normal business hours of the recipient(s) and on the Business Day during which such normal business hours next occur if not given during such hours on any day.

#### **8.14 Governing Law**

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

### **8.15 Jurisdiction**

Each Party hereto irrevocably submits to the exclusive jurisdiction of (a) the Supreme Court of the State of Delaware, (b) the United States District Court for the District of Delaware, and (c) to the extent applicable, the United States Bankruptcy Court for the District of Delaware for the purposes of any action, suit or other proceeding arising out of or related to this Agreement, or any transaction contemplated hereby but for no other purpose. Each Party hereto agrees to commence any action, suit or proceeding relating hereto either in the United States District Court for the District of Delaware or if such suit, action or other proceeding may not be brought in such court for jurisdictional reasons, in the Supreme Court of the State of Delaware or, to the extent applicable, the United States Bankruptcy Court for the District of Delaware. Each Party hereto further agrees that service of any process, summons, notice or document by U.S. registered mail to such Party's respective address set forth above shall be effective service of process for any action, suit or proceeding in Delaware with respect to any matters to which it has submitted to jurisdiction in this Section 8.15. Each Party hereto irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby in (i) the Supreme Court of the State of Delaware, (ii) the United States District Court for the District of Delaware or (iii) to the extent applicable, the United States Bankruptcy Court for the District of Delaware, and hereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

### **8.16 Waiver of Jury Trial**

EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT, ANY OTHER DOCUMENT REFERRED TO HEREIN OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

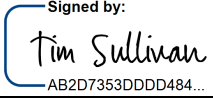
### **8.17 Counterparts and Electronic Signatures**

This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original and all of which taken together will be deemed to constitute one and the same instrument. The counterparts of this Agreement may be executed and delivered by facsimile or other electronic signature (including portable document format) by any of the Parties and the receiving Parties may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received.

*[Remainder of page intentionally left blank.]*

**IN WITNESS WHEREOF** the Parties have executed this Share Purchase Agreement.

**KOGNITIV US LLC**

Per:  Signed by:  
AB2D7353DDDD484...  
Name: Tim Sullivan  
Title: Authorized Signatory

**CAPILLARY TECHNOLOGIES LLC**

Per: anant.chauhey  
Name:  
Title:

**SCHEDULE 1.01**

**Aged Accounts Receivables**

Procter & Gamble Company approximately in the amount of \$61,881.66

Sam Houston Race Park, LLC approximately in the amount of \$39,562.60

**SCHEDULE 1.02**

**Offered Employees**

Sara Galloway, VP, Strategy & Consulting

Gregory Schneider, VP, Product Engineering

Bruce Trommelen, Sr. Director, Platform Service Delivery

Sara Ringold, Sr. Director, Platform Service Delivery

Michelle Oss, Account Director

Jason Schneiders, Principal, Technical Service Delivery

Ryan Dagner, Director, Strategy & Planning

Christa Welsh, Manager, Application Management Services

Yuki Kawanabe, Manager, Application Management Services

Luke Streff, Senior Manager, Partnerships

Lisa Knapp, Campaign Developer

Colby McCullough, Consumer Marketing Strategy & Planning Manager

Dena Escobedo, Chief Customer Officer

## SCHEDULE 1.03

### Purchased Contracts and Rejected Contracts

#### **Purchased Contracts:**

##### Clients

1. Master Subscription Agreement between Kognitiv US LLC ( formerly known as Aimia US LLC and former names if applicable ) and **The Aldo Group, Inc.** dated May 13, 2016 and all related agreements and amendments
2. Order form effective 29 Jan 2024 executed between Kognitiv US LLC and **Churchill Down Incorporated** and all related agreements and amendments
3. PaaS Subscription service agreement dated 3rd Sep 2021 between Kognitiv US LLC ( formerly known as Aimia US LLC and former names if applicable ) and **Curaleaf Inc** and all other related agreements and amendments
4. SaaS agreement dated 1st April 2020 between Kognitiv US LLC ( formerly known as Aimia US LLC and former names if applicable ) and **Daytona Beach Canal Club Inc** and all other related agreements and amendments
5. SaaS agreement dated 1st Dec 2020 between Kognitiv US LLC ( formerly known as Aimia US LLC and former names if applicable ) and **Emerald Downs Racing LLC** and all other related agreements and amendments
6. SaaS agreement dated 1st Aug 2021 between Kognitiv US LLC ( formerly known as Aimia US LLC and former names if applicable ) and **Gateway Casinos & Entertainment Limited** and all other related agreements and amendments
7. SaaS agreement dated 1st Jan 2016 between Kognitiv US LLC (f/k/a Aimia US LLC, Aimia US Inc. ) and **Hallmark Cards Inc. (f/k/a Hallmark Marketing Company )** and all other related agreements and amendments
8. Smart Button Associates Master Subscription Agreement dated 5th March 2013 between Kognitiv US LLC ( assigned by Smart Button Associates LLC ) and **Kirkland's Inc**, Professional Services Agreement dated 15th Nov 2016 between Kognitiv US LLC ( formerly known as Aimia US LLC ) and **Kirkland's Inc** all other related agreements and amendments
9. Order Form and MSA dated 15th Jan 2017 between Kognitiv US LLC ( formerly known as Aimia US LLC and former names if applicable ) and **The Leading Hotels of the World, Ltd.** and all other related agreements and amendments
10. Master Subscription Agreement and Order Form between **MEC Lone Star, LP** and Kognitiv US LLC ( assigned by Smart Button Associates LLC ) .dated February 15, 2011 and other related agreements and amendments
11. Subscription Agreement between **Magna Entertainment Corporation** and Kognitiv US LLC ( assigned by Smart Button Associates LLC ) dated August 14, 2006 and other related agreements

and amendments

12. SaaS agreement between **Downs Racing, L.P. d/b/a Mohegan Sun Pocono** and Kognitiv US LLC ( formerly known as Aimia US LLC and former names if applicable ) dated 1st April 2019 and other related agreements and amendments
13. Master Subscription Agreement and Order Form between **New Meadowlands Racetrack LLC / NJSEA (for Monmouth Park)** and Kognitiv US LLC ( assigned by Smart Button Associates LLC ) dated January 1, 2011 and other related agreements and amendments
14. Master Subscription Agreement and Order Form between **New Meadowlands Racetrack, LLC** and Kognitiv US LLC ( assigned by Smart Button Associates LLC ) dated January 1, 2014 and other related agreement and amendments
15. SaaS agreement between **Investment Corp of Palm Beach** and Kognitiv US LLC ( formerly known as Aimia US LLC and former names if applicable ) dated 22nd October 2019 and other related agreements and amendments
16. Master Subscription Agreement and Order Form between **Parx Racing and Smart Button Associates LLC**, and Kognitiv US LLC ( formerly known as Aimia US LLC and former names if applicable ) dated March 8, 2012 and other related agreements and amendments
17. SaaS agreement between **Patterson Companies, Inc.** and Kognitiv US LLC ( formerly known as Aimia US LLC and former names if applicable ) dated 20th July 2018 and other related agreements and amendments
18. Master Subscription Agreement and Order Form between **Penn National Race Course** and Kognitiv US LLC ( assigned by Smart Button Associates LLC ) dated January 1, 2014 and other related agreements and amendments
19. Master Provider Agreement between **Petsmart Inc.** and Kognitiv US LLC ( formerly known as Aimia US LLC and former names if applicable ) dated 4th Feb 2015 and other related agreements and amendments
20. SaaS agreement between **American Greyhound Racing, Inc. (d/b/a Phoenix Greyhound Park)** and Kognitiv US LLC ( formerly known as Aimia US LLC and former names if applicable ) dated 1st April 2020 and other related agreements and amendments
21. Order form dated 1st May 2012 executed between Kognitiv US LLC and **Rack Room Shoes Inc.** and and Kognitiv US LLC ( assigned by Smart Button Associates LLC ), and Order form dated 6 Feb 2025 executed between Kognitiv US LLC and **Rack Room Shoes Inc.** and other related agreements and amendments
22. Master Web Services Agreement dated 9th Feb 2015 executed between **Sony Pictures Entertainment Inc.** and and Kognitiv US LLC ( formerly known as Aimia US LLC and former names if applicable ) and other related agreements and amendments
23. Master Subscription Agreement and Order Form between **Sportech Venues, Inc.** and Kognitiv US LLC ( assigned by Smart Button Associates LLC ) dated March 14, 2011 and other related agreements and amendments

24. Master SaaS Agreement between **TELUS Communications Company**. And Kognitiv US LLC ( formerly known as Aimia US LLC and former names if applicable ) dated 20th July 2014 and other related agreements and amendments
25. SaaS Subscription Order Form between **831 Federal Highway Acquisition LLC d/b/a The Big Easy Casino** and Kognitiv US LLC ( formerly known as Aimia US LLC and former names if applicable ) dated 1st Jan 2021 and other related agreements and amendments
26. Second Amended and Restated Master Marketing Services Agreement between **Visa USA Inc.** and Kognitiv US LLC (formerly known as Aimia US LLC and former names if applicable ) dated 1st July 2011 and other related agreements and amendments
27. SAAS Agreement between **WALMART CHILE S.A.** and Kognitiv US LLC ( formerly known as Aimia US LLC and former names if applicable ) dated 1st July 2021 and other related agreements and amendments

Vendors:

**Rejected Contracts:**

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